Grant Thornton

Tax Newsletter

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Landscape

In our February 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.

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The UAE Update

The Federal Tax Authority ('FTA') introduces 'Penalty Instalment Plan' Request for settling penalty dues

On 24th February 2023, the FTA has introduced Penalty Installment Plan ('PIP') Request as a relaxation on the settlement of outstanding penalties.

The number of instalments is a choice that can be made based on a calculation. This calculation will be as follows:

$$\text{Number of Instalments} = \frac{\text{Percentage of Administrative Penalties included in the PIP Application}}{\text{Total Tax due for the last 12 months}}$$

However, the eligibility to submit a PIP Application is also subject to the below criteria:

Sr No	Criteria	Eligibility Status
1	Total of the selected penalties is less than 50% of the outstanding tax in the last 12 months	Not eligible to submit a PIP Application
2	Total of the selected penalties is between 50% to 100% of the outstanding tax in the last 12 months	Eligible to request for 4 to 8 instalments
3	Total of the selected penalties is more than 100% of the outstanding tax in the last 12 months	Eligible to request for 8 to 16 instalments

Businesses must evaluate their eligibility based on the above criteria to obtain timely benefits.

For further information on the above-mentioned service, 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) introduces a user guide for accessing EmaraTax through UAE PASS

On 19th February 2023, the FTA announced the integration of the first national digital identity, UAE PASS to the EmaraTax platform. Tax system registrants can now use UAE PASS to sign into all processes and services on the EmaraTax platform, further advancing the huge digital transformation currently underway in the UAE.

According to the FTA, the new feature was introduced in an effort to simplify, enhance user experience and satisfy customer expectations. It was created to adhere to the highest standards of information security, confidentiality, and accuracy.

The FTA has published a guide that walks users through each stage of the process for connecting their Emaratax accounts to their UAE Pass accounts in order to better assist users.

For further information on the use of the user guides, 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.**

1. VAT

The Federal Tax Authority (FTA) introduces user guides for assisting with VAT Refund

A taxable person may request a VAT Refund from the FTA where the taxable person is in a refundable position.

The 'VAT 311 – Refund' option on the EmaraTax site makes it simple for users to submit a request for a VAT refund. The system allows users to upload relevant documents related to claimed amounts and has checks in place to ensure that the right amount and documents are uploaded.

The FTA ensures the best user experience and hence has not only addressed the recent technical glitches reported by the users but has also released a comprehensive guide on how to start a direct refund claim to assist taxpayers better. The document details each step to take into account while submitting the refund request.

Furthermore, the FTA has created a detailed guide for Business Visitors and UAE Nationals Building New Residences to further assist in understanding on how to navigate through and use the EmaraTax platform to obtain VAT Refunds.

For further information on the use of the user guides, please click here for the **Direct Tax Refund update** and the **Business Visitor and UAE Nationals Building New Residences update**.

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 GCC Update

INDIRECT TAX

1. VAT

Saudi Arabia (KSA) – The Zakat, Tax and Customs Authority ('ZATCA') released a public consultation survey on the 'draft amendments and additions of new provisions to the VAT system'

The start date of survey will begin from 12th February 2023 and shall end on 12th March 2023.

Below is the synopsis:

Article reference	Existing Law	Suggested changes	Remarks
Article 42 of VAT Law	Penalty for failure to file VAT return in Time - 5% to 25% of the value of tax	Penalty for failure to file VAT return in Time - 2% to 24% of the VAT. Minimum fine shall be SAR 1000 for monthly VAT return filing and SAR 500 for quarterly filing	Reduction in penalty
Article 43 of VAT Law	Penalty for failure to pay the VAT in time – 5% of the VAT due for each month or part thereof	Penalty for failure to pay the VAT on time – 2% of the value of unpaid VAT for each month or part thereof, with a maximum of 50% of VAT. An additional penalty of 1% of the unpaid VAT shall be imposed if VAT due is modified by ZATCA during assessment.	Reduction in penalty
New article		The authority may seize movable and immovable property if the taxable person does not pay the VAT due. After 60 days from the date of issuance of notice for seizure, ZATCA to proceed with attachment procedures. After selling the seized property, ZATCA shall recover such seizure and selling expenses along with VAT and Penalties. Any remaining amount after the above deductions shall be returned to the taxpayer. Sale of property shall remain suspended during the period of administrative or judicial review of assessment.	New provision

For further information on the above survey, 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 Consultant, **Osama Terkawi**.

