



Grant Thornton

Tax Newsletter

December 2021 Edition



Steve Kitching
Tax Partner



Anuj Kapoor
Tax Partner

Landscape

In our November 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

The Federal Tax Authority (FTA) Issues Public Clarification (VATP028) on the Input VAT Recovery of “Mobile Phones and Data”

In reply to the uncertainty surrounding the recoverability of Input VAT on the mobile phone usage, airtime and data packages, the FTA has issued Public Clarification ‘VATP028’ dated 29 November 2021.

The FTA has stated that the following must be satisfied for recovery of Input VAT on phones, airtime and data packages:

- a. The business must have a strict policy in place to restrict the business usage of phones, airtime and packages.
- b. Further to the policy, the business must exhibit active monitoring of usage and must take appropriate action against the employees who use phones, airtime and packages for personal purposes. Additionally, the employees should be made aware of the repercussions of not abiding by the policy and must retain proof of actions taken against the employees not complying with the policy.
- c. The businesses should compare the actual and average usage for each specific employee role. Any usage over the business plan would be deemed as a non-business use unless the additional usage amount is recharged to the employee with Output VAT or if there is robust monitoring in place to substantiate the actual use.

As per the Public Clarification, Input VAT on costs incurred on the phones, airtime and packages that are accessible to employees for business purposes may be recovered by the taxable person if such costs are used to make taxable supplies and if all the below stated conditions are mandatorily complied with:

- a. The business registered for VAT purposes has acquired phones, airtime and packages under its own name and has legitimate documentation in place as proof.
- b. The business has a documented policy on the business usage of phones, airtime and packages including consequences of any personal use.
- c. The business regularly monitors the usage variance and can justify reasons for the variance.
- d. The business takes actions against employees who misuse the phones, airtime and packages for personal purposes according to the documented policy; and
- e. The business maintains valid VAT invoices with respect to the phones, airtime and packages.

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

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

A photograph of a vast desert landscape with rolling sand dunes. A single person is standing on a dune in the distance, providing a sense of scale. The sky is a clear, pale blue. The foreground shows the intricate patterns of sand ripples.

The GCC Update



INDIRECT TAX

1. VAT

VAT Rate Doubles in the Kingdom of Bahrain from 5% to 10%

Described as a “critical pillar to the Kingdom’s fiscal balance programme”, the Kingdom of Bahrain doubles the VAT rate from 5% to 10%. The revised VAT rates are expected to come into effect from 1st January 2022. The increase was approved by the Parliament of the Kingdom of Bahrain with the goal of achieving a balanced budget by 2024.

The National Bureau for Revenue (NBR) Releases the Updated “Change of VAT Return Filing Frequency Manual”

The NBR has updated change of VAT Return Filing Frequency Manual. The VAT payers are permitted to change from:

- a. Quarterly to monthly filing
- b. Monthly to quarterly filing
- c. Quarterly to annual filing and
- d. Annual filing to quarterly or monthly filing.

However, the changes request and the following transition are subject to:

- a. NBR’s approval of a request to change the filing frequency.
- b. The conditions stated in Article 48A of the Kingdom of Bahrain VAT Executive Regulations.
- c. The conditions stated in Article 48C of the Kingdom of Bahrain VAT Executive Regulations.

- d. The conditions for Annual filing of VAT Returns.
- e. For requests to change from quarterly filing to annual filing, whether the request was submitted before or after the deadline of 31 March of the respective year.
- f. For requests to change from annual filing to quarterly or monthly filing, the VAT payer must submit at least one annual filing before being allowed to change back to quarterly or monthly filing frequency.

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

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

The Zakat, Tax and Customs Authority (ZATCA) Conducts Virtual Workshop on Compliant QR Code Development

On 30 November 2021, ZATCA conducted the fourth virtual workshop on e-invoicing highlighting:

- a. The process for building QR Codes.
- b. The process for validating QR Codes along with code examples of multiple programming languages.

The Zakat, Tax and Customs Authority (ZATCA) Issues Guidelines for Compliant QR Code Development

ZATCA issues a new guide clarifying on compliant QR Codes development for e-invoices. Earlier, ZATCA had issued e-invoicing Resolutions which mandate a QR Code on simplified invoices with certain prescribed information.

The guide provides technical clarification relating to:

- a. QR Code specifications along with timelines to mention the required information (Generation vs. Integration phases) as detailed in the given table:

Description	Tag	Due Date
Seller's Name	1	4 th December 2021
VAT Registration Number of the Seller	2	4 th December 2021
Time stamp of the invoice (Date and time)	3	4 th December 2021
Invoice Total with VAT	4	4 th December 2021
VAT Total	5	4 th December 2021
Hash of XML Invoice	6	1 st January 2023
ECDSA Signature	7	1 st January 2023
ECDSA Public Key	8	1 st January 2023
For Simplified VAT Invoices and their associated notes, the ECDSA signature of the cryptographic stamp's public key by ZATCA's technical CA	9	1 st January 2023

-
- b. Tag, Length, Value (also known as TLV) file format - Creation as well as the explanation of some common errors.

-
-
- c. QR Code presentation.

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

Should you need further clarification and details regarding this update, please contact our Tax Director [Harsh Bhatia](#) VAT Associate Director [Angela Sharma](#).



International Tax & Transfer Pricing

GCC Tax Treaty Developments

Austrian Parliament Approves Pending Protocols to Tax Treaties with the UAE

On 2 December 2021, Austria's Federal Council (upper house of parliament) approved the ratification of the pending protocols to the 2003 income tax treaty with the United Arab Emirates, following approval of the agreement by the National Council (lower house) on 19 November.

