Grant Thornton

Tax Newsletter

April 2023

Landscape

In our April 2023 edition of GT's Monthly Tax Newsletter, you can read the latest news updates affecting International Tax, Transfer Pricing, and Indirect Tax in the UAE and across the Middle East Region.

Contents

Value Added Tax

The Tax Dispute Resolution Committee ('TDRC') rules that "no penalties' will be levied for Voluntary Disclosures related to an unintentional error

The TDRC, through a recent dispute decision held that, any penalties levied by the Federal Tax Authorities ('FTA'") on taxpayer due to difference in interpretation of the UAE VAT Legislations should be cancelled. The TDRC further held that FTA cannot levy penalties on the taxpayers if the interpretation of the UAE VAT Legislations became known to the taxpayers only through the Public Clarifications released by the FTA. This resulted in the TDRC's order to cancel all the penalties up to the date of issuance of the public clarification by the FTA.

The TDRC has made several rulings where it has ordered that taxpayers are not obliged to pay penalties on tax obligations which arose only after FTA issued the Public Clarifications and were not explicitly provided in the UAE VAT Legislations. Considering this, the FTA's policy of applying late payment penalties based on the initial tax return's due date (with respect to which the Voluntary Disclosure of an error related) has essentially been upheld by the TDRC.

This interpretation is supported by the fact that, according to the legislation, Voluntary Disclosure is included in the filing of a tax return. As a result, the Voluntary Disclosure is regarded as an addition to the initial return rather than as a separate legal document. This means that if more tax is owed as a result of the disclosure, the penalties for this late-paid tax are calculated based on the original tax return's due date rather than the tax period during which the disclosure was made to the FTA.

This decision comes as a relief to businesses who were facing penalty liabilities dating back to October 2017 or January 2018 for interpretations of tax legislations ie. VAT, Excise or any other forms of tax, that differ from the FTA's interpretation. Businesses must assess the favorability of the verdicts and are encouraged to review past penalties imposed by the FTA to see if there is any recourse action required.

Should you need any further clarification and details regarding this update, please contact **our tax experts**.

The Federal Tax Authority (FTA) publishes "VATGIT1" clarifying Input Tax Apportionment

On 22nd March 2023, the FTA issued VAT Guide VATGIT1, clarifying and reinforcing Input Tax Apportionment the rules and special methods offered for apportionment. The FTA has emphasised the objective of the guide as assistance with understanding and applying the VAT legislation, but not a legally binding statement. Further, this guide substitutes the previous guide issued in December 2019 and the notable highlights of the updated guide are as follows:

- **Illustrative and detailed examples:** The guide simplifies the concepts through descriptive and diagrammatic examples for standard and special methods of input tax apportionment. It also addresses and resolves common queries and errors surrounding such concepts, for instance, the inclusion of blocked Input VAT in the computation.

- **Persons to whom the methods are applicable:** The FTA allows the use of certain methods, other than the standard method of input tax apportionment, to be used for apportionment purposes in order to help different industries recover maximum input VAT. These are calculated based on actual use, using a variety of procedures that have been laid out by the FTA. These methods and applicable industries are outlined below:
  - Outputs-based approach (accessible to Islamic and non-Islamic retail and wholesale banks, as well as local transportation providers);
  - Transaction count approach (accessible to both Islamic and non-Islamic Banks involved in retail and investment trading);
  - Floorspace approach (accessible to companies in the commercial and residential real estate industries)
  - Sectoral approach (accessible to larger complex businesses that conduct various business activities through different divisions).

  Businesses must apply to use the special method when filing its periodic VAT returns if it wishes to use the special method throughout the year rather than the standard method. The application should indicate which method they are seeking and support the contention that the special method is more appropriate than the standard method. Please click **here** to access the form.
- **Use of special method where the period of usage has expired:** The FTA has clarified that a taxable person may continue using the special method until the end of the VAT period during which a new decision on the request is issued by the FTA subject to the submission of a request to continue using a previously approved special method before its expiry date by the taxable person. It must also be noted that the registrant must apply the approved method from the first VAT period following the period in which the approval was granted, where the FTA approves a special input tax apportionment method.

