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1. Introduction

There will be no taxation in the QFC for the first three years of the Centre's existence, meaning that there is sufficient time to put together a streamlined, effective and business-friendly tax regime.

However, the QFC recognises that businesses entering the Centre need some certainty regarding their position beyond this initial three year period, which comes to an end on 30 April 2008. Detailed consideration has therefore already been given to the nature of the tax system that will come into force on 1 May 2008.

As a result we are able to describe in some detail the anticipated nature of the system, as set out in this document. Please note, however, that these details remains subject to changes arising from further consideration of, and consultation regarding, the QFC's requirements in the period prior to drafting and implementation of the Tax Regulations.

The QFCA Tax Department is also in the process of producing a technical guidance manual which will cover the interpretation of the Regulations and give practical examples. Although aimed primarily at Tax Department staff it is intended to make the guidance manual publically available.

2. Overriding principles

2.1. What are the overriding principles of the QFC tax regime?

It is intended that the QFC tax regime incorporate a series of overriding principles. These are designed to act both as a guide to the boundaries of the detailed provisions of the law and as a guide to the treatment of cases not covered by specific provisions. The principles are as follows:

2.1.1. There will be only one category of taxable income.

To minimise the need for complex tax legislation dealing with different classes of profits or losses (for example rules for their determination and inter-relation) there will only be a single category of taxable income under the QFC tax regime.

2.1.2. No profits should be taxed twice in the hands of the same taxpayer.

This is clearly a just and fair provision. Likewise, tax relief for losses will only be allowed once in the hands of the same taxpayer.

2.1.3. There will be only one type of tax on the same income.

There is no requirement for multiple layers of taxation in the QFC, so a single type of tax will suffice.

2.1.4. Taxable profits will be based on accounting profits.

Subject to a few specific tax adjustments, taxable income will be based on accounting profits, which is in accordance with widespread international practice.

2.1.5. Non-local source profits will not be taxed.

Broadly, taxable income will be limited to local source profits.

2.1.6. There will be a general restriction on deductibility of expenditure.

As in many tax regimes, there will be a general restriction on the deductibility of expenditure. Tax deductible expenditure will be limited to expenditure incurred for the purposes of generating local source income.

2.1.7. Taxation should follow beneficial rather than legal ownership.

Where there is a distinction between legal and beneficial ownership, the person entitled to the economic and commercial benefit of the asset will be the person subject to taxation in respect of that asset.

2.1.8. There will be no restriction of bona fide transactions.

The QFC is designed to facilitate bona fide commercial transactions and activities. Subject to any specific provision to the contrary, bona fide commercial transactions will not be restricted or prejudiced by the QFC tax regime. This will be made subject to any specific provision to the contrary which determines the tax treatment of a particular transaction in a particular way.

3. Liability to tax

3.1. Who will be subject to tax?

All persons licensed to conduct business in the QFC will be subject to tax, subject to specific exemptions..

3.2. What is the definition of tax residence?

For the purposes of the QFC regime, legal entities will be treated as tax resident if:

- They are incorporated in Qatar; or
- Their place of effective management is in Qatar.

Entities that are not resident under the above definition will be treated as non-residents.

3.3. What is the scope of liability to tax for residents?

Tax residents will be liable to taxation in the QFC on local source profits.

3.4. What is the scope of liability to tax for non-residents?

Subject to the provisions of any applicable double tax treaty, non-residents who are licensed to do business in the QFC will be deemed to have a permanent establishment in the QFC and will be liable to taxation on local source profits arising from that permanent establishment.

The measure of such a permanent establishment's taxable profits under the QFC regime will be based on:

- the amount of taxable profits that the permanent establishment would have earned had it been separate from and independent of the entity of which it is, in fact, a part;
- but based on the proposition that it is conducting the same or similar activities under the same or similar conditions; and
- the proposition that, in respect of dealings between the permanent establishment and the entity of which it is a part, the permanent establishment should be treated as having acted in a wholly independent manner.

The effect of the foregoing is that the amount of profit attributable to a permanent establishment in the QFC will be determined applying the arm's length principle to the dealings between the permanent establishment and the entity of which it is a part, in much the same way as for transactions between QFC residents and persons with whom they are connected.

