

Regulation No (11) for the year of 2021

The Income Tax Regulation in the Development Zones

Issued in accordance with provisions (1 and 2) of Article (11/I) and provisions of Article (77/A)

of the Income Tax Law No. (34) for the year of 2014

Article 1

This regulation is called (The Income Tax Regulation in the Development Zones for the Year 2021), and it shall be effective from the date of its publication in the Official Gazette.

Article 2

A-The following terms and expressions wherever mentioned in this regulation shall have the meanings assigned to them below, unless the context indicates otherwise:

Law: Income tax law.

Department: Income and sales tax department

Commission: The investment commission

Registered enterprise: an enterprise registered in the commission for practicing economic activity in the development zones.

Economic activity: Any industrial, agricultural, touristic, media, craft, or service activity including the information technology and the activities of the main branch, the holding company, the intangible property (intellectual), and the distribution and service centers.

Gross Income: The enterprise's income established from all sources of taxable income in the Development Zone in accordance with the provisions of the law.

Allowable Expenses: Allowable expenses defined in accordance with the provisions of the law and this regulation.

Taxable income: The remaining gross of the registered enterprise after the reduction of the allowable income, any carried

forward losses from previous tax period or periods, and donations consecutively in accordance with the provisions of the law.

Tax: Income tax imposed according to the provisions of the law.

Core Income-Generating Activities: are the essential income-generating activities for the registered enterprise.

B - The definitions contained in the law shall be adopted wherever they are stipulated in this regulation, unless the context indicates otherwise.

Article 3

The provisions of this regulation shall apply to the tax periods for the year 2021 and beyond.

Article 4

For purposes of calculating the taxable income:

A- Allowable expenses are deducted from the gross income of the registered enterprise.

B- The joint administrative and general expenses of the registered enterprise are calculated as follows:

- 1.** In cases of joint administrative and general expenses of the registered and unregistered enterprise, whether in the development zone or in the rest of the Kingdom's regions, these expenses shall be deducted according to the formula shown below, provided that the approved international accounting principles and standards are applied in determining what is included in the general and administrative expenses:

(total revenues or sales of the registered enterprise to the total revenues or total sales of the registered and unregistered enterprise) plus (total expenses of the registered enterprise to the total expenses of the registered and unregistered enterprise) divided by two, and the result is multiplied by the sum of the total expenses that are exclusively common and taxable.

- 2.** In cases where the administrative and the general expenses are joint between the activities of the registered establishment to practice and the activities not benefiting from the provisions of Paragraph (i) of Article (11) of the law that are practiced within the development zone, these expenses are deducted as per the below formula, providing that the international accounting principles and standards are adopted in determining what is included in the administrative and general expenses:

(Total revenues or sales of the registered enterprise from activities licensed by the authority to the total revenues or total sales of the registered enterprise for its licensed and unlicensed activities within the development zone) plus Total

expenses of the registered enterprise from activities licensed by the authority to the total expenses of the registered enterprise for Its licensed and unlicensed activities inside the development zone) divided by (2) two, and the result is multiplied by the total of the allowable expenses that are exclusively joint .

C - The donations paid by the registered enterprise are deducted from the total income in accordance with the provisions of the law.

D

1. If the enterprise registered in the development zone suffers a loss in the economic activity in that zone, it shall be deducted from the profits of other income sources of the enterprise in the development zones in the same tax period.
2. The loss is reduced or rotated to be deducted from its balance for the tax periods following the tax period in which it occurred, and with a maximum of five years, for its acquisition of a irrevocable character, in accordance with the terms and conditions related to the loss mentioned in the law.

Article 5

A- The tax on the enterprise registered in the developmental zones arising from the activities of the licensed manufacturing industries in these zones where the local added value is not less than (30%) is at the rate of (5%).

B- With the exception of what is stated in Paragraph (A) of this Article, Income tax shall be at a rate of (10%) of the taxable income of the registered enterprises in the development zone for the rest of its activities and projects, including: -:

- 1- Selling goods that were produced through the licensed agricultural or craft activity within the development zone.
- 2- To perform its services inside the development zone through its duly licensed activity, regardless of where these services are used.
- 3- Its economic activity in the licensed industrial sector in development zones, except for what is stated in Paragraph (A) of this Article.
- 4- Re-exporting goods, and exporting goods that are produced through the licensed industrial activity outside the Kingdom.

