



Tax Newsletter

January 2023



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Landscape

In our January 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.



The UAE Update



1. Corporate Tax & VAT

The Federal Tax Authority (FTA) opens the Emaratax platform for pre-registration for Corporate Tax and publishes user guide to navigate through the portal for various tax services

The FTA launched the Emaratax platform on December 5th 2022, enabling the smooth provision of around 119 online tax services in the UAE.

As a result, Emaratax provides an additional 84 services than the previous FTA portal. The Emaratax portal gives access to a variety of tax services and has been successfully activated, giving end users access to the most innovative advancements and is designed to help taxpayers manage their tax obligations via a single platform.

Amongst the wide array of services provided by the Emaratax platform, is the pre-registration for businesses for the highly anticipated Corporate Income Tax Law released in UAE in early December by Federal Decree-Law No. 47.

The pre-registration would be on an invite-only basis either by email or SMS and be limited to certain categories of companies between the period of January 2023 to May 2023. Following the end of the pre-registration period, an announcement by the FTA is to follow giving further guidance for remaining businesses and companies to register for Corporate Tax.

Moreover, the FTA has reassured that ample time will be provided for the purpose of registration for companies not falling under the pre-registration phase with priority given to businesses with financial year starting 1 June 2023 to support businesses to meet their reporting obligations.

Further, to support the introduction of Emaratax, the FTA has recently published the following user guides to enable easy navigation through the portal for tax services:

Sr No	Date	Name of New Articles/Guides/Public Clarifications
1	14 th December 2022	Processing VAT Indirect Refund Claim Business Visitor
2	14 th December 2022	Resubmit VAT Indirect Refund application for Business Visitor
3	14 th December 2022	Tax Group Registration
4	14 th December 2022	Convert VAT Registration exception TINXC to VAT Registration TRN
5	14 th December 2022	VAT Registration
6	14 th December 2022	Initiate VAT Indirect Refund Claim for Business Visitor
7	14 th December 2022	Processing Direct Refund Claims VAT 311
8	14 th December 2022	Request to add Home Country to approved list of countries
9	14 th December 2022	VAT Deregistration
10	14 th December 2022	Initiate Direct Refund Claim by VAT Registrants VAT 311
11	14 th December 2022	Request for VAT Clearance Certificate for registered Unregistered
12	14 th December 2022	Amend Tax Group
13	12 th December 2022	Payments by Registrants through GIBAN
14	12 th December 2022	Payments by Registrants through FAB Magnati
15	10 th December 2022	Submit VAT Voluntary Disclosure by VAT Registrant
16	09 th December 2022	VAT Financial Guarantee or Cash Deposit Release for Non Registered Importers User Guide
17	08 th December 2022	Initiate and processing retention payment claims for UAE Nationals Building New Residences refund
18	08 th December 2022	Delink Taxable Person from Tax Agency by Account Admin of Taxable Person
19	08 th December 2022	Processing Refund for Non-Registered importers and VAT Clearing Company TINCO- VAT 702
20	08 th December 2022	Initiate Indirect Refund Claim for UAE Nationals Building New Residences
21	08 th December 2022	Initiate refund for VAT payment made against cancelled Customs Declaration - VAT 301A
22	08 th December 2022	Initiate Indirect Tax Refunds for Accredited Foreign Missions and Diplomats

For further information on the use of Emaratax or the user guides, please click [here](#) and for further information on Corporate Tax pre-registration please click [here](#).

Should you need any further clarification and details regarding this update, please contact our Corporate Tax Partner [Sam Maycock](#), our VAT Director [Harsh Bhatia](#), or our VAT Associate Director [Charlotte Stanley](#).

Customs – Dubai Customs releases a new notice on “Procedures and Fees of Commercial Invoices Attestation” by the Ministry of Foreign Affairs & International Cooperation

Dubai Customs has released a new Customs Notice on ‘Procedures and Fees of Commercial Invoices Attestation’ by the Ministry of Foreign Affairs & International Cooperation for Imports to Local which comes into force from 1st February 2023.