3.5. How are local and non-local source profits classified?

Local source profits consist of profits arising in or derived from the QFC.

Local source income will specifically exclude profit derived from

- Foreign permanent establishments of entities within the QFC regime, and
- income from immovable property located outside Qatar
- Intangible fixed assets not registered in Qatar.

In order to ensure that businesses established in the QFC are not subject to inappropriate taxation in the rest of Qatar, steps will be taken to ensure that there is consistency of view between the QFC Tax Authority and the Qatar Income Tax Department regarding sourcing rules.

3.6. What is the tax basis period?

Tax liabilities will be determined for basis periods not exceeding 12 months in length. In normal circumstances, a taxpayer's tax basis period will be aligned with the period for which the taxpayer's accounts are drawn up. The basis period will be known as an accounting period.

Tax basis periods will commence whenever:

- There is a commencement of a period for which accounts are to be drawn up,
- There is commencement of activities that may generate local source income, or
- The previous accounting period ceases.

Accounting periods will end on the occurrence of any of the following events:

- 12 months have elapsed from the beginning of the tax basis period,
- There is an accounting date (i.e. the date to which accounts are drawn up), or
- There is the cessation of all activities that may generate local source income, or the firm loses its license to operate in the QFC.

3.7. What is the rate of tax?

There will be no taxation on businesses in the QFC before 1 May 2008.

From 1 May 2008, the rate of tax will be the internationally competitive rate of 10%. This single tax rate will be applied to all taxable profits.

The rate may be adjusted in the future at the discretion of the QFC Authority.

3.8. Are there any other types of tax in the QFC?

There will be no other taxes in the QFC.

4. Taxable profits – general rules

4.1 How are taxable profits calculated?

The general rule is that taxable profits will be based on accounting profits for the particular period, subject to a limited number of specific tax adjustments.

Where the period for which accounts are drawn up does not coincide with an accounting period, the accounting profits should be allocated between tax basis periods on a time basis. For example, this would be necessary where accounts are prepared for a period exceeding 12 months.

4.2. What accounts can be used for tax purposes?

Accounts should be prepared in accordance with generally accepted accounting practice. This will include accounts prepared in accordance with International Financial Reporting Standards (IFRS) and standards issued by the Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI).

In the case of a company which is part of a listed consolidation, the relevant accounts should be those drawn up on a basis consistent with the accounts of the first level of consolidation that the QFC taxpayer is consolidated within – in practice this will mean accounts drawn up in accordance with either IFRS, UK or US GAAP for most companies in listed groups.

Other standards may be used with the prior permission of the Tax Department.

Where the taxpayer is a non-resident, the accounts should reflect all the accounting profits and losses of the legal entity derived from activities that generate local source income.

4.3. What if there is a change in accounting treatment?

In the case of a change in accounting basis or policy, cumulative profits and losses should be taxed or relieved once and once only – normally this will entail that they are taxed or relieved in line with their treatment in the accounts, without adjustment.

Adjustments that arise as a result of a change in an accounting standard or a change of GAAP, and which are not included in the reported accounting result should nevertheless be brought into account for tax purposes. This is an exceptional case where it is appropriate to override the accounting result. The overriding principle is that cumulatively all profits and losses are taxed or relieved once, and once only.

4.4. Are there special tax rules for transactions between associated parties?

There will be a general requirement that transactions and arrangements between “associated parties” should be carried out on an “arm’s length basis” for tax purposes.

Where transactions are entered into between persons who are associated with each other, and they are not conducted on an “arm’s length” basis, the QFC party’s taxable profits should be adjusted so as to reflect the profits that would have arisen had the transactions in fact been conducted on an arm’s length basis.

Persons are associated with each other if one controls the other, or both are controlled by the same person.

The test of “control” will be assessed according to whether, by virtue of any of:

- a shareholding;
- voting power; or
- other powers contained within the constitution of the company or companies

a person has the ability to require that the affairs of the company or companies are conducted in accordance with their wishes. This provision, which will broadly follow OECD principles, will be specifically designed to protect the QFC tax base against abusive transfer pricing and thin capitalisation strategies.

