



Tax Newsletter

January 2021

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Landscape

In the January edition of our Tax Newsletter, you can explore the latest developments released by the UAE's Federal Tax Authorities, and additional updates on the Tax Legislations across the Middle East.



The UAE Update



Indirect Tax

1. VAT in UAE

Extension in the Time Limit to Challenge Decisions of the Tax Dispute Resolution Committee

According to Article 33(1) of the Tax Procedures Law, if the decision made by the Tax Dispute Resolution Committee ('TDRC') is unsatisfactory, the Federal Tax Authority ('FTA') or the taxpayer may challenge the decision before the Federal Primary Court within twenty weekdays "*from the date of notification to the objector thereof*"

However, the Federal Supreme Court has recently issued a judgement stating that a decision made by the TDRC is not just sufficient to trigger the 20 business days' time period for challenging such decision made by the TDRC. For the time period to trigger, an appropriate notification must be made in a procedural manner. As neither the Tax Procedures Law nor its Executive Regulations specify the method of notifying, Article 7 of the Executive Regulations of the Civil Procedures must be referred to verify if the notification was filed correctly.

As per the decision of the Federal Supreme Court, 20 business days' time limit will only trigger after the notification has been made properly.

This judgment implies that a taxpayer can still exercise his right to file an appeal to the Federal Primary Court if a proper notification has not been made to the taxpayers, even after 20 business days have lapsed since issuance of decision by the TDRC. In such cases, it is important for the taxpayer to confirm if the TDRC had given a proper notification as per Article 7 of the Executive Regulations of the Civil Procedures, after issuance of decision against such taxpayer. Have there been any

such cases, the taxpayer is allowed to exercise his right to file the appeal against such decision.

New TDRC Chamber Set-up in Dubai

With increase in the number of disputes submitted by the taxpayers, Dubai has set up its second Tax Dispute Resolution Committee

A Taxpayer files and appeal at the TDRC level, against an unsatisfactory decision made by the FTA.

With establishment of new chambers of TDRC coming up in Dubai, the taxpayers can now expect a better turnaround time on appeals.

FTA Issues Public Clarification on Dubai Owner's association and Management Entities

As per Law No. 6 of 2019 with regards to Ownership of Jointly Owned Real Property in the Emir-ate of Dubai, the Dubai Owners' Associations no longer make taxable supplies and are, therefore, required to de-register from VAT.

The FTA has mandated the de-registration of the Owner's Associations in Dubai via a new clarification.

The clarification provides the following points:

1. Law No. 6 was published on 4th September 2019 and came into effect after 60 days i.e., 3rd November 2019. The Law applies to all the master projects and jointly owned real estate properties in Dubai.
2. On 3 November 2019, all rights and obligations of Dubai Owners' Associations were transferred to the management entities under Law No. 6 of 2019, which resulted in Dubai Owners' Associations no longer making taxable supplies.

3. Basis the above clarification, the Dubai Owners' Associations should apply for VAT de-registration within 20 business days' i.e., no later than 4 December 2019.

4. Any VAT registered Owners' Associations which failed to apply for VAT de-registration with-in 20 business days from the date it stopped making taxable supplies, is liable for an administrative penalty.

5. As a registrant making taxable supplies, the Management Entity is required to issue valid VAT invoices to the recipients of such supplies.

6. The Management Entity is entitled to recover input VAT paid for the goods and services ac-quired to manage Jointly Owned Real Property, provided it obtains and retains valid VAT in-voices addressed to the Management Entity.

It is imperative to note that the clarification applies to the Owner's Association only and not to the management companies. All Owner's Associations should mandatorily de-register from VAT to avoid any further penalties. However, the management entities are still liable under the UAE VAT Laws to report the amounts received (in the form of service charges or otherwise) and related VAT amounts in respective VAT returns.

The team at Grant Thornton can assist the Owner's Association in Dubai to de- register from the UAE VAT Laws. Further, we can also assist the management companies to file VAT returns and discharge VAT liability correctly.

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

Temporary zero-rating of certain medical equipment

On 1st September 2020, Cabinet Decision No. (9/12 O) of 2020 was issued in relation to temporarily zero-rating certain supplies and imports of medical equipment. This means a supply or import of certain medical equipment shall be zero-rated where the supply or import occurs within 6 months from the effective date of the Cabinet Decision. i.e., from 1st of September 2020 up to the 28th of February 2021.