Saudi Arabia (KSA) – The Zakat, Tax and Customs Authority (ZATCA) publishes a circular on VAT Refunds for Non-residents in the GCC Countries

According to the VAT Implementing Regulations, taxable persons who did not carry out economic activities in the KSA but have incurred VAT during the calendar year 2022 may assess their eligibility and apply for a VAT refund by 30th June 2023.

A taxable person must self-assess for their eligibility before applying under the scheme. Eligibility criteria would include that such non-resident person must be registered with a tax authority that has a VAT system similar to KSA VAT and such tax authorities must provide VAT refunds to KSA entities under non-resident refund schemes.

The ZATCA had set up a registration process on its website last year for enabling a user-friendly process and ease of application for non-residents to achieve "eligible person status." Upon obtaining the eligible person status, non-residents may submit a refund application within six months of the end of a calendar year.

For further information on the Arabic version of the above-mentioned circular, please click **here**.

Furthermore, according to a recent circular published by the ZATCA, Designated Persons (such as Foreign Governments, International Organizations, Diplomatic and Consular Bodies and Missions, etc.) who are not engaged in any economic activity in KSA may also be considered eligible for VAT refunds in KSA.

For further information on the above-mentioned circular, 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 Consultant, **Osama Terkawi**.

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

The NBR has conducted more than 3,000 inspection visits within the local markets during the year of 2022.

The results of the campaigns were announced on 1st of February 2023 and resulted in reporting 1,700 violations that required the imposition of administrative fines in accordance with the VAT and Excise Tax Law. 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 consumer rights, enhance the level of business compliance and commitment to strengthen control over local markets to ensure the effective implementation of VAT and Excise Tax.

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

2. Customs and Excise

Saudi Arabia (KSA) – The Zakat, Tax and Customs Authority ('ZATCA') implements rules and conditions for establishing duty-free shops at the customs ports

On 6th January 2023, the ZATCA has determined the conditions and customs procedures for the establishment of duty-free shops at air, sea and land ports, in accordance with the GCC Customs Law, which includes the requirements governing the operation of duty-free shops and the provisions related to their operating license and other related controls.

The ZATCA clarified that the determination of these rules came after the Council of Ministers' decision to approve the establishment of duty-free shops for fulfilling the need at air, sea and land ports thereby encouraging sales to travelers arriving and departing from Saudi Arabia. This step intends to support supply chains, improve logistics services and to promote local suppliers at the global market.

For further information on the above-mentioned announcement in Arabic, 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 Consultant, **Osama Terkawi**.

Saudi Arabia (KSA) – The Zakat, Tax and Customs Authority ('ZATCA') implements quicker clearances at Customs Ports ie. "Clearance within Two Hours"

On 22nd January, 2023, the ZATCA announced the implementation of the 'Clearance within Two Hours' initiative in all its land, sea and air customs ports. The announcement came in conjunction with the ZATCA's celebration of the International Customs Day (ICD) and was graced by distinguished dignitaries.

The record time achieved by ZATCA in all customs ports of the Kingdom by land, sea and air, comes after several stages of continuous development of customs clearance procedures and related logistics services. It is indeed an advancement of cross-border trade facilitation, given that the clearance period took 12 days in 2017 and today it is estimated to take only two hours.

For further information on the above-mentioned announcement in Arabic, 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 Consultant, **Osama Terkawi**.

Bahrain – The National Bureau of Revenue (NBR) takes measures to ensure the effective implementation of Digital Stamp for Excise Tax

In accordance with Decision No. (3) for the year 2022 regarding the implementing key milestones of the Digital Stamps Scheme on excise products, the NBR has introduced a Mobile application on 16th of January 2023 to validate tobacco products by scanning the QR code on the product. This application would help in verifying that the product is authentic and certified by the NBR.

The NBR in cooperation with De La Rue, has announced the successful completion of the first phase of implementing milestone of the DS Scheme on water tobacco "Molasses" product. Moreover, on the 13th of February 2023, the NBR has announced that no imported waterpipe tobacco "Molasses" products without DS are allowed in the kingdom after the er 19th of March 2023. This reflects the NBR's readiness to ensure the effective implementation of Digital Stamp for Excise Tax.