4.5. *What currency should be used to calculate taxable profits?*

It will not be necessary to prepare accounts in a particular currency. The general rule will be that taxable profits should be calculated in the currency adopted for accounts purposes, but will be converted into riyals for the purposes of calculating the tax payable.

4.6. *Where can tax definitions be found?*

Consistent definitions will be used throughout the QFC tax regulations and will be collated at the end of the tax regulations.

5. Detailed computational provisions

5.1. What if a person has non-local source income?

Taxable profits should exclude any non-local source income and related expenses. If such items are included in the taxpayer's accounts, it will be necessary to make an adjustment to exclude them from the computation of taxable profits.

5.2. What expenditure is allowable for tax purposes?

The general rule will be that expenditure incurred for the purpose of licensed activities that give rise to taxable income should be deductible for tax purposes. In some cases it will be appropriate to apportion expenditure between taxable and non-taxable purposes and adjust for it accordingly.

5.3. How are depreciation charges and impairments treated?

Depreciation of tangible assets will be treated as a deductible expense, provided it has been calculated in accordance with the relevant GAAP under which the taxpayer's accounts are prepared. Therefore no adjustment should be required for the computation of taxable profits.

The same principle will be applied to the amortisation of most intangible assets, for example patents and other intellectual property. Amortisation of such assets will therefore be tax deductible provided it has been calculated in accordance with the relevant GAAP under which the taxpayer's accounts are prepared.

Any impairment of assets (tangible or intangible) will also be deductible for tax purposes, provided that the impairment has been calculated in accordance with the relevant GAAP.

The annual depreciation charge will be limited to 5% for certain large assets including aircraft, ships, industrial buildings and offices.

5.4. Is there a different tax treatment for capital profits and losses?

As there will only be a single class of taxable profits, in accordance with the principle set out above at 2.1.1, the general rule is that no distinction will be drawn between revenue and capital items for the purposes of taxing profits or relieving losses. See 5.10 for limited exceptions.

Similarly, the arm's length principle for transactions between associated persons (see 4.4) will apply equally to all transactions, whether of a capital or revenue nature.

5.5. How are provisions treated for tax purposes?

With regard to provisions for bad and doubtful debts, an impairment provision made in accordance with the strict recognition requirements of IFRS (IAS 39) will be treated as tax deductible.

With regard to other provisions, any provisions included in the accounts for a particular accounting period in accordance with the ordinary principles of commercial accounting, and the recognition criteria for the GAAP under which the accounts are prepared, will be treated as tax deductible. This would include, for example, provisions recognised under IFRS in accordance with IAS 37.

However, any provisions, whether relating to debts or other liabilities, which would be regarded as general in nature under ordinary principles of commercial accountancy will not be brought into account for the purposes of computing taxable profits.

5.6. *Is a tax adjustment required for accrued expenses that are paid late?*

A tax adjustment is required for any expenses remaining unpaid for a period of twelve months from the end of the accounting period for which they are charged.

5.7. *Are there special tax rules for discounts?*

There are no special rules for the taxation of discounts. They will be taxed and relieved in accordance with the amounts recognised in the taxpayer's accounting profit or loss under accounting standards, and normal rules for the QFC.

5.8. *How is the waiver of debt treated?*

In the case of a waiver of debt between two unconnected parties, the amounts recognized in the accounts of both parties should be taxed or relieved in accordance with the normal rules of the QFC.

If the parties to a debt waiver are connected, the accounting entries relating to the waiver will be left out of account for tax purposes. A company is connected with another company if the same person has control of both, or a person has control of one and persons connected with him, or he and persons connected with him, have control of the other.

5.9. *How is goodwill treated?*

Gains on goodwill will be taxable. Amortisation or impairment charges for goodwill will be deductible, based on charges calculated using acceptable accounting methods.

5.10. *How are unrealised revaluation gains treated?*

There are no specific provisions covering the taxation of unrealised revaluation gains.

