

Tax Newsletter

August 2021 Edition

A portrait of Steve Kitching, a middle-aged man with white hair and glasses, wearing a dark blue suit, a striped shirt, and a patterned tie. He is standing with his arms crossed in front of a large window overlooking a city skyline with several tall buildings. A large, semi-transparent purple circle is overlaid on the bottom left of the image.

Steve Kitching

Tax Partner

Landscape

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



The UAE Update

INDIRECT TAX

1. VAT in UAE

VAT Refund Scheme for Official Participants in Expo 2020

With Expo commencing in October 2021, the Federal Tax Authority (FTA) has recently emphasized that the official participants are eligible for VAT refund on their expenses, without the need to use such expenses for making taxable supplies, if the following conditions are met:

- VAT incurred on purchases that are directly attributable to the construction, assembling, decoration and dismantling of the pavilions in the exhibition.
- VAT incurred on goods and services acquired or imported for exhibition purposes, provided that the value of each good or service for which the Office of the Official Participant makes a claim is not less than AED 200.

To provide a cost benefit advantage to the participants and to make purchases VAT-free, the FTA had introduced a Special Refund Scheme in 2020 to reimburse VAT paid on goods and services connected with Expo. The relevant guide stipulated that the participants who are VAT registered in the UAE may claim VAT refunds through e-services portal and un-registered participants can submit the VAT refund application to the Expo Bureau which will request VAT refund from the FTA, subject to the internal audit by Expo Bureau. It is important to note where a refund has been granted to the Official Participant in respect of any goods connected to Expo 2020, the Goods cannot be sold for Consideration or transferred free of charge without the payment of VAT to FTA.

However, all official participants regardless of their VAT registration status, must obtain a **“Certificate of Entitlement”** from Bureau to be eligible for the VAT refund, subject to the below conditions:

Eligibility Criteria for the Certificate of Entitlement

- The applicant must be an Official Participant of the Expo 2020 in Dubai, holding a valid Expo 2020 license number.
- Not more than 20% of the exhibition space or presentation is, has been, or is intended to be used for non-official or commercial purposes.

There is a separate application form to obtain this certificate and the same has to be duly filled and submitted to the Bureau along with the set of documents as stipulated by the regulation. If the certificate of entitlement is not granted to the official participant due to failure to satisfy any of the above conditions, the participant will not be able to reclaim full amount of VAT in respect of Goods and Services acquired for the purpose of Expo 2020. Instead, the Official Participant may need to consider if any VAT related to such Goods and Services may be recoverable under the general VAT rules applicable to VAT registered person.

With the knowledge of serving various clients in connection with Expo 2020, we at Grant Thornton may assist you in taking care of all the required procedures related to Expo 2020. Should you need any expert advice or assistance, please contact our Tax Director [Harsh Bhatia](#) or Senior Manager [Angela Sharma](#).

The VAT refund guide for Expo 2020 can be accessed [here](#).

The GCC Update

INDIRECT TAX

1. VAT

Zakat, Tax, and Customs Authority (ZATCA) Has Released the RCM Guide

The Zakat, Tax and Customs Authority (ZATCA) in the Kingdom of Saudi Arabia has recently issued Circular No. 2106001 that provides long-awaited clarification on the application of Reverse Charge Mechanism (RCM) rules in accordance with the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC VAT Agreement).

The guide outlines the conditions where the taxable customer is obligated to pay VAT due on behalf of the non-resident supplier and is liable for all the obligations provided in the GCC VAT Agreement and the VAT legislation. It specifically discusses the criteria to assess the residency of the supplier and reconfirms that VAT must be reported and duly paid by the recipient based on the generic date of supply rules.

The guide demonstrates practical examples for complex situations involving RCM and stated that the recipient must report output VAT. The guide also mentions that the recipient is eligible to deduct the corresponding input VAT, subject to Input VAT recovery rules.

The Circular can be accessed [here](#).

The Saudi Arabia Minister of Finance Introduces New Origin of Import Rules

The KSA Minister of Finance, the Chairman of the Zakat and Tax and Customs Authority (ZATCA) introduced the Ministerial Decree no.3852, approving the new National Rules of Origin (RoO) Regulations.

The recently published regulations set out new conditions to be met for Goods imported in Saudi Arabia to qualify for GCC preferential treatment including custom duty based on the GCC Unified Economic Agreement. The rules will come into force from 2nd July 2021 i.e. the date of publication of these new rules.

The RoO states the following goods will be treated as 'Foreign goods' and would not be a part of GCC preferential regime; hence shall be subject to Custom duty:

- Goods manufactured in the GCC free zones;
- Goods transported through free zone or according to invoices/ shipping documents issued by free zone or an entity established in the free zone.

However, goods (or part of goods) produced in Israel or manufactured by companies fully or partially owned by entities with commercial interests in Israel, as identified in the Arab Boycott list, will be disqualified from the GCC preferential treatment. Further, it stipulates that KSA will exclude goods from the GCC Tariff agreement that are made by companies with a workforce made up of less than 25% of local people and industrial products with less than 40% of added value after their transformation process.