  Furthermore, the FTA has clarified that since the special method is based on actual use, no actual use adjustment will be required for VAT years following approval as long as the FTA approval remains valid.
- **FTA's decision in respect of special method application:** The duration for the FTA to assess and respond to special method requests other than sectoral method remains unchanged ie. 40 business days. However, the duration for the FTA to assess and respond to sectoral method has reduced from 80 business days to 60 business days.

Businesses are advised to note the above changes on Input Tax Apportionment for ensuring compliance with revised updates.

For further information on the above-mentioned update, please click **here.**

Should you need any further clarification and details regarding this update, please contact our VAT Directors **Harsh Bhatia**, or **Sunny Kachalia** or our VAT Associate Director **Charlotte Stanley**.

The Federal Tax Authority (FTA) launches the "Muwafaq" Package in an effort to enhance Small and Medium Enterprises ('SMEs') compliance with VAT laws and procedures

On 16th March 2023, The FTA introduced the "Muwafaq" package as a part of its commitment to play a vital role in the UAE's efforts to promote and empower the SME sector and to provide supportive conditions for its growth and development.

The Muwafaq Package grants a number of benefits to SMEs which includes training programmes and teaching materials on the fundamentals of VAT procedures to help ease VAT compliance for the users.

The following are a few of the benefits offered to SMEs:

- The FTA will designate a relationship manager to assist SMEs;
- Customised awareness sessions and workshops;
- Special discounts on tax agents;
- Educational programs on various VAT topics;
- Special discounts on accounting software; and
- The option to access accounting software created in partnership with Etisalat.

Qualifying businesses will receive a notification indicating eligibility on their EmaraTax portal and they can register themselves there. We encourage qualifying businesses to avail the offered facilities.

For further information on the above-mentioned update, please click **here**.

Should you need any further clarification and details regarding this update, please contact our VAT Directors **Harsh Bhatia**, or **Sunny Kachalia** or our VAT Associate Director **Charlotte Stanley**.

UAE Customs & Excise

The Dubai Customs issue Customs Notice No. (02/2023), extending the increase of import duty on "Rebar & Wire Rod"

On 3rd April 2023, Dubai Customs notified of an increase in import duty on rebar and wire rod from 5% to 10% with an effective date until October 12, 2025. Dubai Customs has also requested the departments within the purview to take necessary steps to ensure effective implementation.

For further information on the above-mentioned update, please click **here**.

Should you need any further clarification and details regarding this update, please contact our VAT Directors **Harsh Bhatia**, or **Sunny Kachalia** or our VAT Associate Director **Charlotte Stanley**.

The Dubai Customs issue Customs Notice No. (04/2023), regarding submission of customs declarations and associated documents

Effective from 24th April 2023, Dubai Customs embraces digitalisation by providing smart services that enable electronic processing. This notice replaces the previous Customs Notice numbers 1/2018, 2/2020, 1/2021, 5/2021 and other contrary provisions.

In its innovative efforts, Dubai Customs has provided users with smart facilities along with a maximum period of 30 days from the date of completion of the customs declaration to submit the declaration and necessary documents. The users are required to maintain such records for 5 years.

The following penalties shall apply in case of failure in timely submission of the declaration:

- A penalty of AED 5 will be applicable for each day of delay after the prescribed grace period of 30 days which may scale up to a maximum of AED 300, from the date of completion of the customs declaration.
- Customs Declaration cleared from the period of 29/03/2020 to 26/09/2022 that have not yet been submitted shall be excluded from the penalty and will be provided with a period of 90 days from the enforcement date of this Notice to submit all the necessary documents.
- Following cases will be excluded from the submission of customs declarations and the associated documents, given that the below conditions are satisfied:
  - Trans-shipment and transit declarations, among other things.
  - Customs declarations that have been cleared by businesses with authorised document e-archiving systems.
  - Direct import and export by institutions that are exempt from customs taxes under the GCC Common Customs Law, including diplomatic and consular corps, international organizations, armed forces, internal security forces, and charitable organisations.
  - Import and export declarations which are under an individual's name.

This Notice does not revoke the powers of Dubai Customs and it may request the invoice and/or certificate of origin or any other document relating to customs operations at any stage of the customs clearance process, or during the above-prescribed period for archiving the documents.

