PKF

Libya Tax Guide

2011

FOREWORD

For any business moving into new markets, a key deciding factor will be the target country's tax regime. What is the corporate tax rate? Are there any incentives for overseas businesses? Are there double tax treaties in place? How will foreign source income be taxed?

Since 1994, the PKF network of independent member firms, administered by PKF International Limited, has produced the PKF Worldwide Tax Guide (WWTG) to provide international businesses with the answers to these key tax questions. This handy reference guide provides clients and professional practitioners with comprehensive tax and business information for 100 countries throughout the world.

As you will appreciate, the production of the WWTG is a huge team effort and I would like to thank all the member firms of the PKF network who gave up their time to contribute the vital information on their country's taxes that forms the heart of this publication. I would also like thank Richard Jones, PKF (UK) LLP, Kevin Reilly, PKF Witt Mares, and Rachel Yeo, PKF Melbourne for co-ordinating and checking the entries from within their regions.

The WWTG continues to expand reflecting both the growth of the PKF network and the strength of the tax capability offered by member firms throughout the world.

I hope that you find that the combination of reference to the WWTG plus assistance from your local PKF member firm will provide you with the advice you need to make the right decisions for your international business.

Jon Hills
PKF (UK) LLP
Chairman, International Tax Committee of the PKF International network

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PREFACE

The PKF Worldwide Tax Guide 2011 (WWTG) has been prepared to provide an overview of the taxation and business regulation regimes of 100 of the world's most significant trading countries. In compiling this publication, member firms of the PKF network have sought to base their summaries on information current as of 30 September 2010, while also noting imminent changes where necessary.

On a country-by-country basis, each summary addresses the major taxes applicable to business; how taxable income is determined; sundry other related taxation and business issues; and the country's personal tax regime. The final section of each country summary sets out the Double Tax Treaty and Non-Treaty rates of tax withholding relating to the payment of dividends, interest, royalties and other related payments.

While the WWTG should not to be regarded as offering a complete explanation of the taxation issues in each country, we hope readers will use the publication as their first point of reference and then use the services of their local PKF member firm to provide specific information and advice.

In addition to the printed version of the WWTG, individual country taxation guides are available in PDF format which can be downloaded from the PKF website at www.pkf.com

Finally, PKF International Limited gladly welcomes any comments or thoughts readers may wish to make in order to improve this publication for their needs. Please contact Kevin F Reilly, PKF Witt Mares, 10304 Eaton Place, Suite 440, Fairfax, Virginia 22030, USA by email to kreilly@pkfwittmares.com

PKF INTERNATIONAL LIMITED
MARCH 2011

ABOUT PKF INTERNATIONAL LIMITED

PKF International Limited (PKFI) administers a network of legally independent firms. The PKF network is the 10th largest global accountancy network with over 245 legally independent member and correspondent firms which have a combined annual turnover of $2.4 billion. Located in 125 countries, the member firms of the PKF network share a commitment to providing clients with high quality, partner-led services tailored to meet each client's own specific requirements.

The membership base of the PKF network has grown steadily since it was formed in 1969. Added to the sustained growth in the number of PKF member firms, this solidity has provided the foundations for the global sharing of expertise, experience and skills and the development of services that meet the evolving needs of all types of client, from the individual to the multi-national corporation.

Services provided by member firms include:

Assurance & Advisory
Insolvency – Corporate & Personal
Financial Planning
Taxation
Corporate Finance
Forensic Accounting
Management Consultancy
Hotel Consultancy
IT Consultancy

PKF member firms are organised into five geographical regions covering Africa; Latin America; Asia Pacific; Europe, the Middle East & India (EMEI); and North America & the Caribbean. Each region elects representatives to the board of PKF International Limited, which administers the network. While the member firms remain separate and independent, international tax, corporate finance, professional standards, audit, hotel consultancy and business development committees also work together to improve quality standards, develop initiatives and share knowledge across the network.

Please visit **www.pkf.com** for more information.

STRUCTURE OF COUNTRY DESCRIPTIONS

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FRINGE BENEFITS TAX
LOCAL TAXES
OTHER TAXES

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DEPRECIATION
STOCK/INVENTORY
CAPITAL GAINS AND LOSSES
DIVIDENDS
INTEREST DEDUCTIONS
LOSSES
FOREIGN SOURCED INCOME
INCENTIVES

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G. EXCHANGE CONTROL

H. PERSONAL TAX

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

AT 12 NOON, GREENWICH MEAN TIME, THE STANDARD TIME ELSEWHERE IS:

A
Algeria . . . . . 12 noon
Angola . . . . . 1 pm
Argentina . . . . . 9 am
Australia -
Melbourne . . . . . 10 pm
Sydney . . . . . 10 pm
Adelaide . . . . . 9.30 pm
Perth . . . . . 8 pm
Austria . . . . . 1 pm

B
Bahamas . . . . . 7 am
Bahrain . . . . . 3 pm
Belgium . . . . . 1 pm
Belize . . . . . 6 am
Bermuda . . . . . 8 am
Brazil . . . . . 7 am
British Virgin Islands . . . . . 7 am