5.11. *What if there is a movement in the statement of changes in equity, or similar reserves?*

The QFC tax regime taxes the taxpayer's profit for the year rather than balance sheet movements or changes in equity. In the case of accounts prepared under IFRS, for example, movements in

the 'statement of change in equity', or similar reserves, of the accounts should be specifically excluded from taxable profits. (But see comments in 4.3 above).

5.12. How are hedging arrangements treated for tax?

Where a company is hedged for accounting purposes, the taxable profit of the taxpayer will normally be based on the accounting profit without need for adjustment, as this will reflect the hedge.

5.13. Are expenses relating to share-based remuneration deductible?

Expenses relating to share-based remuneration will be deductible in accordance with the normal QFC tax rules. Relief will be given for the amounts charged to the taxpayer's profit and loss account in accordance with the relevant GAAP (as long as also charged in consolidated accounts of quoted parent).

5.14. Is there a capital participation exemption?

A capital participation exemption will be available. This will exempt gains arising on disposals of shares, ¹ from taxation where certain qualifying criteria are met. The relief will only apply to holdings in shares, and not other assets or liabilities. Losses arising on such disposals will also be left out of account for tax purposes.

The exemption will only apply where the following conditions are met:

- the taxpayer holds at least 5%, directly or indirectly, of the ordinary share capital of the company whose shares are being disposed of, immediately prior to the disposal, and
- the taxpayer has held at least 5%, directly or indirectly, of the ordinary share capital of the company whose shares are being disposed of for a period of at least 6 continuous months before the date of disposing of the shareholding.

The shares were not held wholly or mainly with a view to resale.

5.15. How are dividends received from non-Qatari residents treated?

The dividends will be taxable if they are local source income, that is they arise from the taxpayer's activities within Qatar, but double tax relief is available

5.16. How are dividends received from Qatari residents treated?

The dividends will be taxable

5.17. How are stock dividends treated?

Stock dividends are treated in the same way as cash dividends

5.18. How is the repurchase of a company's own shares or return of capital treated?

Where a shareholder who is a QFC taxpayer receives a payment from a company arising from a purchase of own shares or return of capital, they will be taxed based on the accounting profit or loss, in accordance with the normal tax rules for the QFC regime. However, in such cases, the capital participation exemption (see 5.14) will exempt any profit or loss from being brought into account for tax purposes where the relevant conditions are met.

Where a QFC Entity itself purchases its own shares or reduces its own capital the proceeds from such a transaction will be specifically exempt from tax.

5.19. How are transfers of assets or liabilities into or out of the QFC tax regime treated?

If the transfer is between connected persons, for example within a group, and results in the profits of the QFC Entity being understated then the transfer pricing rules will apply to substitute the arm's length price. Otherwise the transfer price will not be adjusted for tax purposes.

If the taxpayer has no remaining presence (permanent establishment) within the QFC, the transfers of assets will be dealt with under the rules for migration described below (see 5.20).

5.20. What are the consequences of migration or ceasing to be resident for tax purposes?

Should a QFC taxpayer cease to be resident in Qatar, the Tax Regulations will deem the taxpayer to have disposed of all its assets and liabilities for market value at the date of migration, and impose tax accordingly on any deemed gains arising. This will not apply to assets or liabilities situated in and used for the purposes of a taxable permanent establishment of the taxpayer within the QFC regime after the migration.

However, provided that a migration occurs in connection with a company reorganisation for bona fide commercial reasons, the Tax Authority will have the power to agree terms for the deferral of tax on such gains (see 9.1).

5.21. Will there be any anti-avoidance rules?

The QFC tax regime will not immediately adopt a general anti-avoidance rule ("GAAR"), but will implement certain specific anti-avoidance provisions – notably transfer pricing rules – to protect the tax base.

6. Tax losses

6.1. How are tax losses calculated?

Tax losses will be computed using the same principles and rules as apply to the calculation of taxable profits. There will be no restriction on the utilisation of losses due to the nature of the activities giving rise to the losses. This will happen automatically, as there is a single class of tax profits and losses.