For further information on the above-mentioned update, please click **here**.

Should you need any further clarification and details regarding this update, please contact our VAT Directors **Harsh Bhatia**, or **Sunny Kachalia** or our VAT Associate Director **Charlotte Stanley**.

Value Added Tax

Saudi Arabia (KSA) – The Zakat, Tax and Customs Authority ('ZATCA') sets guidelines for selecting VAT payers in Wave 3 for Implementing (Integration Phase) of E-Invoicing

On 24th March 2023, the ZATCA announced the 3rd wave of taxpayers for implementing Integration Phase (Phase 2) of e-invoicing, which now includes taxpayers whose revenues exceeded Saudi Riyals (SAR) 250 Million during the years 2021 or 2022. The VAT payers meeting the above criteria must integrate starting from 01 October 2023.

As previously communicated, the ZATCA has outlined the below additional requirements for Phase 2 of the implementation of e-invoicing, which include:

- Integrating e-invoicing solutions with FATOORA;
- Issuing invoices in a specific format
- Including additional fields in the invoice.

The below table provides a quick summary of the sequence of target groups and important timelines.

Target-groups	Taxable turnover in 2021	Go-live date	To be fully integrated by	Likely penalty dates for non-compliance
1st wave	Exceeds SAR 3 Billion	01 January 2023	30 June 2023	01 July 2023
2nd wave	Exceeds SA 500 Million	01 July 2023	31 December 2023	01 January 2024
3rd wave	Exceeds SAR 250 Million	01 October 2023	Date awaited	Date awaited

For further information on the above update, please click **here**.

Should you need further clarification and details regarding this update, please contact GT KSA Head of Tax **Adel Douglas**, or Senior Tax Manager, **Syed Abul Rahman** or Senior Tax Manager**, Ganesh Nair**.

Saudi Arabia (KSA) – The Zakat, Tax and Customs Authority (ZATCA) issues a comprehensive guide for the Small and Medium (SME) Sector

The ZATCA has newly issued a comprehensive guide for SMEs on Zakat, VAT, excise tax, e-invoicing, and customs aspects.

Should you need further clarification and details regarding this update, please contact GT KSA Head of Tax **Adel Douglas**, or Senior Tax Manager, **Syed Abul Rahman** or Senior Tax Manager, **Ganesh Nair**.

Saudi Arabia (KSA) – The Zakat, Tax and Customs Authority ('ZATCA') issues a comprehensive guide for the Small and Medium ('SME') Sector

On 14th April 2023, The Saudi government announced the creation of four new Special Economic Zones ('SEZs') spread across the Kingdom which will be regulated by the Economic Cities and Special Zones authority (ECZA). This aims to accelerate economic diversification and further support the Kingdom's vision to be a global business hub contributing to Vision 2030. The newly established economic zones are as follows:

Sr.No.	Name of SEZ	Province / Location	Focus Sectors	Remarks
1	King Abdullah Economic city	Makkah	• Automobile supply chain and assembly; • Consumer goods • ICT (Electronic light manufacturing) • Pharmaceuticals • MedTech • Logistics	New
2	Ras Al-Khair	Eastern	• Shipbuilding and Maintenance, repair & operations (MRO) • Rig Platforms & MRO	New
3	Jazan	Jazan	• Food processing • Metal Conversion • Logistics	New
4	Cloud Computing	Innovation tower at KACST, Riyadh	• Cloud Computing Services	New
5	Special integrated logistics zone	Riyadh	• Consumer products • Computer parts • Pharmaceuticals • Nutritional and medical supplies • Aerospace spare parts • Luxury goods, jewelry, and precious metals	Already existed

