



Grant Thornton

Tax Newsletter

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Landscape

In our October 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



INDIRECT TAX

1. VAT in the UAE

The FTA will be launching a new tax platform known as EmaraTax from November 2022.

The platform will make it easier for UAE taxpayers to pay their taxes, obtain VAT refunds, and access the services offered by the FTA.

Through EmaraTax, users will have access to a greater number of FTA services than ever before and a simplified user interface, as well as extensive self-help and service request options. Integrated with the UAE Central Bank and the UAE PASS, the new platform serves as a modern tax administration ecosystem to simplify user processes, from logging in to preparing VAT returns.

Should you need any further clarification and details regarding this [guide](#), please contact our VAT Director [Harsh Bhatia](#).

2. UAE Customs and Excise Tax

The FTA has issued a public clarification “Excise Tax Designated Zones – Calculation of financial guarantees” to provide guidance to calculate the financial guarantees in respect of Excise Tax Designated Zones.

To be in line with international best practice, the FTA has decided to follow a different risk-based approach that considers certain variables to calculate the financial guarantee. It is possible that this approach benefits compliant Warehouse Keepers, as a good compliance history may result in a lower financial guarantee amount.

The below rules to calculate the financial guarantee were effective **1 September 2022**.

The amount of the financial guarantee in respect of each Excise Tax Designated Zone shall be calculated in the following four steps:

- Step 1: Calculate the Guarantee Base based on the Excise Tax due on the average month-end stock over a period of twelve months;
- Step 2: The FTA will determine the applicable and appropriate financial guarantee percentage based on multiple factors, including the compliance history and financial situation of the relevant taxable person and the Warehouse Keeper;
- Step 3: The rate determined in Step 2 will be applied to the Guarantee Base calculated in Step 1 to calculate the preliminary financial guarantee amount;
- Step 4: The FTA will further determine the required financial guarantee amount in respect of the specific Designated Zone by adjusting the preliminary financial guarantee amount if either the minimum or the maximum threshold applies.

The detailed calculation and steps for calculating the financial guarantee are provided in the public clarification “[Excise Tax Designated Zones – Calculation of financial guarantees](#).”

The new methodology to determine the amount of the financial guarantee required for each Excise Tax Designated Zone acknowledges tax-compliant behaviour and results in a lower guarantee amount the longer the Warehouse Keeper (including all its Designated Zones) remains fully tax-compliant.

Should you need any further clarification and details regarding this guide, please contact our VAT Director [Sunny Kachalia](#).



The GCC Update



INDIRECT TAX

1. VAT

Saudi Arabia – The Zakat, Tax and Customs Authority (ZATCA) published a VAT guideline for Electronic Contracts

The ZATCA published a detailed VAT guide focusing on the VAT implications of electronic contracts entered between a supplier and a customer. The guide discusses the definitions of contracts, agents, principals, etc. which are not included in VAT law or Implementing Regulations.

Below is an overview of some of the key points in the guide for electronic contracts and the VAT implications:

a. What is an electronic contract?

As per the definition in the guide, an electronic contract may be negotiated and executed electronically over the internet. The parties to the contract often interact with one another exclusively in a digital format, without the requirement to meet in person.

b. The VAT implications in different scenarios:

Purchase of goods through the manufacturing website:

- The electronic contract exists when the customer accepts the general terms and conditions on the website or application before the payment.
- The manufacturer will be responsible for issuing the tax invoice and applying VAT according to applicable rules and regulations.
- The customer will be entitled to recover the VAT input, which is incurred for business purposes.

Purchase of goods through an Agent's online interface, portal or mobile app store:

- The electronic contract exists when the customer accepts the general terms and conditions for using the portal.
- There is a disclosed or an undisclosed agency contract.
- For a disclosed agent the supplier will be responsible for issuing the tax invoice and applying VAT according to applicable rules and regulations.
- For an undisclosed agent, there are two transactions, the undisclosed agent will be responsible for issuing the tax invoice to the end customer. The supplier will issue a tax invoice to the undisclosed agent.
- The customer will be entitled to recover the input VAT, which is incurred for business purposes.

Provision of consultancy services:

- The executed electronic contract exists when the customer accepts the electronic contract
- The supplier of consultancy services will be responsible for issuing the tax invoice and applying VAT according to applicable rules and regulations
- The customer will be entitled to recover the input VAT, which is incurred for business purposes.

