

TAX LAW

CPA Order No. 37 suspended Law No. 113/1982 regulating tax on the income of individuals and companies until the end of the year 2003. The Order lowered the highest individual and corporate tax rates for the year 2004 and subsequent years to 15 percent.

CPA Order No. 49 also revised the tax rates and tax exemptions of Law No. 113/1982 and the Real Estate Rent Tax Law No. 162/1959. The Order aimed to provide additional exemptions from tax, to suspend certain taxes and to provide rules for carrying forward losses. These new provisions have been applied from January 1, 2004 onwards. CPA Order No. 84 amended some of the provisions of Orders No. 37 and 49. These amendments of the tax laws by CPA orders are still in force although in practice there exists considerable uncertainty about the manner in which they should be applied.

1. Tax Allowances

CPA Order No. 49 modified the allowances for resident taxpayers. A single unmarried taxpayer has an allowance of IQD2,500,000, an additional IQD2,000,000 per annum for spouses and IQD200,000 for each of their children. Widows or divorcees have an allowance of IQD3,200,000. Taxpayers over the age of 63 years are granted an additional allowance of IQD300,000. According to Order No. 84, these allowances have been reduced by one third as of the financial year 2004.

2. Income Tax Rates

Order No. 49 modified income tax rates as follows for both resident and non resident individuals:

Iraqi companies and foreign companies in Iraq each continue to pay a flat rate of 15% on their net income.

3. Exemptions

The only tax exemption rules that continue to be enforceable are those that apply to members of foreign diplomatic missions to Iraq.

Previously, tax exemptions used to apply to the armed forces of countries acting in coordination with Iraqi Forces. Other exemptions used to apply to certain foreign employees and government contractors and their sub contractors providing technical, financial, logistical, administrative or other assistance to Iraq. These exemptions are no longer in effect.

4. Carry Forward of Losses

CPA Order No. 49 provided expressly that no losses from the current year may be carried forward for the calculation of income in the following years. However, unused foreign tax credits may be carried forward.

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5. Real Estate Rental Rates

CPA Order No. 49 limits the real estate tax to 10% of all annual revenue from real estate. This tax is collected in two semi-annual installments, one on January 1, the other on July 1.

6. Foreign Tax Credits

CPA Order No. 49 amended the relevant provision of Law 113/1982 to read “Income tax paid to a foreign country on income earned in that country may be credited against tax paid to Iraq. The amount of the credit may not exceed the amount of the tax assessed in Iraq on the income earned in the foreign country at the rate in effect in Iraq. If taxes paid to a foreign country exceed this limitation, then the excess taxes may be carried forward to credit in 5 consecutive years, subject to the limitation for those years. To be credited, the amount of foreign tax paid to the foreign country must be confirmed by either a copy of the receipt for tax paid or a confirmation of the amount of tax paid from the tax collection agency of the foreign country.”

7. Distinction between Doing Business “in” or “with” Iraq

According to Ministerial Instructions No. 2/2008, the taxability of a foreign entity that is party to supply and similar contracts would depend on two distinct factors, namely whether it is doing business in Iraq, in which case the entity would be subject to Iraqi tax law, or whether it is doing business with Iraq, in which case. Iraq tax law would not apply.

8. Tax Treaties

At present, there are no tax treaties in force in Iraq.