Following the UAE Cabinet Decision No. (38) of 2022 dated 2^{1st} April 2022 on the Procedures and Fees of Commercial Invoices Attestation by the Ministry of Foreign Affairs & International Cooperation, and Cabinet Decision No. (94) of 2022 amending some provisions of Cabinet Decision No. (38) of 2022, and the letter of the Federal Authority for Identity, Citizenship, Customs, and Port Security Ref. No 13825/2022 dated 26th September 2022, the following has been announced:

- Article (1): Each commercial invoice for imported goods valued at more than AED10,000 shall be subject to a fixed service fee of AED 150 (one hundred and fifty UAE dirhams) collected through the Ministry's own systems.
- Article (2): In order to organise an import or import for re-export declaration, declarants must enter the electronic attestation reference number issued by the Ministry of Foreign Affairs and International Cooperation for each attested invoice into the Customs electronic system, in case the attestation fee has been paid prior to completing the customs declaration.
- Article (3): Declarants must finalise the payment of attestation fees within fourteen (14) days from the date that the customs declaration is completed.
- Article (4): In accordance with Cabinet Decision No. (38) of 2022, the Ministry of Foreign Affairs and International Cooperation will fine non-compliant customers who fail to obtain the required attestation on their imported goods invoices after the expiration of the period referred to in Article (3).

- Article (5)
 - Through the following link, you can access the attestation service of the Ministry of Foreign Affairs and International Cooperation directly on their website:
<http://www.mofaic.gov.ae/ar-ae/Services/attestation>.
 - Visit the Ministry of Foreign Affairs and International Cooperation's website at <http://www.mofaic.gov.ae> or contact their call centre at 065068888 for more information.
- Article (6): In accordance with this notice, all concerned units must take the necessary measures to implement it as soon as possible after 1st February 2023.

All businesses who are importing goods should update their procedures and controls to ensure that they comply with the new regulations from the effective date.

For further information on the above-mentioned notice, please click [here](#).

Should you need any further clarification and details regarding this update, please contact our VAT Directors [Harsh Bhatia](#), or [Sunny Kachalia](#).



The GCC Update



INDIRECT TAX

1. VAT

Saudi Arabia (KSA) – The Zakat, Tax and Customs Authority (ZATCA) determines the criteria for implementing the Second Wave (Integration Phase) of E-Invoicing

The first phase of E-Invoicing (Issuance and Filing phase), which began on 4 December 2021, obliged the taxpayers to discontinue the issuance of handwritten invoices and invoices created on computers through text editing programs or number analysis programs. The successful implementation of the first phase ensured a tax-compliant unified technical solution for E-Invoicing with the Rapid Response Code (QR Code) and other requirements prescribed by the ZATCA.

As previously announced, the ZATCA has launched the second phase of E-Invoicing which would involve linking and integrating in continuation to the first phase. The second phase (Linking and Integrating phase) has additional requirements, compared to the first phase (Issuance and Filing phase). The most prominent of these additional requirements are:

- Linking the E-Invoicing systems for taxpayers with the Fatoora platform;
- Issuing electronic invoices based on a specific formula and
- Including a number of additional elements in the invoice, as mandated by the ZATCA.

The second phase of binding (Linking and Integrating phase) will be carried out gradually in groups, where the subsequent groups will be directly notified by the ZATCA at least six months before the required link date.

Currently, the ZATCA has set the standards for selecting the businesses targeted in the second group for the application of the "Linking and Integrating phase" of E-Invoicing. The second group includes those establishments whose taxable revenue exceeded SAR 5 Bn in 2021.

The Authority has indicated it's intent to notify all the targeted establishments in the second group through the Fatoora platform starting from 1st July 2023, in order to provide the businesses with sufficient time to embrace the changes.

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) starts implementing the Second Wave (Integration Phase) of E-Invoicing

The ZATCA had recently announced the criteria for the second group of targeted businesses that would fall under the Integration phase of E-Invoicing. Furthermore, the ZATCA has currently started the implementation of the "Linking and Integrating phase" of E-Invoicing for businesses selected under the first group. The first group includes those establishments whose taxable revenue has exceeded SAR 3 Bn in 2021.

This step reveals the determination of the ZATCA on ensuring the successful implementation of the second phase of E-Invoicing by taking it to the next level.