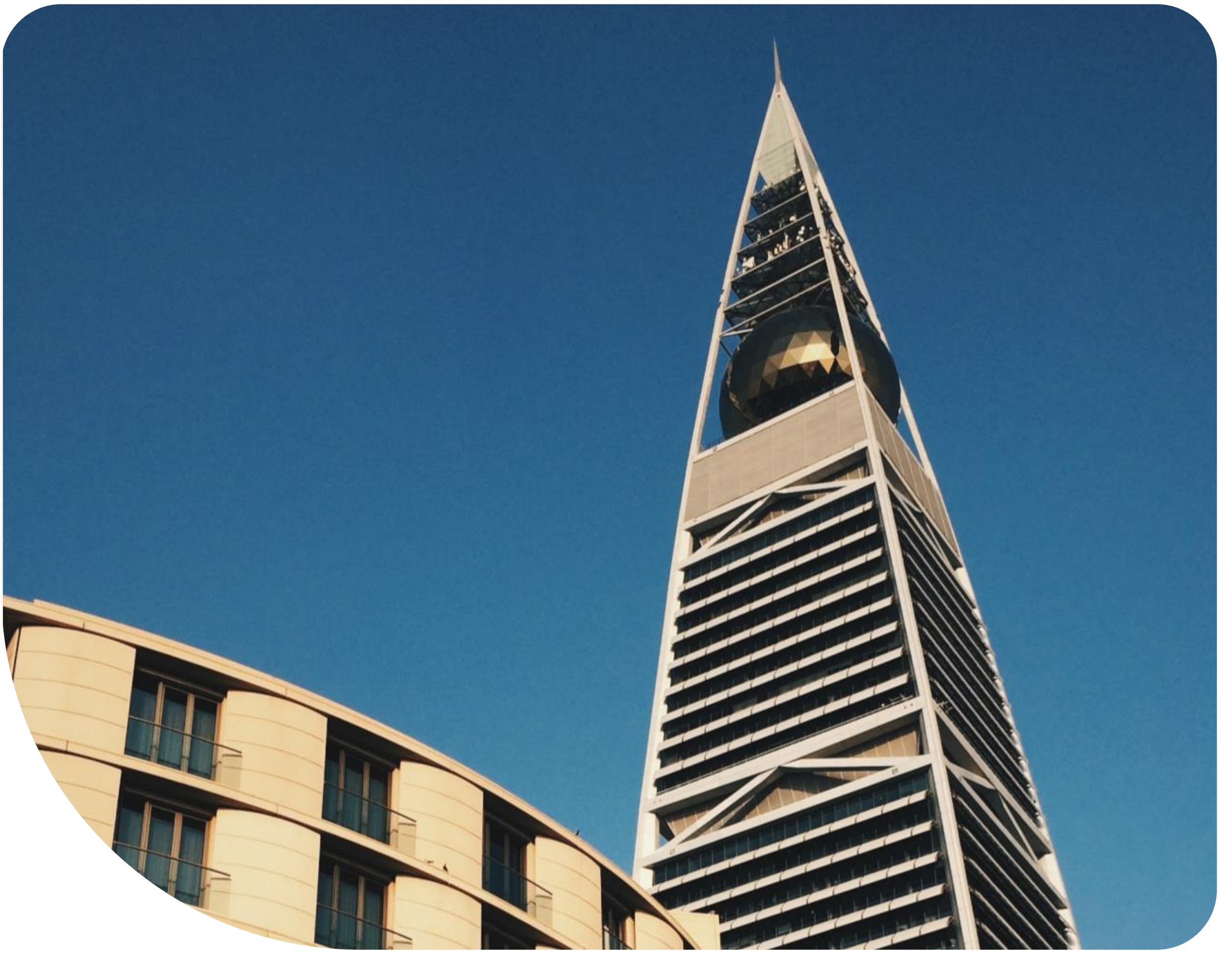
These SEZs will offer companies financial and non-financial incentives, most notably the following:

- 5% Corporate Income Tax rate for up to 20 years;
- 0% Withholding tax on repatriation of profits from SEZ into foreign countries;
- Customs duties deferral for goods inside SEZ or 0% Custom duties on capital equipment and inputs inside SEZ;
- Flexible and supportive regulations around foreign talent during first 5 years;
- 0% VAT for all intra-SEZ goods exchanged within and between the SEZs;

- Special tax treatment in line with OECD principles to avoid double taxation;
- Competitive rate of utilities notably electricity;
- Exemption from operational fees for employees and their families within SEZ.

Investors can express their interest and request additional information via the official website for SEZs launched by ECZA.