Further, the FTA has recently released a public clarification which explains the application of the Cabinet decision in detail. A few important points to note are:

1. A supply can be zero-rated where the date of supply and the delivery of the medical equipment falls within the period from 1 September 2020 to 28 February 2021.
2. An import shall be zero-rated when the medical equipment is imported during the period from 1 September 2020 to 28 February 2021.
3. If the date of supply or date of import or the date on which the medical equipment is de-livered to the recipient or placed at the recipient's disposal, falls outside the period from 1 September 2020 to 28 February 2021, the supply of medical equipment shall be subject to VAT at 5%, which should be reported in the VAT return.
4. The rules apply retrospectively from 1st September 2020 and in cases wherein VAT was charged at 5% on a supply eligible for zero-rating, such supplier should issue and deliver a tax credit note to the recipient for refund of VAT overcharged on the supply.

However, where the supplier is unable to identify recipient of the supply to issue a Tax Credit Note (in case of B2C), the supplier should ensure that the VAT collected is reported in the VAT return and paid to the FTA.

5. The “medical equipment” to which the temporary zero-rating rules apply are personal protective equipment used for protection from Covid-19, and include to the following:
- Medical face masks that are not included in the Cabinet Decision No. 56 of 2017 on Medications and Medical Equipment Subject to Tax at Zero Rate;
 - Half filtered face mask (UAE.S EN 149);
 - Non-Medical “community” face mask made from textile (UAE.S 1956);
 - Single-use gloves (UAE.S ISO 374-2); and
 - Chemical disinfectants and antiseptics intended for use on the human body, but excluding detergents, cosmetics, and personal care products (UAE.S EN 1276, EN 1650, and EN 14476:2013+A2).

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

Based on the above clarification, the suppliers engaged in supply or import of medical equipment should not only assess the correct VAT treatment but should also mention it correctly in the VAT return.

2. Excise Tax

FTA Issues Guidelines on Administrative Exceptions for Excise Tax

The FTA has recently issued Federal Decree-Law No. 7 of 2017 on Excise Tax along with the Executive Regulations, to provide concession from following procedural aspects of the Excise Tax Law.

The exception can be applied in relation to requests for alternative supporting evidence to confirm the export of Excise goods from the UAE. A request can be submitted by email to specialexceptions@tax.gov.ae by the authorized signatory, tax agent, or legal representative of the registrant.

The form can be accessed [here](#), and the user guide can be accessed [here](#)

Digital Tax Stamps Compulsory from 1st January 2021

As per the Cabinet Decision No. (33) of 2019, the local suppliers and manufacturers must ensure that water pipe tobacco products and electrically heated cigarettes should carry a tax stamp to avoid violations or penalties.

Starting from 1st January 2021, the sale, storage, transportation of waterpipe tobacco products and electrically heated cigarettes that are not marked with DTS will not be permitted.

The DTS system enables the FTA to strengthen their control on the collection of Excise Tax, facilitates inspection and control, and to restrict the supply of the illicit products.

DTS can be applied by downloading the application form from www.tax.gov.ae/dts.

A request must also be sent to ftadtscustomer@delarue.com to receive a username and password to log in to the system.

The final step is to go to the 'Manage Orders' section where the DTS applicant will be able to record basic information to complete the application.

The news article can be accessed [here](#)

With the introduction of above regulation, the local suppliers and manufacturers of pipe tobacco products and electrically heated cigarettes are now required to check that DTS should mandatorily be present on the products else they will face imposition of penalties.

FTA Issues Guide on Excise Stock Movement for Warehouse Keepers Registered for Excise Tax

All registered warehouse keepers in the UAE are required to declare the excise goods held in the designated zones as on 1st January 2021. The taxpayers must submit the opening stock EX204 declaration from the 1st January 2021 until the 31st of January 2021.

The following goods fall under Excise Tax in the UAE:

- Tobacco and Tobacco Products
- Electronic smoking devices and tools
- Liquids used in electronic smoking devices and tools
- Carbonated Drinks
- Energy Drinks
- Sweetened Drinks

The guide further explains the procedure to complete the opening stock declaration form. A form must be submitted for every Tax Registration Number by the warehouse keeper who will declare the opening stock belonging to the excise taxpayers.

The user guide can be accessed [here](#)

FTA Issues Guide on Excise Stock Movement for Warehouse Keepers Not Registered for Excise Tax

The FTA has also issued a guide on declaring stocks for non-registered excise taxpayers. The warehouse keeper will be required to declare the stock held for them in each period starting from the 1st of January 2021 using the EX204A declaration form. That means the warehouse keeper must declare the stock from the period of January 2021 or the first period after the effective date of registration of the Designated Zone and must continue to do so for all future periods.