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) ceases the rebate given for VAT Transitional rate change in 2022

Following the Decision No. (1) for the year 2021 determining the procedures for implementing Article (4) of the Law No. (33) for the year 2021 that amended certain provisions of the VAT Law issued by Decree-Law No. (48) for the year 2018, the standard rate of VAT was increased from 5% to 10% on 1 January 2022.

In addition, VAT Transitional Rules were brought into effect under the provisions of VAT Transitional Rules where all Contracts entered into before 24th December 2021 were taxed at 5%.

However, since the “Enforcement Date” of 1st January 2023, all existing agreements & contracts which were subject to VAT at the standard rate of 5%, are indefinitely rendered to being taxed at the standard rate of 10%.

It is recommended that businesses conduct a thorough evaluation of all existing arrangements/contracts to detect tax trigger points and ensure thorough compliance. Should you have contractual agreements which qualify as “continuous supplies”, it is suggested to reassess the terms and fees of the contract, considering the VAT rate increase from 5% to 10%.

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](#).

Oman – The Oman Government amends certain provisions to the VAT Regulations

The Oman Government has issued Decision No 456/2022 to amend certain provisions of the Oman VAT Executive Regulations. The decision was published in the Official Gazette on 16 October 2022 and comes into effect on 17 October 2022.

Below are the key amendments to be noted:

- Amendments made to Article 55 (1) deals with refund documentation requirements:
It has now been amended, from the requirement of Original VAT Invoices to be maintained to VAT invoices to be issued in an electronic format generated through electronic means in accordance with the provisions of Chapter 8 of the VAT Regulations.
- Amendments made to Article 188 deals with VAT refund requests for foreign diplomatic bodies and International Organizations: The amendment now requires the approval from Ministry of Finance for the VAT to be refunded to Foreign Governments, Diplomatic, Consular and Military bodies or Missions, International organisations, and members of Diplomatic and Consular Corps. Due compliance to the below conditions and controls of the OTA must also be maintained:

- The condition of reciprocity is met;
 - The VAT was incurred for goods and services exclusively intended for official use to exercise their functions and carry out their work;
 - The total value of the VAT in any VAT Refund Request should not be less than one hundred (100) Omani Riyals; and
 - The VAT is not incurred on the following goods and services:
 - ❖ Petroleum products.
 - ❖ Tobacco or e-Cigarette products.
 - ❖ Alcoholic drinks.
 - ❖ Wired and wireless telecommunications services.
 - ❖ Motor vehicles.
- Amendments made to Article 189 deals with VAT refund requests for foreign diplomatic bodies and International Organizations: The amendment now allows a taxable person concerned to directly submit a request, via a VAT Refund Form, to the OTA regardless of the validation from the Ministry of Foreign Affairs but in accordance with the procedures specified by the OTA, which are as follows:
 - A copy of the purchase invoice, including its number and date, and supporting documents to the invoice.
 - In respect to each invoice, names, addresses and VAT Registration numbers of suppliers in the Sultanate.
 - Values of the VAT on each invoice and in total.
 - Omani bank account details of the Applicant foreign government, Diplomatic and Consular mission, Body or Corps, or international organization.
 - Any other details and documents specified by the Authority.

VAT refund application shall be submitted within six months from the end of each of the two periods mentioned below, and the application shall include the invoices which are dated within the prescribed periods:

- The first period: from 1st January to 30th June of each tax year.
- The second period: from 1st July to 31st December of each tax year.

- Amendments made to Article 202 deals with administrative penalties:

The amendment states that a penalty will be imposed if businesses fail to issue the VAT Invoices in accordance with the requirements specified under Chapter 8 of the VAT Regulations and any requirements specified by the OTA regarding the issuance of the electronic VAT Invoices.

For further information on the above-mentioned VAT Regulations, please click [here](#).

Should you need further clarification and details regarding this update, please contact GT Oman Tax Partner [Nasser Al-Mughairy](#), or Tax Director, [Deepika Rajan](#).



International Tax & Tax Treaty

The Ministry of Finance in KSA has approved the amended Zakat regulations on investment funds

Effective from the beginning of 2023, the Fund Zakat Rules were released by Saudi Arabia's MoF through [Resolution No. 29791](#) on 23 December 2022.