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

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International Tax & Tax Treaty

UAE Cabinet Decision confirms 0% Corporate Tax rate threshold

The new CT Law in the UAE includes the following tax rate categories:

- 0% on the portion of taxable income that is not greater than the sum determined by a **resolution made by the Cabinet**; and
- Taxable income that exceeds the specified amount set by the UAE Cabinet of Ministers will be taxed at a rate of 9%.

The UAE Cabinet of Ministers has issued the decision confirming that the taxable income threshold for the 0% Corporate Tax (CT) rate is AED 375,000.

Tax returns and payments must be made within 9 months after the end of the applicable tax period under the new regime, which will be in force for tax periods beginning on or after 1 June 2023. For businesses that use the calendar year, the new system will go into force for the tax year beginning 1 January 2024, with the first return and payment due by 30 September 2025.

For further guidance and updates on the new CT regime in UAE, please follow GT UAE.

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**.

Qatar adopts global minimum tax provisions and other Tax Law changes

Changes to the Income Tax Law (Law No. 24 of 2018) were published by Qatar in the Official Gazette on 2 February 2023 by the release of Law No. 11 of 2022. The key highlights of the new Law are shown below:

- New provisions for a minimum effective tax rate of 15% through a Qualified Domestic Minimum Top-up Tax (QDMTT) for in-scope entities based on the Pillar 2 global minimum tax (GloBE) rules;
- New provisions for the taxation of certain income arising from sources outside Qatar, including income from immovable property, dividends, royalties, interest, technical service fees, and other services as long as such income is not attributable to a foreign permanent establishment;
- New foreign tax credit provisions to provide a credit for foreign tax paid on the foreign source income that has become taxable in Qatar, subject to certain conditions;
- New reporting requirements in relation to substance and core activities, along with a rule that a Qatar tax residency certificate will not be issued to entities not meeting substantial activity requirements, as well as a penalty equal to 15% of net income where the requirements are not met; and
- New Ultimate Beneficial Owner (UBO) requirements, including that companies, partnerships, foundations, etc. must maintain accurate information on their UBOs and intermediaries, with such information to be submitted when required.

Law No. 11 of 2022 is generally effective as of the day it was published, 2 February 2023, with revisions to be implemented with amendments to the applicable executive regulations. Further details in regard to the Law will be published in future GT Newsletters once available.

Should you need any further clarification and details regarding this update, please contact our GT Qatar Team – Tax Partner **Alamgir Khan** and Tax Manager **Sarfaraz Ghous**.

ZATCA issues rules and conditions on taxpayers “Owned by an Endowment”

On 11 January 2023, ZATCA has issued the rules and conditions that taxpayers "owned by an endowment" are not subject to Zakat specifying all the related provisions and controls.

ZATCA clarified that the rules apply to the taxpayer subject to the Executive Regulations for Zakat Collection, wholly owned (directly or indirectly) of one or more endowments, noting that the endowment should be established in Saudi Arabia, in addition to meeting the criteria stipulated in the rules.

The rules included several controls and provisions, the most prominent of which is that the taxpayer submits - annually - a request not to be subject to the collection of Zakat according to the form prepared by ZATCA, accompanied by the required documents, provided that the request is submitted within the statutory period described in Article 17 of the Executive Regulations for Zakat Collection.

The Authority indicated that the rules apply to the fiscal years starting on and after 1 January 2023, and upon the request of the taxpayer it may be applied to the fiscal years to which the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 7 Rajab 1440 AH apply, and no final decision has been issued by ZATCA on this subject.

For further information on this update in Arabic, 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 Consultant, **Osama Terkawi**.

South Africa publishes synthesized texts of tax treaties Oman, Qatar, Saudi Arabia and UAE as impacted by the BEPS MLI

A synthesised text of the tax treaties with Oman, Qatar, Saudi Arabia and the UAE has been published by the South African Revenue Services ("SARS") impacted by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI). The reservations and notifications provided by Oman, Qatar, Saudi Arabia and the UAE to the Depositary formed the basis of the synthesised text. The actual legal texts of the treaties and MLI take priority and continue to be the applicable legal documents.