5- A- Income derived from the exploitation of Qualifying intellectual property rights assets represented in legally protected patents, industrial designs and models derived from research and development activities and copyright-protected software in accordance with Jordanian legislation in force and approved international standards.

B- Income generated from Qualifying intellectual property rights is calculated according to the following formula.

$$\frac{\text{Qualifying expenditures}}{\text{Overall expenditures}} \times \text{Qualifying income from qualified Intellectual property asset}$$

C- For the purposes of Paragraph (B) of this Article, the following expressions shall have the meanings assigned to them below: -

1. Qualifying expenditures : are the sum of the research and development expenditures incurred by the registered enterprise either by itself or through contracting with others within the development zone, excluding the costs of acquiring an intellectual property asset, the incurred costs of contracting with others from outside the development zone, interest and building costs.
2. Overall expenditures : are the sum of the Qualifying expenditures and costs of the acquisition of a qualifying intellectual property asset, and research and development expenditures that are incurred or spent outside the development zone through the registered enterprise or through contracting with others from outside the development zone excluding interest and building costs.
3. Qualifying intellectual property income: is limited to net income received by way of remuneration for the use of, or the right to use, a qualified intellectual property asset, net income generated on the disposal of a qualified intellectual property asset, and net compensation received in legal proceedings or arbitration relating to a qualified intellectual property asset, excluding embedded intellectual property income from the sale or products and use of processes directly related to the qualified intellectual property asset.

D- losses incurred from the exploitation of qualifying intellectual property assets are only deducted from the income generated by the qualifying intellectual property assets.

Article 6

Notwithstanding what was stated in Article (5) of this regulation, the provisions of this regulation shall not apply to the following:

- A- The enterprise not registered in the development zones.
- B- The enterprise registered for its income generated from its commercial activity.
- C- The enterprise registered for its income generated from its unlicensed economic activity.
- D- The enterprise registered for its income from its licensed economic activity generated outside the development zone.
- E- Banks, telecommunications companies that have individual licenses, financial intermediation companies, and financial companies, including companies that practice money exchange, financing, or financial leasing, consulting, financial and tax auditing companies, transportation in all its forms, insurance and reinsurance companies, and basic mining and extractive industries, electricity generation and distribution, transmission and / or distribution and / or extraction of water, gas and oil derivatives using pipelines.

Article 7

- A- For the purposes of implementing the provisions of Article (5) of this regulation , the registered enterprise shall be obligated to do the following:
- 1- The core income-generating activities (economic activity) must be fully carried out by the registered enterprise itself inside the zone, The core income-generating activities include, for example:
 - A. Distribution and service centers activities such as transporting and storing goods, managing inventory, receiving orders, and providing consulting services or any other administrative services.
 - B. Headquarters activities: significant decision making and incurring operating expenses on behalf of the group's entities and activities to coordinate the group's work.

C. Holding company activities: all activities related to the income generated by the holding companies (such as interest, rents and royalties), and in the event that the holding companies practice another economic activity, they will be also subjected to the conditions associated with that activity.

D. Intangible property activities(intellectual): if the intangible asset is one of the following:-

- 1- Patent , research and development activities.
 - 2- Item, brand and customer data: marketing and distribution activities
 - 3- Any other intangible assets,
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- 2- Presence of adequate number of qualified full-time technical staff performing the core income generating activities for the economic activity practiced by the registered enterprise, and the department shall verify this through social security statements and financial statements or any other method it deems appropriate.
 - 3- Book keeping in accordance with the provisions of the law, including the following information:
 - A. Business activity.
 - B. Amount and type of gross income.
 - C. Amount and type of expenses and assets.
 - D. Core income-generating activities in accordance with the relevant economic activity.
 - E. A statement illustrating the extent of the registered enterprise compliance with the conditions of this article.
 - 4- A permanent headquarters and address for the registered enterprise within the development zone and its board of directors shall be held in the development zone at regular intervals.
 - 5- Having a main bank account for the enterprise registered with one of the licensed banks operating in the Kingdom.
 - 6- Incurring adequate operating expenditures on core income generating activities, provided that those expenditures are appropriate to the nature of the economic activity that registered enterprise practice.