The Registration requirement incorporated under the Fund Zakat Rules provides a deadline for registration with the Zakat Tax and Customs Authority (ZATCA) before the end of the first fiscal year in which the Fund Zakat Rules become effective. Further, the compliance requirements entail filing of returns within 120 days of the end of the Zakat year.

An owner of an Investment Unit in a Fund who is liable for Zakat can benefit from a reduced Zakat base through the deduction of the value of its investment subject to meeting certain conditions laid out in the Fund Zakat Rules.

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](#).

OECD releases new conclusions showing further progress in countering harmful tax practices in no or nominal tax jurisdictions

The OECD in its continued effort to counter harmful tax practices has recently made an [announcement](#) releasing new conclusions depicting progress towards their goal. The new results on preferential regimes and substantial activities in no or only nominal tax jurisdictions are briefly highlighted below:

Preferential Regimes

As part of the implementation of the BEPS Action 5 minimum standard on harmful tax practices [new conclusions](#) were drawn for 13 regimes in November 2022 of the OECD Forum on Harmful Tax Practices (FHTP).

Of the 13 regimes, Cabo Verde and China were found to be not harmful; and contrastingly 2 regimes namely of Honduras and Pakistan were abolished. Further, 4 regimes for Armenia are in the process of amendment while Jamaica and North Macedonia have already undergone amendment and are no longer considered harmful. Lastly, Albania was concluded as potentially harmful, subject to reassessment in FHTPs next meeting.

Annual monitoring of substance in no or only nominal tax jurisdictions

The FHTP conducts an annual monitoring exercise as part of the standard on substantial activity required in no or only nominal tax countries to determine whether the standard is indeed effective and practical. The FHTP began this process in 2021, and they have now agreed on the [conclusions for the second monitoring year](#).

Four jurisdictions (Anguilla, the Bahamas, Barbados, and the Turks and Caicos Islands) received recommendations for significant improvement, and another four countries received recommendations for targeted monitoring (Bahrain, Bermuda, the British Virgin Islands, and the Cayman Islands). For Guernsey, Jersey, the Isle of Man, and the United Arab Emirates, no issues were found.

The second half of 2023 will see the next annual monitoring exercise for tax jurisdictions with nil or minimal taxes.

More information on BEPS Action 5 on harmful tax practices can be found in this [publication](#) by the OECD.

Should you need further clarification and details regarding this update, please contact our International Tax team – Partner [Anuj Kapoor](#), or Associate Director [Nimesh Malik](#).

Isle of Man publishes synthesised text of tax treaty with Bahrain as impacted by the BEPS MLI

The Isle of Man tax treaty with Bahrain impacted by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) saw a publication of the synthesized text by the Isle of Man Government. The reservations and notifications submitted to the Depositary by the respective countries formed the basis for preparation of the synthesized text. The authentic legal texts of the treaty and the MLI take precedence and remain the legal texts applicable.

The MLI applies for the [2011 Isle of Man-Bahrain tax treaty](#):

- For 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
- All other taxes, for taxes charged for tax periods beginning on or after 1 December 2022.

Please refer to Isle of Man Government's [Double Taxation Agreements webpage](#), 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](#), or Tax Manager [Tamer El Khatib](#).

Luxembourg publishes synthesised text of tax treaty with Bahrain as impacted by the BEPS MLI

The 2009 Luxembourg tax treaty with Bahrain impacted by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) saw a publication of the synthesized text by the Luxembourg tax administration. The reservations and notifications submitted to the Depositary by the respective countries formed the basis for preparation of the synthesized text. The authentic legal texts of the treaties and the MLI take precedence and remain the legal texts applicable.

The MLI applies for the [2009 Luxembourg-Bahrain tax treaty](#):

- For 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
- All other taxes, for taxes charged for tax periods beginning on or after 1 December 2022.

Click the following link for the [tax treaty page](#) of the Luxembourg tax administration, 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](#), or Senior Tax Manager [Amisha Anil](#).

Tax treaty between Oman and Qatar has entered into force

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.

Taxes Covered

The treaty covers Oman income tax and covers Qatar income tax and corporation tax.