For further information on the above-mentioned guide, please click here for the [Arabic](#) and here for [English](#) version. Should you need any further clarification and details regarding this guide, please contact our VAT Associate Director [Charlotte Stanley](#).

Oman – Sultanate of Oman Tax Authority (OTA) published a VAT guideline for Commercial Agencies

The OTA published a detailed VAT guide focusing on VAT implications on agency relationships, it discusses the obligations that exist in such relationships in terms of VAT compliance and reporting.

The guide contains not only the general topics such as VAT registration, place of supply rules, input tax recovery, date of supply rule, etc. but also the concept of agency which is not set out in the VAT law or Implementing Regulations. In the guide, an agent is defined as a person who can provide or help with the supply of goods or services on behalf of the principal.

The agent can be either a 'selling agent' to supply goods or services to the customer or a 'receiving agent' to receive the purchased goods or services on behalf of the principal.

For an agency relationship to exist, there must be a disclosed or undisclosed agency contract between the agent and the principal.

Further, the guide mentioned that the agency relationship can be seen as VAT effective when the following characteristics exist:

- When the agent provides or helps with the supply of goods or services for the principal
- The agent does not have ownership of the goods and cannot acquire profit from the services offered by the principal
- The agent does not change the worth of the supply from the principal to the customer.

There are some cases in which a person is referred to as an agent in terms of the contract, however, the person does not act like one and vice versa. To determine whether an agency relationship exists, both agency contract and commercial practicality will be considered.

The guide differentiated the VAT implications between the disclosed agency and the undisclosed agency. The differences are set out below:

	Disclosed agency	Undisclosed agency
Define the agency relationship	The agent is using the principal's name and working on behalf of the principal. Both client and principal are aware of each other. Entered a direct contract with each other for the supply of goods or services, regardless of whether there is direct contact between them or not.	The agent is using his/her name, however, working on behalf of the principal. Neither the client nor the principal is aware of each other, they do not contract directly with each other. The undisclosed agent entered contracts with both client and principal using the agent's own name. Further, the agency relationship between the principal and the agent is not exposed to the client.
Responsibility for applying VAT on the supply	The principal will take the responsibility of applying VAT on the supply to the client directly.	The undisclosed agent will take the responsibility of applying VAT on the supply to the client.
Responsibility for issuing invoices for the supply	VAT registered principal will take the responsibility of issuing tax invoices to the client.	VAT registered undisclosed agent will take the responsibility of issuing tax invoice to the client.
Required documents for the agency relationship	<p>The agency contract entitles the agent to use the principal's name and work on behalf of the principal.</p> <p>Sales invoice that explicitly states the agent is supplying the goods or services on behalf of the principal and using the principal's name. Both the identities of the principal and the client should be shown in the invoice.</p>	No required documents.
Input tax recovery	The principal is entitled to recover the input VAT.	The undisclosed agent is entitled to recover the input VAT.

For further information on the above-mentioned guide, please click here for the [Arabic](#) version.

Should you need further clarification and details regarding this update, please contact our VAT Associate Director [Sunny Kachalia](#).



International Tax & Tax Treaty

OECD Releases Stage 2 Peer Review Reports on Dispute Resolution for 13 Jurisdictions

The release of the stage 2 peer review reports on dispute resolution under BEPS Action 14 for Aruba, Bahrain, Barbados, Gibraltar, Greenland, Kazakhstan, Oman, Qatar, Saint Kitts and Nevis, Thailand, Trinidad and Tobago, **United Arab Emirates (UAE)**, and Vietnam have been **announced** by the OECD.

BEPS Action 14 mandates the commitment of participating jurisdictions for implementation of a base standard to improve the procedure of arriving at a solution for tax disputes between jurisdictions. Despite COVID-19 aftereffects, steady progress seems to have been made on this front as evidenced in the release of Stage 2 peer review monitoring reports for the said countries.

The conclusions and implementation of recommendations arrived at from the Stage 1 peer review are analysed in the Stage 2 reports for each of the 13 jurisdictions, whilst considering any developments in the period between 1 January 2020 – 31 October 2021, as well as using the Mutual Agreement Procedure (MAP) statistics for 2016- 2020 as the base.

