

Kurdistan regional government plans to sue companies not paying taxes

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After the recent economic slowdown mainly caused by ISIS-related security concerns and the reduction in oil prices, the Kurdistan regional government has taken several measures to ensure that all due taxes are being collected in order to increase government revenues.

As an autonomous region, Kurdistan has introduced certain tax laws that diverge from federal law. The primary legislation dealing with income tax is the Law of Income Tax for the Kurdistan Region (Law 5/1999). This law was substantially amended by Law 26/2007, which came into force on January 1 2008. All companies operating in the Kurdistan region are subject to a 15% income tax rate on their net profits (Article 4 of Law 26/2007). This flat rate applies to the taxable income reflected in a company's audited financial statements. However, if a company fails to file a statement with the income tax directorate, the directorate will assess the company's income taxes by assuming industry-specific profit rates.

The directorate has required all companies to pay income taxes – even those filing audited financial statements showing loss. In fact, the directorate has assumed that all companies operating in the Kurdistan region have been filing falsified financial statements by manipulating their numbers to increase capitals and costs and reduce revenues. While this has effectively been the case for many local companies, many multinationals have suffered because of local companies' practices and have been asked to pay income taxes based on their annual turnover (with the exception of operators that have signed a revenue sharing agreement with the Kurdistan regional government and companies whose projects have been granted an investment licence by the Kurdistan Investment Board).

In addition, as the Kurdistan regional government is well aware that companies applying for tax clearances are only those applying for public tenders or import licenses, in 2014 it linked the renewal of company documents at the company registries (in Erbil, Dohuk and Sulimania) to the payment of corporate income taxes. As such, companies can renew their corporate documents only after obtaining a tax clearance certificate from the directorate.

More recently, the directorate has been processing tax clearances requests only for companies that have withheld and paid personal income taxes on their employees' salaries. The Kurdistan regional government collects said taxes from employees through the direct deduction method, and the employer must pay them on a monthly basis at the Direct Deduction Department of the General Commission of Taxes.

The directorate has been taking further measures in order to force companies to pay income taxes. As per a December 15 2015 public notice, all companies that fail to file their audited financial statements and pay their taxes before June 30 2016 will be taken to court. No additional information has been provided with regards to the competent court or procedure that will be followed, but some officials have stated that the process may include the seizure of company assets and bank accounts.

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