We encourage GCC exporters to assess the potential implications of the above conditions on their operations. We also recommend reevaluating whether the goods imported in the KSA can be free of custom duties and accommodate the new changes in their supply chain to continue benefiting from the GCC preferential scheme.

Kuwait is Likely to Implement Value Added Tax in 2021

Currently, Four out of the six GCC States have now implemented VAT, with the remaining two due to follow by 2022. While there have been no official announcements recently by Kuwait in relation to the implementation of VAT, the latest World Bank report states that Kuwait is expected to implement VAT at the end of this year or at the start of 2022.

The World Bank also predicted that the economy of Kuwait will experience a growth of 2.4% within 2021, followed by a projected 3.3% growth in the next two years. It is worth waiting for further official updates from Kuwait and it is likely the State will be deciding on a way forward soon.



International Tax & Transfer Pricing

Saudi Arabia Publishes A Withholding Tax Guideline

On 6 July 2021, the Saudi Zakat, Tax, and Customs Authority (ZATCA) published a Withholding Tax Guideline in English. The guideline aims to provide insights and guidance on the application of the withholding tax (WHT) provisions included in the Income Tax Law and its regulations. The guideline includes sections on:

- Scope of application of the WHT provisions:
 - The Withholding Agent
 - Who are Resident legal or natural Persons?
 - Permanent establishment
 - What are the payments that are subject to WHT?
 - Payment to a Nonresident
 - Payments from a source in Saudi Arabia
- WHT rates
- WHT exemptions and reductions
- WHT filing and payment

The guideline provides detailed guidance on the applicability of WHT and examples in respect of various income sources including lease payments, royalties, dividends, service payments, interest on loans among others. A copy of the WHT guideline can be accessed [here](#).

Economic Substance Notification Filing for UAE Licensees for the Fiscal Year Ended 31 March 2021 Due by 30 September 2021

UAE Licensees with fiscal year ending 31 March 2021 are required to file their Economic Substance Notification no later than 30 September 2021 through the Ministry of Finance online portal.

The Economic Substance Regulations (ESR) was first introduced in the UAE in April 2019 through Cabinet Resolution No. 31 and was recently amended by Cabinet Decision No. 57, along with the updated guidance (Ministerial Decision No. 100 of 2020) in September 2020. The Amended ESR applies retrospectively from 1 January 2019. The ESR requires UAE onshore and free zone companies that carry out “Relevant Activities” to maintain and demonstrate an adequate “economic presence” in the UAE relative to the activities they undertake i.e. ES Test.

An annual ES Notification is required to be submitted by Licensees (including Exempted Licensees) within six months from the end of the relevant financial period. For entities that undertake a “Relevant Activity”, they will also be required to submit a full ES Report within 12 months from the end of their financial year.

It is strongly recommended that UAE businesses periodically assess their business activities to report any change in Relevant Activities; and determine whether the business would be in-scope or exempted from Economic Substance (ES) Reporting for the relevant reporting year. UAE Licensees covered by ESR are also advised to comply with the filing requirements before the upcoming deadlines to avoid incurring penalties.

Failure to comply with the ESR can expose the UAE Licensees to significant penalties (e.g., AED20,000 to AED400,000) for non-submission of ES Notification and ES Report within the deadline, spontaneous exchange of information with the Foreign Competent Authority, as well as other administrative sanctions such as the suspension, revocation or non-renewal of the entity’s trade license or permit.

GCC Tax Treaty Development

Mauritius Approves Pending Tax Treaty with Saudi Arabia

On 4 August 2021, Mauritania approved the ratification of the pending income and capital tax treaty with Saudi Arabia. The treaty was signed 2 December 2018 and is the first of its kind between the two countries and will enter into force after the ratification instruments are exchanged.

Mauritania Approves Pending Tax Treaty with Kuwait

On 28 July 2021, Mauritania approved the law for the ratification of the pending income tax treaty with Kuwait. The treaty was signed on 27 December 2009 and is the first of its kind between the two countries and will enter into force once the ratification instruments are exchanged.

Amending Protocol to Tax Treaty Between Austria and the UAE Signed

On 1 July 2021, Austria and the UAE signed an amending protocol to the 2003 income tax treaty between the two countries. The protocol is the first to amend the treaty and will enter into force after the ratification instruments are exchanged. Details of the protocol will be published once available.

Germany Terminating Tax Treaty with the UAE

On 14 June 2021, the German Ministry of Finance has notified the UAE of its intention to allow the term of the 2010 income tax treaty with the UAE to lapse. The treaty will remain in force for a period of ten calendar years beginning on 1 January of the year following its entry into force on 1 January 2012) and would only remain in force for a further ten years if an agreement is reached between the two countries. As Germany does not wish to extend the treaty, it will expire on 31 December 2021.

Oman Approves Signing of Tax Treaty with Qatar

On 14 July 2021, Oman's Consultative Assembly approved the signing of an income tax treaty with Oman. The treaty will be the first of its kind between the two countries and must be signed and ratified before entering into force. Details of the treaty will be published once available.



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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