Although the progress varies between jurisdictions, it appears that, summarily, there is a positive change in the 13 jurisdictions mentioned above, from the peer review and peer monitoring process perspective. Some of the major highlights include:

- The base standard of Action 14 is expected to be applied to a major number of treaties in jurisdictions which signed the **Multilateral Instrument**; these include Bahrain, Barbados, Kazakhstan, Oman, Qatar, Thailand, **UAE** and Vietnam, with the instrument already being ratified by Bahrain, Barbados,

Kazakhstan, Oman, Qatar, Thailand and **UAE**. Bilateral negotiations between these jurisdictions are either in the midst of a discussion or completed in some instances.

- In the situation where an objection is dismissed by the authority on the basis of not being justified, a documentation process now exists in Aruba, Bahrain, Gibraltar, Greenland, Qatar, Thailand, and **UAE**.
- The efficiency of handling and functioning of MAP cases is expected to improve due to improvements in the organizational structure and/or a further investment in Human Resources by Barbados, Greenland, Oman, Qatar, Thailand, and Vietnam.
- A contrast was observed with respect to countries like Aruba, Barbados, Qatar, Thailand, **UAE** and Vietnam met the target of closing MAP cases within 2 years. whereas Bahrain, Gibraltar and Saint Kitts and Nevis were some of the newcomers to MAP.
- Aruba, Bahrain, Barbados, Gibraltar, Oman, Qatar, Saint Kitts and Nevis, Thailand and **UAE** have also issued or updated their MAP guidance.

More information on the BEPS Action 14 Mutual Agreement Procedure can be found [here](#).

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

GCC Tax Treaty Developments

Czech Republic Approves and Ratifies Tax Treaty with Qatar

On 19 September 2022, Czech President Miloš Zeman signed the law for the ratification of income tax treaty with Qatar, which was signed on 21 June 2022. The treaty will enter into force once the ratification instruments are exchanged between the 2 countries 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](#), International Tax Senior Manager [Amisha Anil](#).

Tax Treaty between Kazakhstan and Oman to be Signed

A new development was seen in Oman where the Kazakhstan's Ministry of Finance published a [draft resolution](#) (in Russian) which authorized a potential tax treaty to be signed between the two countries. Before the treaty comes to action, multiple steps of the finalization, signing and ratification of the said tax treaty will need to be undertaken.

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

Amending Protocol to Tax Treaty between Kuwait and Tajikistan Signed

According to a [release](#) in Russian by the Tajikistan Ministry of Economic Development and Trade, during the third meeting of the joint intergovernmental commission of Tajikistan and Kuwait on economic, trade, scientific and technical cooperation in mid-September 2022,

Kuwait and Tajikistan and signed an amending protocol to the 2013 tax treaty between the two countries. This tax treaty has not yet been entered into force.

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

Tax Treaty between Tanzania and the UAE Signed on 27 September 2022

Officials from Tanzania and the UAE signed an income tax treaty, The application of this tax treaty is expected to be actively enacted once the ratification documents are exchanged. Details of the treaty will be published in future newsletters by GT once available.

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

Kuwait Approves Pending Protocol to Tax Treaty with Luxembourg

On 26 September 2022, the proposed change protocol to the 2007 tax treaty between Kuwait with Luxembourg was accepted for ratification by the Kuwait Council of Ministers. The protocol, signed on 25 March 2021, amends the existing tax treaty and will actively be applied from 1 January of the year following its entry into force once the ratification instruments are exchanged.

It is important to note that the 2007 tax treaty has not yet entered into force.

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

National Assembly of South Africa Approves Protocol to Tax Treaty with Kuwait

The amending protocol, signed on 1 April 2021, to the Kuwait and South Africa Income Tax Treaty (2004) was accepted by the National Assembly of South Africa on 31 August 2022. The parliament approval will only be deemed complete subject to the 'go-ahead' of the National Council of Provision (NCOP).

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

Kuwaiti Council of Ministers Approves Protocol to Tax Treaty with Switzerland

The amending protocol, signed on 6 November 2019, to the Kuwait and Switzerland Income and Capital Tax Treaty (1999) has been accepted by the Council of Ministers of Kuwait on 26 September 2022.

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