The protocol to the 2003 Austria – UAE treaty was signed on 1 July 2021 and is the first to amend the treaty. It will enter into force on the first day of the third month after the ratification instruments are exchanged and will apply from 1 January of the year following its entry into force.

Tax Treaty Between Niger and the UAE Has Entered Into Force

On 18 August 2021 the income tax treaty between Niger and the United Arab Emirates entered into force. The treaty covers Niger taxes on income, taxes on profit (ISB), taxes on salaries and wages (ITS), taxes on investment income (IRCM), taxes on the plus-values of real estate transfers, and taxes on real-estate (IT). Also, it covers UAE income tax and corporate tax. The treaty will be effective from 1 January 2022.

Tax Treaty Signed Between Qatar and Oman

On 22 November 2021 Oman and Qatar signed Double Tax Treaty agreement consisting of tax evasion on income and capital taxes. Omani Minister of Finance Sultan bin Salem bin Saeed al-Habsi and his Qatari counterpart, Ali bin Ahmed Al Kuwari, signed the treaty on behalf of each jurisdiction.

The treaty and several other cooperation agreements were signed in the presence of Omani Sultan Haitham bin Tariq and Qatari Emir Tamim bin Hamad Al Thani.

This is the first tax treaty between the two countries, and it will be enforced after the exchange of ratification instruments

Qatar Introduces Economic Substance Requirements (ESR)

Following the ESR requirements introduced in the UAE and Bahrain, on 4 November 2021 Qatar has implemented ESR through its Ministerial Decision No. 20 of 2021. Companies set-up in Qatari free zones, which income are not subject to tax will fall within the ESR ambit. Entities engaged in carrying out Intellectual Property (IP) activities will be required to meet the development, enhancement, maintenance, protection and exploitation (DEMPE) criteria. All other entities will be required to meet the ES Test conditions:

- To have an adequate number of full-time employees, with adequate qualifications to perform the core income generating activities (CIGA);
- To have adequate amount of operating expenditures to undertake its activities; and
- To ensure that its CIGAs are carried out in Qatar.

The above requirements follow the BEPS Action 5 approach. Where an entity is carrying on an IP Business, it will also have to consider if it is a High-Risk IP Licensee. A High-Risk IP Licensee must provide sufficient evidence to support that it has a high degree of control over the DEMPE of the IP Asset.

UAE – Country by Country Reporting Due by 31 December 2021

On 30 April 2019, the UAE MoF issued Cabinet Resolution No. 32 of 2019 relating to Country-by-Country Reporting (CbCR) in the UAE and amended the CbC Rules under Cabinet Decision No. 44 of 2020.

Under this resolution all Multinational Groups (MNE) in UAE with the group gross consolidated turnover in excess of AED 3.15 billion (US\$857 million) during the year ended 31 December 2010 will have a compliance obligation in the UAE. All subsidiaries, affiliates and branches within MNE group (part of MNE group crossing the above consolidated turnover threshold) will be required to comply with compliance requirements by 31 December 2021.

UAE Economic Substance Reporting Due by 31 December 2021

Economic Substance Reporting (ESR) was first introduced in the UAE in April 2019 through Cabinet Resolution No. 31 (CR31) and was amended by Cabinet Resolution No. 57 (CR57), 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., Economic Substance (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 the relevant financial period.

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.

United Arab Emirates



Steve Kitching
Partner,
Tax Advisory

☎ +971 58 550 90 64
✉ steve.kitching@ae.gt.com



Anuj Kapoor
Partner,
Tax Advisory

☎ +971 4 388 9925
✉ anuj.Kapoor@ae.gt.com

Kingdom of Saudi Arabia



Imad Adileh
Partner,
Tax Advisory, GT KSA

☎ +966 (0)59 558 0027
✉ iadileh@sa.gt.com



Adel Daglas
Director,
Zakat & Tax, GT KSA

☎ +966 (0) 55 280 7442
✉ adaglas@sa.gt.com



Mohamed Hwitat
Senior Manager,
VAT Advisory, GT KSA

☎ +966 (0) 53 454 3017
✉ mhwitat@sa.gt.com

Bahrain



Jatin Karia
Senior Partner,
Tax Advisory, GT Bahrain

☎ +937 3957 5562
✉ jatin.karia@bh.gt.com

Oman



Tammam Al-Mughairi
CEO,
GT Oman

✉ tammam.al-mughairi@om.gt.com

© 2021 Grant Thornton UAE
All rights reserved.

Grant Thornton refers to the brand under which the Grant Thornton member firms provide assistance, tax and advisory services to their clients and/or refers to one or more member firms, as the context requires.

Dubai

The Offices 5
Level 3, Office 303
One Central, DWTC
Dubai, UAE

T +971 4 388 9925
F +971 4 388 9915

Abu Dhabi

Al Kamala Tower
Office 1101, 11 Floor
Zayed the 1st Street
Abu Dhabi, UAE

T +971 2 666 9750
F +971 2 666 9816

Abu Dhabi

DD-16-121-031
16th Fl. WeWork Hub 71
Al Khatem Tower
ADGM Square
Al Maryah Island
Abu Dhabi, UAE

F +971 2 666 9816

Sharjah

Al Bakr Tower
Office 305
7/9 Al Khan Street
Sharjah, UAE

T +971 6 525 9691
F +971 6 525 9690