C
Canada -
Toronto . . . . . 7 am
Winnipeg . . . . . 6 am
Calgary . . . . . 5 am
Vancouver . . . . . 4 am
Cayman Islands . . . . . 7 am
Chile . . . . . 8 am
China - Beijing . . . . . 10 pm
Colombia . . . . . 7 am
Croatia . . . . . 1 pm
Cyprus . . . . . 2 pm
Czech Republic . . . . . 1 pm

D
Denmark . . . . . 1 pm
Dominican Republic . . . . . 7 am

E
Ecuador . . . . . 7 am
Egypt . . . . . 2 pm
El Salvador . . . . . 6 am
Estonia . . . . . 2 pm

F
Fiji . . . . . 12 midnight
Finland . . . . . 2 pm
France . . . . . 1 pm

G
Gambia (The) . . . . . 12 noon
Germany . . . . . 1 pm
Ghana . . . . . 12 noon
Greece . . . . . 2 pm
Grenada . . . . . 8 am
Guatemala . . . . . 6 am
Guernsey . . . . . 12 noon
Guyana . . . . . 8 am

H
Hong Kong . . . . . 8 pm
Hungary . . . . . 1 pm

I
India . . . . . 5.30 pm
Indonesia . . . . . 7 pm
Ireland . . . . . 12 noon
Isle of Man . . . . . 12 noon
Italy . . . . . 1 pm

J
Jamaica . . . . . 7 am
Japan . . . . . 9 pm
Jersey . . . . . 12 noon
Jordan . . . . . 2 pm

K
Kazakhstan . . . . . 5 pm
Kenya . . . . . 3 pm
Korea . . . . . 9 pm
Kuwait . . . . . 3 pm

L
Latvia . . . . . 2 pm
Lebanon . . . . . 2 pm
Liberia . . . . . 12 noon
Libya . . . . . 2 pm
Luxembourg . . . . . 1 pm

M
Malaysia . . . . . 8 pm
Malta . . . . . 1 pm
Mauritius . . . . . 4 pm
Mexico . . . . . 6 am
Morocco . . . . . 12 noon

N
Namibia . . . . . 2 pm
Netherlands (The) . . . . . 1 pm
New Zealand . . . . . 12 midnight
Nigeria . . . . . 1 pm
Norway . . . . . 1 pm

O
Oman . . . . . 4 pm

P
Panama . . . . . 7 am
Papua New Guinea . . . . . 10 pm
Philippines . . . . . 8 pm
Poland . . . . . 1 pm
Portugal . . . . . 1 pm
Puerto Rico . . . . . 8 am

Q
Qatar . . . . . 8 am

R
Romania . . . . . 2 pm
Russia -
Moscow/St Petersburg . . . . . 3 pm

S
Serbia . . . . . 1 pm
Sierra Leone . . . . . 12 noon
Singapore . . . . . 7 pm
Slovak Republic . . . . . 1 pm
Slovenia . . . . . 1 pm
South Africa . . . . . 2 pm
Spain . . . . . 1 pm
Sweden . . . . . 1 pm
Switzerland . . . . . 1 pm

T

Taiwan . . . . .8 pm
Thailand .7 pm
Tunisia . . . . 12 noon
Turkey. . . . . .2 pm
Turks and Caicos Islands . . . . . . .7 am

U

Uganda . . . . .2 pm
United Arab Emirates . . . . .4 pm
United Kingdom . . . .(GMT) 12 noon
United States of America -
New York City. . . . . .7 am
Washington, D.C. . . . . .7 am
Chicago. . . . . .6 am
Houston. . . . . .6 am
Denver . . . . .5 am
Los Angeles. . . . . .4 am
San Francisco . . . . .4 am
Uruguay . . . . .9 am

V

Venezuela . . . . .8 am
Vietnam. .7 pm

LIBYA

Currency: Libyan Dinar (LYD)	Dial Code To: 231	Dial Code Out: 00

Member Firm:

City:	Name:	Contact Information:
Tripoli	Lassaad Marouani	216 20 30 59 06 pkf.marwani@gnet.tn

A. TAXES PAYABLE

FEDERAL TAXES AND LEVIES
COMPANY TAX
Companies are liable to corporate income tax on their profits stemming from any business they carry on in Libya. Foreign companies not carrying on business in Libya but deriving certain types of income from Libya are subjected to company tax.

1. Jehad tax = taxable income X 4%
2. Income tax = taxable income X 20%

SALES TAX/VALUE ADDED TAX
There is no VAT.

LOCAL TAXES
There is a tax jehad (tax defence) on companies. It applies to the annual taxable benefit society and it is 4% on taxable income.

REAL ESTATE TAX
The purchase of real estate is subject to a registration duty of 2% on the purchase.