Residence

If a person other than an individual is deemed to be a resident of both Contracting States, the competent authorities shall, determine the person's residence for the purposes of the treaty through mutual agreement. Considering the person's actual place of administration, where it is incorporated or otherwise constituted and any other relevant factors. If no agreement is reached, the person will not be entitled to any tax relief or exemption under the treaty.

Withholding Tax Rates

- Dividends - 0% if the beneficial owner is a company directly holding at least 20% of the paying company's capital or the beneficial owner is a pension fund; otherwise, 5%
- Interest - 0%

- Royalties - 8%
- Technical Service Fees - 8%

Capital Gains

The following capital gains derived by a resident of one Contracting State may be taxed by the other State:

- Gains from the alienation of immovable property situated in the other State;
- Gains from the alienation of movable property forming part of the business property of a permanent establishment in the other State; and
- Gains from the alienation of other property by a resident of a Contracting State may only be taxed by that State.

Double Tax Relief

Oman applies the credit method for the elimination of double taxation while Qatar applies a combination of the credit and exemption methods.

Entitlement to Benefits

Article 29 (Entitlement to Benefits) provides that a treaty grant shall not be granted for an income if there are reasonable grounds to conclude, taking into account all relevant facts and circumstances, that the receipt of such benefit is the primary purpose of any arrangement or transaction which directly or indirectly gives rise to such benefit, unless it is determined that granting the benefit would be appropriate, considering the object and purpose of the relevant provisions of the treaty.

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](#), or Tax Manager [Tamer El Khatib](#).

Ukraine Cabinet approves pending protocol to tax treaty with Qatar

Ukraine's Cabinet of Ministers approved the pending sanction of the protocol to the 2018 income tax treaty with Qatar on 2 December 2022.

Signed September 2, 2021, is the first revised treaty, including updates to the preamble and Article 25 (Mutual Agreement Procedure) and 26 (Exchange of Information), as well as a new Article 28 (Entitlement to Benefits). The protocol will enter into force once the ratification instruments are exchanged and will apply from 1 January of the year following its entry into force.

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

Amending protocol to tax treaty between Austria and the UAE entering into force

On 1 March 2023, the amending protocol to the 2003 income tax treaty between Austria and the United Arab Emirates enters into force. The protocol, signed 1 July 2021, is the first to amend the treaty and includes the following main changes:

- The preamble is replaced in line with OECD BEPS standards;
- Article 4 (Resident) is updated regarding the meaning of the term "resident of a Contracting State" in Austria, which means any person who, under Austrian law, is taxable by reason of his place of residence, place of administration or any other criterion of a similar nature, and also includes that State and any political subdivision or local government of that state; however, the term does not include any person responsible for paying taxes in Austria solely on income from Austrian sources;
- Paragraph 1 of Article 10 (Dividends) is replaced, providing for a general withholding tax rate of 10%, with an exemption if the beneficial owner is:
 - a Contracting State, a political subdivision or local authority thereof, or a Qualified Government Entity, or
 - a company (other than a partnership) that directly holds at least 10% of the paying company's capital;
- Article 24 (Methods for eliminating double taxation) is updated for Austria, providing that Austria adopts the deduction method to avoid double taxation in place of the previous exemption method;

- Article 27 (Exchange of Information) is replaced in line with OECD standards; and
- Article 28A (Entitlement to Benefits) was added to reasonably conclude that obtaining benefits under the Convention is one of the primary purposes, having considered all relevant facts and circumstances. It stipulates that if it is granted, it will not be granted with respect to income. An arrangement or transaction that directly or indirectly resulted in its benefit, unless it is demonstrated that granting that benefit in such circumstances is consistent with the purpose and purpose of the relevant provision of this Agreement.

The protocol applies for amounts paid and fiscal years beginning after 31 December of the year in which the ratification instruments were exchanged, i.e., from 1 January 2023.

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

San Marino and Saudi Arabia conclude tax treaty negotiations

Negotiations between officials from San Marino and Saudi Arabia have wrapped up pursuant to the imminent tax treaty between the two nations. Any ensuing agreement would be the first of its sort between the two nations and would require finalization, signing, and ratification before coming into effect.

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

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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