6.2. How can tax losses be relieved?

If the net result for the period after tax adjustments is a loss, this will automatically be carried forward for offset against the first available taxable profits of the same taxpayer. The exception is if the company is a member of a “group” in which case relief for the loss may be given against the profits of another group member – see 8.1 for details.

There will be no timing restriction on the carry forward of excess tax losses.

Carrying back tax losses against the profits of prior periods will not be permitted.

6.3. Are tax losses affected by a change in ownership?

Carried forward tax losses will cease to exist where there is a change in ownership of the taxpayer with the losses, and the change in ownership is accompanied by a major change in the nature or conduct of the taxpayer’s activities within a specified period.

- The losses will cease to exist on the date of the change in ownership;
- Change in ownership will be deemed to occur where there is a change in control of the taxpayer, whether based on assessment of shareholdings, voting rights or any other interest (primary evidence for this may be if the taxpayer is consolidated in a different group for accounting purposes); and
- The specified period will be defined as the one year prior to the change in ownership and the two years after the change in ownership.

The Guidance Manual will further explain the definition of ‘a major change in the nature or conduct of a taxpayer’s activities’ and other terminology used.

It will be possible to obtain conditional advance approval for the continuation of losses on a change of ownership from the QFC Tax Authority by applying for an advance ruling (see y.y).

6.4. Will relief be available for losses arising in the tax holiday period?

Relief will not be permitted for losses incurred by a taxpayer during the initial QFC tax holiday period. Where an accounting period straddles the end of the tax holiday, any losses will be time

apportioned.

7. Double taxation relief

7.1. Can relief be obtained for foreign taxes?

The QFC tax regime will specifically exclude most non-local source income from the scope of taxation. This significantly reduces the scope for double taxation to arise for businesses established in the QFC. However both unilateral and treaty relief will be available.

8. Groups

8.1. Are there special rules for groups of companies?

Companies in the QFC who are members of a “group” will be able to surrender losses between members of the group who are within the QFC.

A “group” will be defined as a company and its subsidiaries, being companies in which the parent has a direct or indirect controlling interest greater than 75%, which will be measured by reference to distribution of profits or entitlement to assets in a winding up.

9. Reorganisation provisions

9.1. What are the tax implications of business reconstructions?

There will be specific and detailed reorganisation rules for some of the more common types of reorganisation. In addition the capital participation exemption should afford tax neutral treatment to most commercial transactions. However, in cases of doubt, the Tax Authority will have the ability to exempt reorganisations carried out for genuine commercial purposes, which do not give rise to a profit on a consolidated basis for the taxpayer's group.

9.2. How is a company in liquidation treated?

On the commencement of a liquidation a company will be treated as having disposed of its assets and liabilities at their market value.

10. Special classes of company or business

10.1 How are partnerships treated?

Partnerships' taxable profits will be computed in accordance with the general rules of the QFC tax regime as if the partnership were a separate legal person.. However, the liability to tax on the partnership profits, if significantly overdue may be transferred jointly to the individual partners, being split in accordance with the terms of the partnership agreement.

To facilitate the collection of the due tax liability, a withholding tax will be applied to all distributions of partnership profits remitted by a general or limited partnership to the partners. The withholding tax will be charged at 5% and will be creditable by each partner against their share of the liability to QFC tax on the partnership profits.

10.2. How are banks treated?

10.2.1. Branch capital

There will be no specific rules on branch capital in the QFC. Rather, the level of interest deductions will simply be restricted, if appropriate, in accordance with the general transfer pricing rules and applicable OECD guidance.

10.2.2. Provisions for bad and doubtful debts

Banks in the QFC will not be subject to any specific restrictions on the deductibility of bad and doubtful debt provisions.

10.2.3. Source rules

Interest income arising on loans from banks located in the QFC, whether in the form of a branch or a company, will be regarded as local source income and hence taxable in the QFC, unless it is attributable to a permanent establishment or head office operation which the bank has in another jurisdiction.

10.3. How are captive insurance companies treated?

The income and gains of captive insurance companies will not be subject to taxation in the QFC.

The activities of managing, administering and servicing captive insurance companies will be treated as normal trading activities in the QFC and will be subject to the normal QFC tax rules.