Should you need further clarification and details regarding this update, please contact GT KSA Head of Tax **Adel Douglas**, or Senior Tax Manager, **Syed Abul Rahman** or Senior Tax Manager, **Ganesh Nair**.



GCC Customs

Bahrain – The National Bureau of Revenue ('NBR') upholds the importance of Digital Stamp

The implementation of Digital Stamps on waterpipe tobacco "molasses" products was completed in three stages. After the successful completion of the first two stages, the final milestone will be implemented in the local markets, where the possession, trade, sale, or supply of waterpipe tobacco "molasses" products without a digital stamp in the local market will be prohibited by June 18, 2023.

Hence from 18th June 2023 onwards, the NBR has reaffirmed the significance of Digital Stamps on imported tobacco products by stating that any imported waterpipe tobacco "Molasses" products that did not contain the Digital Stamp will not be permitted from the entry point of the Kingdom of Bahrain for customs clearance. The NBR has strictly instructed that any imported waterpipe tobacco "Molasses" products without the Digital Stamp must be either destroyed or moved for sale outside Bahrain.

For further information on the above update, please click **here**.

Should you need further clarification and details regarding this update, please contact GT Bahrain Senior Tax Partner **Jatin Karia**, or Senior Tax Manager, **Shashank Arya** or GT Oman Tax Director, **Deepika Rajan**.

Bahrain – The National Bureau of Revenue ('NBR') conducts inspections to ensure effective implementation of VAT and Excise Tax

The NBR has conducted around 495 inspection visits within the local markets during January and February 2023.

This resulted in the imposition of administrative fines in accordance with the VAT and Excise Tax Law, in a few cases. Additional monitoring also resulted in several suspicions of various evasions that ultimately caused in the closing of several businesses.

Accordingly, the NBR has taken legal actions against the violating business and referred those proven to be guilty of evasion crimes to the competent authorities to initiate a criminal case against them, which may be punishable by imprisonment for five years and a fine equivalent to three times the amount of VAT due.

These campaigns were organised as a part of NBR's ongoing oversight efforts to protect consumers rights and enhance the level of business compliance and commitment to strengthening control over local markets to ensure the effective implementation of VAT and Excise Tax, especially in the wake of the Digital Stamps Scheme.

For further information on the above update, please click **here**.

Should you need further clarification and details regarding this update, please contact GT Bahrain Senior Tax Partner **Jatin Karia**, or Senior Tax Manager, **Shashank Arya** or GT Oman Tax Director, **Deepika Rajan**.

International Tax & Tax Treaty

GCC Tax Developments

Saudi Arabia extends transfer pricing requirements to Zakat payers

Saudi Arabia's Zakat, Tax, and Customs Authority (ZATCA) has extended transfer pricing requirements to Zakat payers, according to Decision No. 8-2-23 **approved** by the Board of Directors on March 20, 2023. Prior to this decision, transfer pricing rules applied only to Zakat payers subject to Country-by-Country (CbC) reporting or those who were shareholders in "mixed companies" subject to income tax. Mixed companies are defined as those with a shareholder(s) subject to income tax and a shareholder(s) subject to Zakat. However, the amended transfer pricing bylaws now apply to most Zakat payers, including Local file and Master file documentation obligations, as well as Advance Pricing Agreement (APA) provisions for both income tax payers and Zakat payers. ZATCA will release detailed APA procedures in the near future.

The new transfer pricing requirements and APA provisions will apply to financial years starting on or after January 1, 2024. In the initial phase, Zakat payers with aggregated related party transactions below SAR 100 million will be exempt from Local file and Master file requirements, while Investment Funds will be exempted regardless of the amount. Starting from January 1, 2027, Zakat payers with aggregated related party transactions below SAR 48 million will also be exempted.

Overall, the extension of transfer pricing rules to Zakat payers means that more entities will be subject to these regulations, which aim to ensure that related party transactions are conducted at arm's length.

Should you need any further clarification and details regarding this update, please contact our International Tax Team – Partner **Anuj Kapoor**, and Associate Director **Nimesh Malik**.

