

## Algerian Tax Authority issues additional guidance on limitation of technical assistance costs and interest deductions under *2019 Finance Act*

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The Algerian Tax Authority recently issued Circular N°01 IMF / OGI / DLRF / LF19 (the Circular). The purpose of the Circular is to clarify the application of Article 2 of the *2019 Finance Act* (FA 2019),<sup>1</sup> with respect to amendments to the provisions of Article 141 of the Code of Direct Taxes and Assimilated Taxes, regarding:

#### **The limitation of the deduction of technical assistance costs related to services rendered by foreign companies**

It should be noted that under Article 2-1 of FA 2019, amounts paid by local taxpayers for technical assistance costs to a foreign-based company are considered deductible in the determination of taxable profits subject to the following limitations:

- ▶ 20% of the general expenses of the debtor company; and 5% of the turnover
- ▶ 7% of turnover for engineering and consulting firms

The Circular, through an example, confirms that a reinstatement is mandatory in the case where one of the two thresholds is exceeded (turnover or overhead).

It also indicates that the threshold is to be taken into consideration for the determination of the non-deductible portion of the costs is the lowest threshold.

The Circular states that technical assistance always involves a transfer or a complement to know-how or technology that cannot be linked to other types of services. Accordingly, technical assistance can be defined by its content and includes the provision of specialized technicians as well as technology support contracts.

The Circular sets forth the following examples:

- ▶ Interventions by experts and technicians, production control, studies, vocational training and internships
- ▶ Analysis, technical and scientific expertise, audit and certification of compliance with international standards (such as ISO standards)
- ▶ Financial assistance taking the form of financial services remunerated by commissions and related to foreign trade transactions, loans and other financial transactions
- ▶ Accounting assistance including the provision of competent human resources

## The limitation on interest deductions

According to Article 2 of FA 2019:

- ▶ Interest paid between related companies is deductible within the limits of the average effective interest rates published by the Bank of Algeria.
- ▶ This deduction is also subject to the twofold condition that the capital has been fully paid up and that the sums placed at the disposal of the company do not exceed 50% of the capital.
- ▶ Loans granted between companies without interest or reduced interest are considered, from a tax perspective, as being productive interest rates at average effective rates published by the Bank of Algeria.

## Effective date

It is important to note that these measures are not applicable (retroactively) for the determination of the taxable basis for 2018. They are applicable to the costs incurred during the fiscal year 2019.

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## Endnote

1. See EY Global Tax Alert, [Algeria's 2019 Finance Bill introduces new tax measures](#), dated 23 January 2019.

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