10.4. How will fund managers be taxed?

The activities of managing, advising, and administering investment funds will be treated as normal trading activities in the QFC and will be subject to the normal QFC tax rules. However carried interest, in the nature of a dividend, from a Registered Fund or a Special Investment Fund is tax exempt.

10.5. How will investment funds be taxed?

Investment funds (including Collective Investment Schemes) established in the QFC will not be subject to QFC tax on their investment income and gains.

10.6. How will securitisation vehicles be taxed?

Securitisation Special Purpose Vehicles ("SPVs") will be treated as a special case and not subject to tax under the QFC tax regime.

11. Administrative aspects

11.1 What are the filing obligations under the QFC tax regime?

The regime will operate according to principles of self-assessment, so taxpayers will be required to compute their own tax liability and file a tax return reporting this six months after the end of the accounting period. The tax return should be accompanied by tax computations and accounts. Provision will be made for returns to be lodged electronically.

11.2. When does tax have to be paid?

Tax liabilities will generally be due in one installment six months after the end of the accounting period.

Slightly different rules will apply to partnerships, as distributions of profit to the partners will be subject to withholding tax at 5% rate. Depending upon the timing of such distributions, tax may be paid earlier than would normally be the case. See 10.1 for details.

11.3. Can overpaid tax be reclaimed?

It will be possible to reclaim overpaid tax, though a time limit will be imposed to avoid the potential administrative burden of late tax reclaims. Interest at a commercial rate will be paid in respect of refunds. Time limits will also be imposed on the Tax Authority's right to recover underpaid taxes.

11.4. What are the consequences of paying tax late?

Penalties may be imposed for late payment of taxes and also for late filing of a tax return. In addition, interest at a commercial rate will be charged on tax paid late.

Penalties may also be imposed for under-declared tax liabilities.

11.5. How will taxpayers be identified by the Tax Authority?

The QFC will have processes in place, linked to the licensing system of the QFC Authority, to ensure that all QFC taxpayers are identified.

All taxpayers will be issued with a unique Tax Identification Number on registration, which will be used for all future filings, correspondence and payments by the company.

11.6. How does the taxpayer know if the tax return is agreed?

The Tax Authority will have a specified period (the enquiry window), normally twelve months after the filing date, in which to raise enquiries into a taxpayer's self-assessment. If no enquiry is raised, the return will be deemed to be agreed at the expiry of the specified period. The Tax Authority may also issue a notice, indicating they do not intend to enquire into a return, before the enquiry window closes.

Where an enquiry is opened, this will be communicated to the taxpayer in a formal letter of notification. An enquiry will be closed on issue of a formal closure notice. The notice will state the conclusion of the Tax Authority and indicate what amendments, if any need to be made to the taxpayer's self-assessment.

11.7. What happens if the taxpayer disagrees with Tax Authority's assessment?

Most decisions and assessments made by the Tax Authority will be subject to an objections and appeals procedure. The objection process is a quasi-independent review by the Tax Authority. If dissatisfied by the outcome of this review an appeal may be made to the Regulatory Tribunal, an independent QFC body. The QFC Civil and Commercial Court will hear any tax appeals from the Regulatory Tribunal.

11.8. What are the record-keeping requirements?

Taxpayers will be required to maintain and preserve normally for six years, full financial records to support their return.

11.9. What advice will be available to taxpayers?

In addition to the guidance manual mentioned in the introduction, the Tax Department will give post or pre transaction rulings in respect of specific transactions. However the Tax Department will not be obliged to give a ruling where they consider an arrangement is structured to avoid tax. The Tax Department will also be able to publish Statements of Practice in relation to general points of difficulty or where it is considered such a Statement would be generally helpful.

11.10. What happens if things go wrong?

As well as the objections and appeals procedure (11.7) the Regulatory Tribunal will be able to hear cases where there appears to have been administrative malpractice. The Tax Department will be introducing a structured complaints procedure, with the feature that if a complaint is not resolved by the tax Department it will be considered by a senior (non tax) QFCA officer. The Tax Department will also be issuing a Taxpayers Charter that will cover service standards as well as taxpayers' rights and obligations.