B- In the event that the registered enterprise does not comply with what is stated in Paragraph (A) of this Article, the tax shall be imposed according to the tax rates specified in paragraphs (A) or (B) of Article (11) of the Law.

Article 8

- A- The provisions of the law and the regulations and instructions issued pursuant thereto shall be applied to the enterprise registered in the Development Zone with regard to imposing taxes, fines and any other amounts related to them, auditing them, estimating them, collecting them, pursuing crimes committed in their regard and any procedures related to them.
- B- The registered enterprise shall show its income to which the tax mentioned in paragraphs (a) and (b) of Article (5) of this regulation is applied in the tax return submitted to the department and in its records and financial statements separately from its other incomes.

Article 9

The Income Tax Regulation in Development Zones No. (125) of 2016 shall be abolished.

Article 10

The Minister shall issue the necessary instructions to implement the provisions of this regulation.

Annex 1

**Prime Ministry
Legislation and opinion bureau**

No. DT1 / 1 / A / 244

Date: 28/1/2021

Excellency Director General of Income and Sales Tax Department

Subject: legal binding opinion regarding the income derived by the registered enterprise in the development zones from exploitation of qualifying intellectual property rights assets.

With reference to your letter No.(979/4/6) Dated 28/1/2021 regarding the income derived by the registered enterprise in the development zones from exploitation of intellectual property rights assets subjected to income tax at a reduced rate of (10%) as stipulated in Article(5/B/5) of the income tax regulation in the development zones No. (11) for the year of 2021.

After reviewing your aforementioned letter and reviewing the associated legal text, we would to clarify to your Excellency the following:

Firstly: Paragraph (A) of Article (77) of the Income Tax Law No. (34) for the year of 2014 stipulates the following:

A- The Council of Ministers shall issue the regulations necessary to implement the provisions of this Law.

2- Paragraphs (A) and (B) of Article (11) of Income Tax Law stipulate the following:

A- Tax on the taxable income of the natural person shall be levied according to the following rates as follows:

- 1.(5%) Five percent on each dinar of the first five thousand dinars.
2. (10%) Ten percent on each dinar of the second five thousand dinars.
3. (15%) Fifteen percent on each dinar of the third five thousand dinars.
4. (20%) Twenty percent on each dinar of the fourth five thousand dinars.
5. (25%) Twenty five percent on each dinar that follows up to a one million dinars.
6. (30%) Thirty percent of each dinar of the taxpayer's taxable income exceeding one million dinars.

B-Tax on the taxable income of the legal person shall be levied according to the following rates:

1. (20%) Twenty percent for all legal persons except those provided for under items (2) and (3) of this Paragraph.

2. (24%) Twenty four percent on each dinar of main telecommunication companies, electricity distribution and generation companies, basic mining material companies, insurance companies, reinsurance companies, financial intermediaries, financial companies, and legal persons undertaking financial leasing activities.

3. (35%) Thirty five percent on each dinar for banks.

3-Clauses (1) and (2) of paragraph (I) of article (11) of Income Tax Law stipulate the following:

Notwithstanding the provisions of Paragraph (B) of Article (78) of this Law and Articles (11), (14) and (44) of the Investment Law No. (30) for the year of 2014:

1-Tax is imposed on the income of the institution registered in the Development Zones arising from transformational industrial activities with a total local value-added of at least (30%) at a rate of (5%).

2- Tax is imposed on the income of the institution registered in the Development Zones for other projects and activities at a rate of (10%).

4- Clause (5) of Paragraph (B) of Article (5) of the income tax regulation in development zones No. (11) for the year of 2021 stipulates the following:

B-With the exception of what is stated in Paragraph (A) of this Article, Income tax shall be at a rate of (10%) of the taxable income of the registered enterprises in the development zone for the rest of its activities and projects, including:-

5-A- Income derived from the exploitation of Qualifying intellectual property rights assets represented in legally protected patents, industrial designs and models derived from research and development activities and copyright-protected software in accordance with Jordanian legislation in force and approved international standards.