Any contract take place in Libya for anything other than a direct supply must be registered with the Tax Department within 60 days of signing the contract. A duty of 1% + 0.5% from the 1% of the total contract value is payable. For example:

Contract value	100,000 LYD
Duty stamp (1% of100,000)	1,000 LYD
0.5% (0.5% of 1000)	5 LYD
Total tax payable	1005 LYD

CAPITAL GAINS TAX
Capital gains are treated as income and are taxed at the same rate of company tax.

B. DETERMINATION OF TAXABLE INCOME

INCENTIVES
The Libyan tax legislation has established a certain number of incentives to investment and creation of projects in certain sectors of activity, either by Libyan or foreign promoters being resident or non-resident or in partnership according to the overall development strategy. These are mainly aimed at accelerating growth rate and job creation. Free zones are mainly in the Mesrata area.

C. FOREIGN TAX RELIEF

According to the Libyan tax legislation, revenues from foreign-sources that were subject to tax payment in the country of origin are not taxed. Non-resident legal entities are taxable on their Libyan source income. The taxable capital gain is the difference between the sale price and the purchase cost. Relief from foreign taxes in Libya depends on whether a double tax treaty has been concluded by Libya.

RESTRICTION ON FOREIGN INVESTMENT
Foreign investors have the choice between:

- Setting up a Branch Office which requires the participation of a Libyan partner company or individual and is technically open in all fields of business. Due to a 2006 General People's Committee (GPC) decree (#443), the branch manager or deputy manager must be a Libyan national and the office must be either a joint stock or limited liability company.
- Setting up a Joint Venture/Joint Stock Company which allows for participation in "all economic activities". To establish a joint stock company requires a minimum capital investment of 1 million Libyan Dinars (LD). Libyan ownership in Joint Stock Companies must be a minimum of 51%. The majority of the company's board of directors, as well as its director, must also be Libyan nationals.

All foreign companies seeking to do business in Libya after 14 November 2006 (companies present and operating in Libya before 14 November 2006 and projects specifically approved by the GPC to operate otherwise) are required to enter as joint ventures with a Libyan entity. Foreign ownership in these joint venture companies can be up to 65%. This GPC decision does not apply to companies coming into Libya under the terms of Law #5 of 1997 or representative offices and companies entering under Law #7 of 2004. Application of this law is still unclear, particularly as it pertains to the opening of branch offices in Libya. Law 443 remains controversial, particularly as several major foreign firms have thus far resisted government efforts to force compliance.

Law No. 5 of 1997 allows for 100% foreign equity ownership of companies licensed under the law. It provides for various preferences for licensed projects such as an exemption from corporate income tax for five years with a possible extension of three years provided net profits are reinvested in the project. It provides exemptions from some customs duties and excise taxes on exported goods and allows for foreign ownership of land. Investors are also afforded some protection against expropriation and permitted access to arbitration.

In 2006, a Decree lowered the floor on foreign capital investment qualifying for entry under Law #5 to 5 million LD (2 million LD if 50% or more of the project is owned by Libyans) (GPC Decree # 86 of 2006). Through Law No. 5 (1997), "Encouragement of Investment Decision," the government attempted to diversify its oil-dependent economy, encourage technical training of Libyan nationals and enhance regional development. Sectors targeted under this law include but are not limited to agriculture, industry, tourism, services and health.

The provisions of Law No. 5 attempt to lower the tax and customs fee burden on qualifying companies. For example:

- Imported machinery, tools and other capital equipment are exempt from all customs duties and taxes
- Any equipment, spare parts, or primary materials needed for the project operation are exempt for a period of five years
- The affected project is exempt from income tax on its activities for a period of five years from the date of the commencement of production or work
- Goods directed for export are exempt from excise tax and from the fees and taxes imposed on exports
- Stamp duty tax is exempt on commercial documents
- Finally, profits from the project will enjoy the same exemption if reinvested.

EXPATRIATING PROFITS

The foreign investor has the right to repatriate dividends and net profits generated by the project and the capital invested if the project reaches maturity or upon liquidation or sale of the business or within six months after the date of investment if the project is not feasible due to circumstances that are not attributable to him.

F. WITHHOLDING TAXES

The only withholding tax in Libya is on interest at 5%.

G. EXCHANGE CONTROLS

The transfer is regulated by the Central Bank of Libya. In major cases, an authorisation from a bank is necessary.

More flexible than before, it is managed by the Directorate of exchange controls attached to the Libyan Central Bank. Since 16 June 2003, Libyan authorities have managed to establish in the capital market a single exchange rate. Its value is approximately 1 euro = 1.6 LYD. The Libyan dinar is not a convertible currency and is used for current operations in the country. However, the foreign investor has the right to open an account in convertible foreign currencies with a commercial bank or the Bank for Arab Jamahiriya abroad.

H. PERSONAL TAX

With respect to the international taxation agreements, personal income tax is a direct tax levied on income of an individual. This kind of tax applies to salaries, wages, benefits and bonuses which occur from employment in Libya.

FRINGE BENEFITS TAX

Fringe benefits are considered to be a part of the salary paid to an employee and are thus subject to social security and income taxes. Fringe benefits taxable are evaluated on the basis of their market value.

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

Libya has signed a few agreements on avoidance of double taxation.