

The classifications of Labor Expenses

According to Libyan Tax law

The main task of accounting work at any company in Libya is declaring the financial information for tax purposes; the accountants will reach this target whenever they have an Idea about Tax Auditing Requirements, we would like to explain a part of requirements that concentrating on expenses could be considered as labor advantages, we will mention these kind of advantages hereafter as **Labor-Expenses**.

Labor-Expenses are defined in Libyan Tax Law when it talks about the income subjected to the salary Tax in article (55) Par. (A) as the following:

“...The income resulting from work and similar incomes resulting from any service or post, whether permanent or temporary, including the following:

A. Remuneration against work, allowances, commissions, gratuities, privileges, representation allowances, and all periodical or non-periodical payments, whether in cash or in kind, as paid by the Companies, Foundations, firms or individuals to any person against services have done OUTSIDE Libya, whether he is resident inside or outside Libya, except the employee has independent entity abroad and he has self-regulating accounting system.

From the direct idea of the above mentioned article or the idea behind we could show a list of the Labor-Expenses regardless the place where they have been paid:

- 1- Food.
- 2- Accommodation.
- 3- International or Local Air tickets.
- 4- Entertainment.
- 5- Mobile pre-paid Cards.
- 6- Internet Charges.
- 7- Hotel Residence.
- 8- Housing.
- 9- Provision of car.
- 10-Transportation.
- 11-Medical Treatments or checkups.
- 12-Visa Fees.
- 13-Car Fuel Allowance.
- 14-Clothe and the like facilities.
- 15-Any other payments (For / On-Behalf of) somebody.

Usually accounting should measure the expenses related to any fiscal year as important part of turnover generating, which means the final beneficiary of paying those expenses is a company itself, but the other side of the coin is what **Tax department (TD)** does always try. There is proficiency test called **Third Beneficiary Rule (TBR)** to verify who the actual beneficiary is. TD always tries to collect any information approve that employer pays Labor-

Expenses for employees are not mentioned in the payroll (as a list of advantages related to employees) regardless the ability of gathering the information in payroll bases.

From our best knowledge, we could declare the TBR terms of collecting such kind of Labor-Expenses as per the following:

1- The Labor-Expenses amount is related to one of these categories:

- People works at the company.
- People represent your Customers or potential Customers.
- Any other beneficiaries haven't an independent accounting system.
- Any other beneficiaries have an independent accounting system but logically they are not interested in booking such expenses.

No need to know the actual number of beneficiaries gets certain Labor-Expenses or whether it is contractual relationship or not.

2- Any Labor-Expenses are mentioned as advantages in the employee's contract.

3- Any Labor-expenses has **UNUSUAL** amount or type and related to specific job, usually this kind of job should start by previous assignment issued through the head office in Nederland or Libyan branch manager.

For example a Business air ticket Tripoli-Frankfort worth 1000 LYD that is required for any Job Order to the head office in Nederland; the TD Auditor can gets an idea for the trend amount of the Air ticket by multiple a number of (International Job Order) by 1000 LYD, if any Noticed difference occurs (around 15% more than the Air Ticket account amount as declared in the Income Statement) he might consider the difference '*or more*' as an advantages.

4- The Labor-Expenses are not stated *fully or partially* in the payroll.

In spite of the fact that the company isn't able to do it as a lack of confirmed information about concerned people for each expenses values Especially expenses or advantages are not contracted; but the company is still obliged to pay tax.

5- The Labor-Expenses are not entitled in the exceptions stated in the law No. 7 issued in year 2010 as per **the next paragraph**.

Tips:

- ☒ The tax related to these expenses is called **Tax on Differences**.
- ☒ The process of collecting data about such expenses by TD Auditors starts at each **Final Tax Assessments**. (Each 4 or 5 years).
- ☒ In spite of the fact the **Final Tax Assessment** has done by TD each 3 or 4 years; but the company is not obliged to pay penalty for **Tax on Differences** as it's concerned to the previous years.



Tax Amnesties:

Tax-free or Exemption for some individual advantages as stated in Libyan Tax Law No. (7) of year 2010, in Article No. (55) and (36):

1. Medical insurance payments as stated in article No. 36 Par. (C); where the insurer is Libyan entity.
2. What the employee received against actual Expenses he already paid to do certain Job, as stated in article No. 55 last paragraph.

Such as pocket money, air tickets, Hotel residence, transportation...Etc.

3. The deductions against any punishments for any employee's faults or work absence.
4. Allowances against accumulated vacancies in case of leaving job.
5. Remuneration of ending job.



The detailed Tax Auditing process of collecting Labor-Expenses:

TD may consider some expenses as advantages and subject them to salaries and wages tax, among these expenses are tea and coffee expenses, medical treatments expenses, hotel accommodation expenses, meals provided to employees in work sited and head office, companies do not usually include these expenses in the payroll, the tax department will consider these expenses as benefits given to other people.

The Tax department WILL NOT use the proportional rates of salaries & wages tax, but use a percentage depending on the average of the employees' salaries.

The salaries and wages tax rates are as follows:

The first (1000 L.D) of Salary	5%
The excess Salary	10%

If the employees' salaries average is 600 the tax rate for salaries differences would be 5%, suppose the average was 1200 L.D, the tax rate would be 10%. The salaries and wages are also subject to ELJIHAD tax of 3% regardless the salary amount.

Let's suppose that the average of employees' salaries were 450 L.D, and the company incurred the following general expenses for the year 2006:

1- medical treatments	3000
2- entertainment	1000
3- Electricity	2000
4- Hotel accommodation	3000

Except the third item, the tax department considers all these above expenses as benefits, the tax department auditor would add these expenses (or certain percentage of them) to the taxable Salary, the taxable Salary will be 7000 L.D, the tax would be calculated as follows:

Salaries and wages tax	= 7000 × 10%	= 700 L.D
Eljihad Tax	= 7000 × 3%	= 210 L.D
Total Tax on differences of salaries & wages		= 910 L.D

Tips:

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- ❏ TD Auditing has different scope of job than the Auditing itself, obviously, the TD professional Opinion might have dramatic differences in Observations from the Auditing report issued by the auditor.
 - ❏ If TD outlined an Auditing report has enough observations to approve that the Balance sheet and income statement do not fairly reflect the reality; this situation gives TD a right to expand the sources of collecting Labor-Expenses and then the company might pay more **Tax on Differences**.
 - ❏ TD could collect evidences of Adverse Accounting system applied at the company Not only from auditing the concerned years have already passed but also by checking the current scheme of financial work.
 - ❏ Obviously, It's impossible to make the **Tax on Differences = Zero**; but you could minimize it.

Finally we are waiting for any queries or questions later on.

Best regards

Tariq S. Almontaser

CPA