The guide also explains the procedure to complete the opening stock declaration form. The form can be submitted until 31st January 2021.

The user guide can be accessed [here](#).

3. UAE Customs

Dubai Customs Announces 80% discount on Customs Fines

As a part of the Dubai Government's economic stimulus package to ease the burden on businesses caused due to COVID-19, the Dubai Customs announced an 80% discount on fines and violations committed before 31st March 2020. All uncollected fines imposed by a judicial judgment will benefit from this decision as well as any cases that are still pending a decision.

Businesses/ individuals must first settle their customs cases and pay any charges due before 31st December 2021 to avail of the discount.

The above news came out as a blessing in disguise for the Dubai businesses with huge Customs fines/ penalties. Such businesses can now benefit from the stimulus package and only pay reduced penalties.

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

Goods Consumed Within Freezone for Operation to Be Exempt From Customs Duty

The Dubai Customs have decided that goods that are consumed within the free zone for operation and maintenance of business or manufacturing of any goods will not be subject to Customs duty. These goods include:

- Building equipment and materials used in construction
- Packaging material
- Machinery, Equipment, and spare parts
- Petrol and oil lubricants used in operations and production
- Office equipment
- Worn and damaged materials

However, the goods brought and sold outside the free zone or goods consumed in the free zone for non-business purposes will be subject to Customs duty.

The notice further mentions the procedure to follow when goods are sold or consumed within the free zones. This includes submitting a request for approval and receiving and approval, undergoing customs examination, submission of a report of destruction, and completion of consumptions goods declaration forms.

Based on the above notice, the businesses need to be at vigil so that liability of Customs Duty is correctly discharged when the goods are moved and sold outside the free zones or consumed within the free zones for non-business purposes.

The customs notice can be accessed [here](#).

Dubai Customs Permits Free Movement of Goods Between UAE and Israel

The Dubai Customs has permitted the movement of goods or products from the UAE to Israel and vice versa. Goods of Israeli origin and goods of foreign origin imported from Israel shall be allowed entry into the UAE.

However, the provisions of prohibition and restriction for movement of special nature goods under the GCC Customs Union shall be observed for goods of Israeli or foreign origin originating from Israel.

The Customs notice can be accessed [here](#).

Direct Tax

Egyptian Cabinet Approves Tax Treaty Ratification with the UAE

In August 2020, the Egyptian Cabinet gave approval for the ratification of the double tax treaty with the UAE which was signed in November 2019. Once ratification instruments are exchanged, this new tax treaty will enter into force and will replace the Egypt - UAE Income Tax Treaty (1994).

The double tax treaty aims to strengthen the ties between UAE and Egypt, and to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes.

GT UAE can assist you in analysing your business operational structure and provide insights on the applicability of the double tax treaty. Should you need further clarification and details regarding this update, please feel free to contact Steven Ireland steven.ireland@ae.gt.com and Amisha Anil amisha.anil@ae.gt.com.

Economic Substance Filing Deadline Extended to 31 January 2021

Companies and certain other UAE business forms that carried out a Relevant Activity must comply with the Economic Substance Regulations (“ESR”), which includes the annual submission of an Economic Substance Notification and Report.

To support businesses that may have been impacted by COVID-19 and temporary inaccessibility of the MoF Economic Substance Filing Portal, the Ministry of Finance (“MoF”) has extended the deadline applicable for most businesses (i.e., businesses with a calendar year end) to submit their

Notification and Report from 31 December 2020 to 31 January 2021.

As advised by the MoF, this is an exceptional, one-off extension of the filing deadline for UAE businesses with a reportable period commencing from 1 January 2019 and ending on or before 30 June 2020. The revised filing deadlines are as follows:-

Economic Substance Notification: The later of six months after the financial year end, or 31 January 2021

Economic Substance Report: The later of 12 months after the financial year end, or 31 January 2021.

No further extensions are expected to be granted, as such businesses should make every effort to file as soon as possible and not wait until the end of the extended deadline. Failure to submit the Economic Substance Notification and Report on time will result in the application of penalties.

GT UAE would be pleased to assist your business in assessing whether it falls within the remit of Relevant Activities under the ESR and completing your ESR obligations. Should you need further clarification and details regarding this update, please feel free to contact Steven Ireland (steven.ireland@ae.gt.com) and Amisha Anil (amisha.anil@ae.gt.com).