B- Income generated from Qualifying intellectual property rights is calculated according to the following formula.

$$\frac{\text{Qualifying expenditures}}{\text{Overall expenditures}} \times \text{Qualifying income from qualified Intellectual property asset}$$

C- For the purposes of Paragraph (B) of this Article, the following expressions shall have the meanings assigned to them below: -

Qualifying expenditures : are the sum of the research and development expenditures incurred by the registered enterprise either by itself or through contracting with others within the development zone, excluding the costs of acquiring an intellectual property asset, the incurred costs of contracting with others from outside the development zone, interest and building costs.

Overall expenditures :are the sum of the Qualifying expenditures and costs of the acquisition of a qualifying intellectual property asset, and research and development expenditures that are incurred or spent outside the development zone through the registered enterprise or through contracting with others from outside the development zone excluding interest and building costs.

Qualifying intellectual property income: is limited to net income received by way of remuneration for the use of, or the right to use, a qualified intellectual property asset, net income generated on the disposal of a qualified intellectual property asset, and net compensation received in legal proceedings or arbitration relating to a qualified intellectual property asset, excluding embedded intellectual property income from the sale or products and use of processes directly related to the qualified intellectual property asset.

Secondly: Pursuant to Clause (5) of Paragraph (B) of Article (5) of the aforementioned income tax regulation in development zones, only Qualifying income derived by a registered enterprise in the Development Zone from Qualifying intellectual property rights can be subjected to income tax at a reduced rate of (10%). Such qualifying income is limited to income from the exploitation of legally protected patents, industrial designs and models derived from research and development activities and copyright-protected software in accordance with Jordanian legislation in force and approved international standards.

Thirdly: Any other income derived from other intellectual property assets or activities such as trademark related activity, customer data, marketing and distribution activities, and any activity related to other intangible assets, as set out in Clause (1) of Paragraph (A) of Article (7) of the aforementioned income tax regulation in development zones, does not fall in scope of Paragraph (B) of Article (5) of the aforementioned regulation. Such income therefore, does not benefit from the reduced income tax rate of (10%) and shall be subjected to the income tax due on commercial activity, in accordance with the provisions of paragraphs (A) or (B) of article (11) of Income Tax Law No. (34) For the of year 2014 and its amendments.

Please accept our utmost respect

President of Legislation and opinion Bureau

Fedaa Alhmoud

Annex 2

**Ministry of Finance
Income and Sales Tax Department**

Administrative Act (7) for the year 2021

Messrs Auditors

Considering the issuance of the income tax regulation in the development zones No. (11) for the year of 2021 under Clauses (1) and (2) of Paragraph (I) of Article (11) and Paragraph (A) of Article (77) of the Income Tax Law No. (34) for the year of 2014 and its amendments.

And pursuant to the provisions of Article (7 / D) of the Legislation and Opinion Bureau regulation No. (1) for the year of 1993, which stipulate the powers of the Bureau to express opinion on legal consultations that are submitted to the prime Minister or to the Bureau directly from ministries, government departments, public official institutions and local authorities due to divergence of views and diligence in matters related to its functions and powers, and differences in the application of legal texts.

I hereby attach to you the letter of His Excellency President of Legislation and Opinion Bureau NO. (DT1 / 1 / A / 244), dated 28/1/2021 and confirm on the second and third clause of it and as the following: -

1- Pursuant to Clause (5) of Paragraph (B) of Article (5) of the aforementioned income tax regulation in development zones, only Qualifying income derived by a registered enterprise in the Development Zone from Qualifying intellectual property rights can be subjected to income tax at a reduced rate of (10%). Such qualifying income is limited to income from the exploitation of legally protected patents, industrial designs and models derived from research and development activities and copyright-protected software in accordance with Jordanian legislation in force and approved international standards.

2-Any other income derived from other intellectual property assets or activities such as trademark related activity, customer data, marketing and distribution activities, and any activity related to other intangible assets, as set out in Clause (1) of Paragraph (A) of Article (7) of the aforementioned income tax regulation in development zones, does not fall in scope of Paragraph (B) of Article (5) of the aforementioned Regulation. Such income therefore, does not benefit from the reduced income tax rate of (10%) and shall be subjected to the income tax due on commercial activity, in accordance with the provisions of paragraphs (A) or (B) of article (11) of Income Tax Law No. (34) For the year of 2014 and its amendments. To adhere to its content.

With respect

Director General

Hussam Abu Ali