UAE exempts certain entities from corporate tax registration

The Ministry of Finance in the UAE has recently **issued** **Ministerial Decision No. 43 of 2023**, which outlines exceptions for corporate tax registration under the country's new corporate tax regime. The new regime will take effect for tax periods beginning on or after 1 June 2023. The decision clarifies that the following entities will not be required to register with the FTA or file returns corporate :

- Government Entities, including the Federal Government, local government departments, agencies , authorities and public institutions of the Federal or Local Governments;
- Government Controlled Entities, being any juridical person wholly owned and controlled by a Government entity;
- Persons engaged in an Extractive Business that meets the conditions of Article 7 of the Corporate Tax Law (noting such persons are effectively subject to tax at the Emirate level);
- Persons engaged in a Non-Extractive Natural Resource Business that meets the conditions of Article 8 of the Corporate Tax Law (noting such persons are effectively subject to tax at the Emirate level);
- Non-Resident Persons that derive only State Sourced Income under Article 13 of the Corporate Tax Law and that do not have a Permanent Establishment in the UAE according to the provisions of the Corporate Tax Law.

This exemption from registration for corporate tax will provide relief for the aforementioned entities, allowing them to focus on their operations without the added burden of registering for the new tax regime.

Should you need any further clarification and details regarding this update, please contact our International Tax Team – Partner **Anuj Kapoor**, and Associate Director **Nimesh Malik**.

UAE offers small business relief in new corporate tax regime

The UAE Ministry of Finance has issued Ministerial Decision No. 73 of 2023 on Small Business Relief for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Article 21 of the Decree-Law (Small Business Relief) describes that Taxable Resident Persons with revenue below a set threshold may elect to be treated as not having taxable income in a particular tax period subject to meeting certain conditions. The Decision stipulates the revenue threshold and provides further clarifications which can be summarised as follows:

- Small Business Relief is available for a business with revenue below AED 3 million in a relevant tax period and previous tax periods.
- The revenue threshold will apply to tax periods starting on or after 1 June 2023 and will continue to apply to subsequent tax periods that end on or before 31 December 2026.
- Small Business Relief will not be available to Qualifying Free Zone Persons. It will also not apply to members of MNE Groups, described in Cabinet Decision No.44 of 2020 as groups of companies with operations in more than one jurisdiction with consolidated group revenue equal to or more than AED 3.15 billion.
- Tax losses and disallowed net interest expenses incurred in tax periods where the election for small business relief is not made can be carried forward and offset against future taxable profits.
- The release of this Decision will be very welcome for many businesses, who will be able to steer clear of potential tax liabilities.
- Based on our interpretation and understanding of the Decree-Law, the Decision and the FAQs issued by the Ministry of Finance we have outlined some initial points for consideration:
- Businesses will need to make election to the FTA to claim Small Business Relief, it does not apply automatically. Careful thought should be given by businesses as to whether making the election would be beneficial, as there are some circumstances where this may not be the case.
- The revenue for a tax period should be determined based on applicable accounting standards. The FAQs defined revenue as "the gross amount of income derived in a tax period from sales of inventory and properties, services, royalties, interest, premiums, dividends and any other amounts, before deducting any type of costs or expenditure".
- The FAQs indicate that the application of Small Business Relief will be restricted to legal entities established in the UAE and individuals who are UAE residents. Non-residents of the UAE, such as permanent establishments of foreign companies, would not be eligible to apply for the relief.
- Currently, businesses that make the application for Small Business Relief would still be required to submit a tax return for each relevant tax period. The FAQs indicated that there would potentially be simplified compliance requirements for entities eligible for Small Business Relief, however at present no additional compliance reliefs or exemptions have been published.
- The FTA may request additional information to assess whether there has been an artificial separation of businesses with the aim to claim Small Business Relief. The FTA would look to understand the commercial rationale of certain arrangements, such as where several entities are strongly interconnected and carry on a similar business, with each claiming Small Business Relief.
- Such artificial separation would be considered as an arrangement to obtain a Corporate Tax advantage as per the General Anti-abuse Rule set out in the Decree-Law and the FTA could then look to assess businesses for any tax shortfall arising from the advantage.

Should you need any further clarification and details regarding this update, please contact our International Tax Team – Partner **Anuj Kapoor**, and Associate Director **Nimesh Malik**.