As the tax landscape in the Middle East continues to change, taxpayers should monitor their VAT, Excise, Customs and Economic Substance obligations and ensure compliances with respective regulatory authorities. Further, it is imperative for the businesses having presence in Oman to have systems in place prior to the implementation of VAT in the country during mid-April 2021.

The GCC Update



Indirect Tax

1. VAT

General Authority of Zakat and Tax Announces Approval of E-Invoicing

The General Authority of Zakat and Tax ('GAZT') has mandated issuance of electronic invoices through regulation issued on 4th of December 2021. An electronic invoice is a VAT invoice which needs to be issued electronically by every taxpayer subject to value-added tax in the Kingdom of Saudi Arabia. It is important to note that a handwritten or scanned copy is not considered as an electronic VAT invoice.

12 months have been granted to the taxpayers from the date of publication of the regulations i.e., from 4th December 2021 to implement e-invoicing in their business. The regulations explain the procedures, rules, and time limits for issuance of an e-invoice.

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

The businesses in the Kingdom of Saudi Arabia should be vigilant to issue electronic VAT invoices correctly.

Refund of VAT to Licensed Real Estate Developers in the Kingdom of Saudi Arabia

Following the exemption of VAT on Real Estate and introduction of Real Estate Disposal Tax in October 2020, the Board of Directors of the GAZT have issued Ministerial Resolution number 1754 dated 15/04/1442 AH approving the terms and conditions required to be met for a licensed Real Estate developer to qualify for refund on the input VAT incurred in relation to Real Estate supplies that became exempt from VAT.

To qualify for a refund, the developer must meet all the following conditions:

- Must have a legal form;
- Should be licensed to conduct activities such as sale, purchase, and development of Real Estates or construction of buildings;
- Should be making Real Estate exempt supplies; and
- Must have approval from the Ministry of Housing as an eligible Real Estate developer.

In case the above conditions are not met, the ministerial resolution allows recovery of input VAT if all the following alternative conditions are fulfilled:

- Must have a legal form;
- Prove that input VAT was incurred in making real estate supplies; and
- Qualify as a licensed real estate developer before 31st January 2021

The team at Grant Thornton could assist the Real Estate developers to analyse if the conditions mentioned above are satisfied to file for VAT refund.

English Version of Oman VAT Law Published

Following the Arabic release of the VAT law in Oman, the tax authorities have published the English translation of the Oman VAT law.

Oman is due to implement VAT from mid-April 2021. With just 4 months remaining, the businesses in Oman must prepare for the impact of VAT and ensure that they are compliant with the new VAT laws. For any assistance, please contact our tax team in Oman, the details are given be-low.

The English translation can be accessed [here](#).

Oman Tax Authorities form Tax Grievances Committee

The Oman Tax Authority has issued decision 113/2020 to establish a Grievances Committee. The purpose of the committee will be to solve disputes related to Income tax, Excise tax, and the soon to be introduced VAT. The current committee consists of five members including a Chairman, Vice President, and 3 other members. With the establishment of such a committee, it is anticipated that tax disputes will now be resolved sooner.

National Bureau for Revenue Issues Clarification on Place of Supply of Telecommunication Services

As per Article 18 of the Bahrain VAT Law, the place of supply of telecommunication services will be Bahrain if the place of use and enjoyment of such services is in Bahrain.

The clarification issued by the National Bureau for Revenue ('NBR') amends the "use and enjoyment" rules under which the place of supply for certain telecommunications services is determined.

With effect from 1 February 2021, the place of use and enjoyment of telecommunications services shall be as follows:

- The place of supply for services that require the customer to be physically present at a specific location is that specific location. For example, a Wi-Fi hotspot connection.
- For all other services, the place of supply is the place of residence of the customer.

This means telecommunication companies will be required to charge VAT at 5% on all roaming services provided to Bahraini residents when traveling (roaming) outside Bahrain.

However, non-resident telecom operators will not be required to register for VAT. Such services will be outside the scope of Bahraini VAT. Likewise, Bahraini telecom operators will not charge VAT on non-resident telecom operators under roaming agreements.

The residency of a customer can be determined by the following:

- The internet protocol address used by the customer;
- The country code of the SIM card;
- The customer's address as stated on the VAT invoice; and
- Details of the customer's bank account

Basis the above clarification, the Telecommunications Companies in Bahrain are required to comply with the VAT provisions and discharge VAT liability correctly for telecommunication services wherein the date of supply occurs on or after 1 February 2021.

The clarification can be accessed [here](#)

What to know more? The Tax Team at Grant Thornton UAE aims to provide you with updates regarding the latest developments in Tax within the Gulf 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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