

Tax Alerts

October 2016

Law No. 55 Exchange of information for tax purposes

On 27 October 2016, the Lebanese Parliament legislated Law No. 55 “Law” relating to the implementation and execution of exchange of information agreements used for tax purposes. Law No. 55 overrules Law no. 43 which was legislated on 24 November 2015. Under this law, exchange can be in several scenarios , Exchange of Information on Request “EIOR” or Automatic Exchange of Information “AEOI” based on the Common Reporting Standard “CRS” or in the context of signed double tax treaties.

This law defines what is meant by Agreement, Competent Authority, and Competent Authority Agreement, information under this agreement, requesting country and person in the context of the agreement.

It authorized the Minister of Finance in Lebanon on behalf of the Lebanese Government to sign the “The Multilateral Convention on Mutual Assistance in tax Matters” (MAC) and “The Multilateral Competent Authority Agreement on Automatic Exchange of financial account information” (MCAA) related to the commitment to the implementation of CRS. Under this legislation, it is the authority of the Council of Ministers to conclude the MAC and the MCAA agreements and the Minister of Finance’s authority to sign them on behalf of the Lebanese Government.

As part of implanting the above mentioned agreements, the Lebanese Competent Authority - defined as the Minister of Finance or his/her delegate - can exercise its authority under articles 23, 44, 48 and 103 of the Tax Procedural Law to collect the information required under the agreement. It is worth mentioning that this information sometimes may not be required for local tax matters.

Under the EIOR approach and upon receiving a request to share information, the Lebanese Competent Authority will assist the requesting country based on the agreement signed. It has the right to request additional information before sharing the information or reject the request in case it conflicts with the signed agreement.

If the requested information is not covered by the 3 September 1956 banking secrecy law or article 151 of the code of money and credit the competent authority can share information directly with the requesting country; otherwise, this information will be provided by the Special Investigation Commission (SIC). Before the SIC can share the requested information, it has to notify the person whose information is being requested. However, if such notification can expose the success of a tax investigation carried out by the requesting country, the SIC can bypass the notification to the person(s) concerned and the requested information will be exchanged without notification.

Under the AEIO and the EIOR, the Central bank and the SIC have to inform financial institutions of their obligations to provide information requested for automatic exchange of information under MCAA or any other agreement.

In the same approach, the Minister of Finance or the Central bank, each acting within his capacity to identify:

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- the institutions required to provide information;
- the information required for the exchange and the mechanism to be used for the exchange (probably electronically); and
- the level of accuracy and inclusiveness of the information provided.

The Council of Ministers will issue additional urgent decrees necessary for the implementation of this Law.

Failure to abide by this legislation will result in a penalty ranging from one hundred to two hundred million Lebanese Pounds. These penalties are in addition to penalties set by the related regulatory authorities.

It is worth noting that information exchanged under AEOI and EIOR each under the related agreement or this Law will be treated as confidential / secret as per article No. 25 of the Tax Procedure Law.

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