UAE announces corporate tax exemption for public welfare entities

The UAE Ministry of Finance has announced, via Cabinet Decision, that public benefit entities will be exempt from corporate tax starting this year. The decision aims to recognize the important role played by organizations focused on areas such as religion, charity, science, education, and culture. These entities must comply with all relevant laws and requirements under Article (9) of the Corporate Tax Law. The Cabinet may add, modify or remove entities on the list of qualifying public benefit entities, and they must report any changes that affect their status.

Should you need further clarification and details regarding this update, please contact our International Tax team – Partner **Anuj Kapoor**, and Senior Manager **Amisha Anil**.

Kuwait Ministry of Finance issues resolution amending tax audit process

On 27 March 2023, the Kuwait Ministry of Finance issued Resolution No. 24 of 2023, which amends the tax audit process in the country regarding the Income Tax Decree, the National Labour Support Tax Law, and the Zakat Law. The resolution aims to streamline and expedite the audit process by dividing audits into four categories:

- In-depth tax audits
- Targeted tax audits that focus only on specific issues
- Deemed profit tax audits
- Acceptance of returns with no audit

Previously, the tax authorities had a 100% audit target, which meant that every taxpayer's filed return was subject to inspection. The new audit process is expected to use a risk-based approach, taking into account factors such as the economic sector, turnover, or the successive reporting of tax losses. The technical details of the process are yet to be issued, and the resolution will come into effect upon its gazetting on 2 April 2023.

Should you need any further clarification and details regarding this update, please contact our International Tax Team – Partner **Anuj Kapoor**, and Associate Director **Nimesh Malik**.

Saudi Arabia launches third stage of e-invoicing program

On March 27th, the Saudi Zakat, Customs, and Tax Authority announced the launch of the third stage of its e-invoicing program. The latest stage applies to businesses with a VAT taxable turnover of over SAR 250 million in either 2021 or 2022. The program aims to connect taxpayers' e-invoicing infrastructure to the Zakat, Customs, and Tax Authority's FATOORA portal and is expected to be completed by October 1st, 2023. This initiative is part of Saudi Arabia's larger efforts to modernize its tax system and make it more efficient.

For more information regarding E-invoicing integration please click **here**.

Should you need any further clarification and details regarding this update, please contact our International Tax Team – Partner **Anuj Kapoor**, and Associate Director **Nimesh Malik**.

ZATCA has made available a guide that provides guidance specifically tailored to the needs of SMEs

A new guide for SMEs has been issued by ZATCA. The guide released is aimed at helping small and medium-sized enterprises (SMEs) navigate tax regulations in Saudi Arabia. The guide provides clear and practical guidance on various tax-related matters, including registration, record-keeping, compliance requirements amongst others. The same also includes examples and case studies to help SMEs better understand how to apply the guidance in practice.

For further information, please refer to the ZATCA website here: **Zakat, Tax and Customs Authority (zatca.gov.sa)**

Should you need further clarification and details regarding this update, please contact GT KSA Head of Tax **Adel Douglas**, or Senior Tax Manager, **Syed Abul Rahman** or Senior Tax Manager, **Ganesh Nair**.

GCC Tax Treaty Developments

UAE and Cambodia to continue tax treaty negotiations

Cambodia and the UAE have held their second round of negotiations for an income tax treaty on April 4-6, 2023, following the first round in September 2021. The treaty, if concluded, would be the first of its kind between the two countries. Any resulting agreement will need to be finalized, signed, and ratified by both countries before entering into force.

Should you need further clarification and details regarding this update, please contact our International Tax team – Partner **Anuj Kapoor**, and Senior Manager **Amisha Anil**.

Qatar – Ukraine tax treaty protocol ratified by Ukrainian Parliament

The Ukraine parliament has approved the ratification of the pending protocol to the 2018 income tax treaty with Qatar, on April 10, 2023. The protocol, which was signed on September 2, 2021, marks the first amendment to the treaty and includes updates to the preamble, Articles 25 (Mutual Agreement Procedure) and 26 (Exchange of Information), as well as a new Article 28 (Entitlement to Benefits). Once the ratification instruments are exchanged, the protocol will enter into force and apply from the first of January of the year following its entry into force. The updates to the treaty are expected to provide increased certainty for taxpayers and encourage trade and investment between Ukraine and Qatar.