The MLI applies for the **2002 South Africa-Oman tax treaty**:

- with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2023; and
- with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after 1 July 2023.

The MLI applies for the **2015 South Africa-Qatar tax treaty**:

- with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2023; and
- with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after 1 July 2023.

The MLI applies for the **2007 South Africa-Saudi Arabia tax treaty**:

- with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2023; and
- with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after 1 July 2023.

The MLI applies for the **2015 South Africa-UAE tax treaty**:

- with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2023; and
- with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after 1 July 2023.

For more information regarding the synthesized texts of South Africa's tax treaties click **here**.

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

Tax treaty between Saudi Arabia and Sri Lanka signed

An income tax treaty with Qatar has entered into force and generally applies from 1 January 2023, according to an **update** from the Oman Tax Authority, The treaty, signed 22 November 2021, is the first of its kind between the two countries.

A first of its kind tax treaty between Sri Lanka and Saudi Arabia was signed by officials on 27 January 2023. The treaty will be deemed effective once the ratification documents between the two nations are exchanged. Further details on the tax treaty will be published in future GT newsletters once available.

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

Russia is planning to revise tax treaty with the UAE

Reports suggest that Russia plans on beginning negotiations for revision of the 2011 tax treaty with UAE this year. Uncertainty around the nature of these discussions still persist and could range from negotiations regarding amending protocols of the tax treaties or proposal of new treaties altogether. Further information regarding this will be published in future GT Newsletters once available.

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

Andorra publishes synthesized text of tax treaty with the UAE

A synthesised text of the tax treaty with the UAE has been published by the Andorra Ministry of Finance impacted by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit.

Shifting (MLI). The reservations and notifications provided by UAE to the Depositary formed the basis of the synthesised text. The actual legal texts of the treaties and MLI take priority and continue to be the applicable legal documents.

The MLI applies for the **2015 Andorra-UAE tax treaty**:

- In Andorra:
  - with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2022; and
  - with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after 1 January 2023.
- In UAE:
  - with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2022; and
  - with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after 1 January 2023.

Click the following link for the **tax treaty page** of the Ministry of Finance, which includes the MLI synthesized texts.

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

Tax treaty between Morocco and Saudi Arabia in force

According to an update released by the Moroccan, the income tax agreement between Morocco and Saudi Arabia entered into force on August 1, 2022, and will take effect on January 1, 2023.

The agreement, which was signed on April 14, 2015, is the first of its kind between the two countries.

Taxes covered

Saudi Zakat, income taxes, and natural gas investment tax and the Moroccan income and business taxes fall within the ambit of this tax treaty.

Service PE

The treaty states that a permanent establishment is formed when a company provides services in a Contracting State through employees or other engaged individuals for the same or connected project for a term or periods aggregating to more than 6 months in any 12-month period.

Limited Force of Attraction provision

Article 7 (Business Profits) contains a limited force of attraction provision that grants a Contracting State taxing rights on profits attributable to the sale of goods or merchandise or other business activities carried out in that Contracting State by a resident of the other State if the same or similar goods or merchandise or business activities are also sold or carried out by a PE maintained by that resident in the first-mentioned Contracting State.

Withholding Tax rates

- Dividends - 5% if the beneficial owner is a firm directly owning at least 10% of the capital of the paying company, otherwise 10%;
- Interest rate – 10%; and
- Royalties, including technical assistance and services – 10%.

Capital Gains

Capital gains obtained by a resident of one Contracting State may be taxed by the other Contracting State:

- Gains from the alienation of immovable property located in the other state;
- Gains from the alienation of movable property that is part of the commercial property of a permanent establishment in the other State; and
- Gains derived from the sale of shares in an entity resident in the other State.

Gains derived from the alienation of other property by a resident of a Contracting State may be taxed solely in that State.

Double taxation relief:

Both nations use the credit method for elimination of double taxation.

Non-discrimination:

Non-discrimination provisions are not included in this treaty.

Effective date:

The treaty applies from 1 January 2023.

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

Want to know more? The Tax Team at Grant Thornton UAE aims to provide you with updates regarding the latest developments in Tax within the Middle East region.

For more details with respect to this alert or queries on other Tax issues, please contact the following in-country GT Tax leaders, whose details are given below.

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