Should you need further clarification and details regarding this update, please contact our International Tax team – Partner **Anuj Kapoor**, and Director **Emma Bird**.

Egypt and Saudi Arabia negotiate protocol to amend income tax treaty

Negotiations are currently underway for an amending protocol to the 2016 income tax treaty between Egypt and Saudi Arabia, as **stated** by Egypt's Ministry of Finance. If concluded, this will be the first protocol to amend the treaty, and it will need to be finalized, signed, and ratified by both countries before it can take effect.

Should you need further clarification and details regarding this update, please contact our International Tax team – Partner **Anuj Kapoor**, and Senior Manager **Amisha Anil**.

UAE and Republic of Congo sign income tax treaty

Officials from the United Arab Emirates and the Republic of Congo signed an income tax treaty on March 13, 2023, marking the first of its kind between the two countries. The treaty will come into force once the ratification instruments are exchanged. The specific details of the treaty are yet to be released and will be made available in due course.

Should you need further clarification and details regarding this update, please contact our International Tax team – Partner **Anuj Kapoor**, and Director **Emma Bird**.

Tax treaty signed between UAE and Guyana

The United Arab Emirates (UAE) and Guyana signed their first-ever tax treaty on 24 March 2022. This treaty covers various types of taxes including income tax, corporation tax, capital gains tax, and property tax for Guyana, and income tax and corporate tax for the UAE.

Article 3 of the treaty states that the domestic laws and regulations related to taxation of income and profits derived from hydrocarbons of each state or their local authorities will not be affected by any other provision of the treaty.

Furthermore, the treaty contains a provision that when an enterprise furnishes services in a contracting state through employees or other personnel for a period or periods of more than 183 days in any 12-month period, a permanent establishment will be deemed to be constituted.

Under the UAE- Guyana tax treaty, Article 7 (Limitation of Benefits) contains several provisions that restrict the treaty's benefits concerning taxation in Guyana. These limitations apply to several articles:

- Article 9 (Business Profits)
- Article 10 (Shipping and Air Transport)
- Article 13 (Interest)
- Article 15 (Capital Gains)
- Article 16 (Management/Technical Services Fees)
- Article 24 (Students and Trainees)

The provisions state that only certain residents of the UAE are allowed to invoke the above-mentioned articles which are limited to the following:

- The governments of the UAE
- A government institution of the UAE (a qualified government entity)
- A company that can prove that at least 75% of its capital is beneficially owned by the UAE or by a government institution and that the remaining capital is beneficially owned by individuals that are residents of the UAE, and the company is controlled by the aforementioned residents.

In continuance to the above. The following residents of the UAE shall be eligible to invoke Articles 10 (Shipping and Air Transport) and 13 (Interest):

- An individual
- A company that can provide substantial evidence that its capital is beneficially owned exclusively by the UAE or by a government institution of the UAE, or by individuals that are residents of the UAE, and the company is controlled by the aforementioned residents.

To be eligible for relief from Guyana taxes, a company resident in the UAE needs to prove that the acquisition or maintenance of shareholding or other property from which the income is derived was not for the principal purpose of obtaining treaty benefits for non-UAE residents. The tax treaty specifies the following tax rates on various types of income:

- Dividends: 10%
- Interest: 0%
- Royalties: 10%
- Management/Technical Services Fees: 5%

The treaty allows the other contracting state to tax the following types of capital gains derived by a resident of one state:

- Gains from the sale of immovable property located in the other state
- Gains from the sale of movable property forming part of the business property of a permanent establishment in the other state
- Gains from the sale of shares of a company whose capital stock is formed, directly or indirectly, in more than 50% by immovable property located in the other state, unless listed on a recognized stock market.

Gains from the sale of other property by a resident of a Contracting State may only be taxed by that State. Both countries apply the credit method to eliminate double taxation.

The treaty will enter into force once the ratification instruments are exchanged and will be applicable from 1 January of the year in which it was signed, i.e., 1 January 2022.

Should you need further clarification and details regarding this update, please contact our International Tax team – Partner **Anuj Kapoor**, and Senior Manager **Amisha Anil**.

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