Grant Thornton

Tax Newsletter

June 2022 Edition

Part I

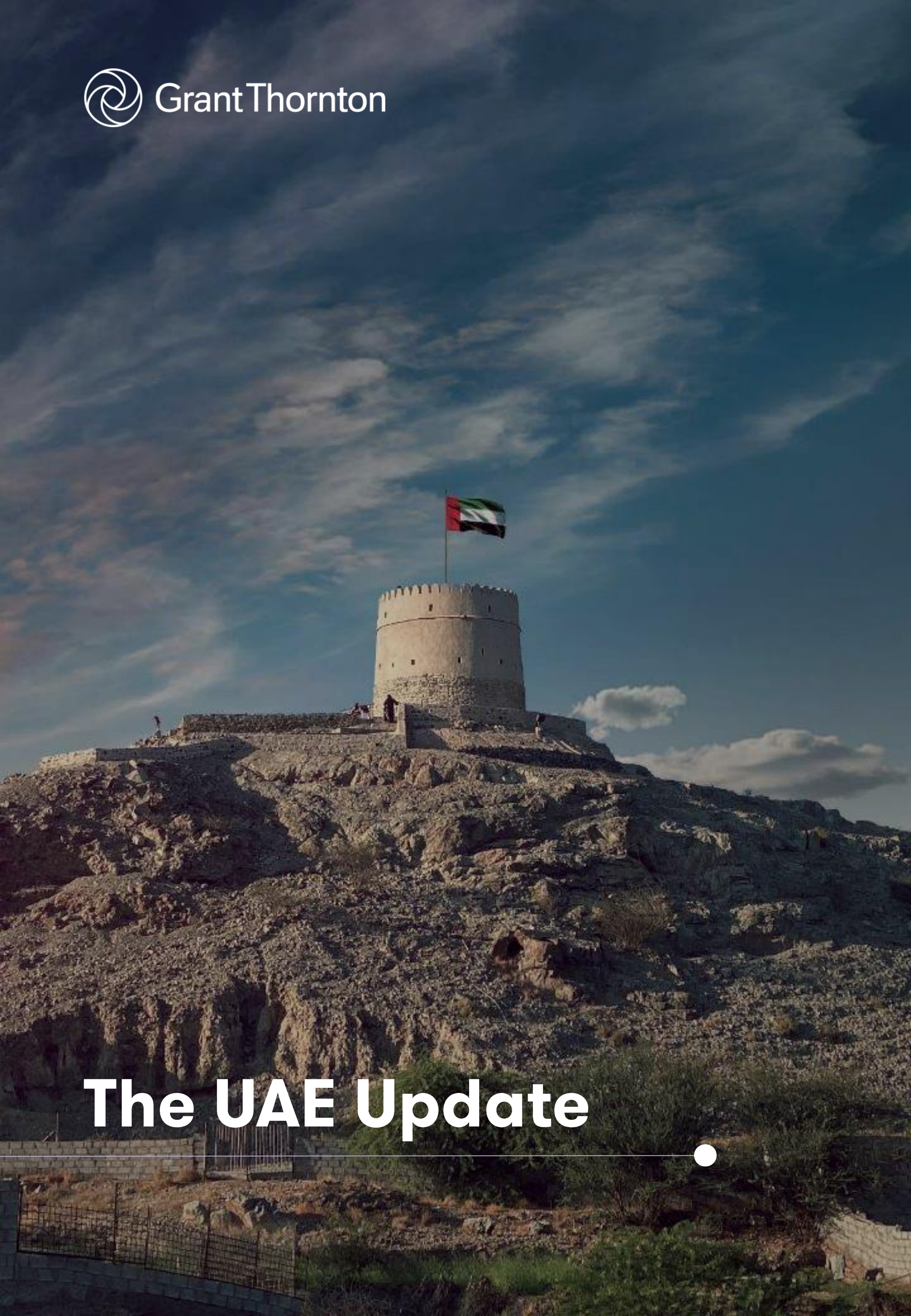
Steve Kitching
Tax Partner

Anuj Kapoor
Tax Partner

Landscape

In our June 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.

Grant Thornton



The UAE Update

1. UAE Tax Development

UAE Economic Substance Notification Due by 30 June 2022

ESR was first introduced in the UAE in April 2019 through Cabinet Resolution No. 31 (CR31) and was thereafter amended by Cabinet Decision No. 57 (CR57), along with the updated guidance (Ministerial Decision No. 100 of 2020) in September 2020.

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.

For the financial year ended 31 December 2021 **(FY21)**, UAE businesses are required to file their ES Notification by **30 June 2022**, and an ES Report, as applicable by **31 December 2022** through the Ministry of Finance Portal. Businesses are required to assess whether they fall within the remit of any Relevant Activity and understand their filing obligations under the ESR.

Please note that failure to comply with the ESR can expose the Company to significant penalties (e.g., AED20,000 to AED400,000), 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.

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

Federal Tax Authority (FTA) Audits in the United Arab Emirates

We have seen an increase in the Audit activities of the Federal Tax Authority (FTA) in recent months with the most recent focus being on the Insurance sector.

A number of our clients who operate in the Insurance Sector have received VAT audit notices within the last six weeks and we expect that this trend will continue with other sectors being targeted in the coming months before the 5-year time limit kicks in and the FTA are no longer able to open an audit for the whole period.

The FTA has the authority to audit taxpayers business records for the previous 5 years with the exception of businesses involved in real estate where the retention and audit period increases to 15 years. Therefore, for businesses who have been registered for VAT since its inception, tax periods for 2018 will begin to fall out of the scope for a Tax Audit as early as 31 January 2023.

As this date is now fast approaching, we are expecting to see a significant increase in audit activities from the FTA before the 5-year time limit. The FTA can also notify businesses of the intention to begin an audit before the expiry of a specific tax period with the Audit taking place after the 5-year time limit has elapsed.

Business who have not been audited or have refunds pending with the FTA should act now to ensure that they are ready for a FTA Audit and where VAT is owed to them from the FTA take proactive steps to claim any monies owing before the periods in question fall out of time.

In addition, to audits in the Insurance Sector we have also seen an increase in the number of Excise Tax audits being conducted by the FTA. The 5-year time limit for FTA audits also applies for Excise Tax.

Tasking action now and being prepared early will:

- Allow the business to respond quickly to the FTA's request for documentation. The FTA typically allows 5 working days for a response;
- Reduce time spent preparing audit files in accordance with the FTA requirements;
- Reduce the value of percentage-based penalties applicable by declaring errors in advance of FTA Audit. Penalties that can be applied for self-declaration range from 5% to 40% of the tax due. However, if the error is discovered as part of an FTA audit, penalties can be 50% of the tax due plus interest which is calculated from the date the original payment was due (the relevant tax period) until the date the payment is made.

How can Grant Thornton help you?

- Completing a VAT Health Check - This involves an in-depth-review of VAT returns filed for prior periods and a review of procedures followed by your business to highlight any errors prior to the FTA audit;
- Assist in the submission of Voluntary Disclosures where errors have been highlighted;
- Represent your company during the FTA Audit and assist with the process;
- Ongoing compliance services including review of periodic VAT return filings and review of business positions.

Should you wish to speak to one of our experienced advisors please reach out to **Harsh Bhatia** (Dubai), **Sunny Kachalia** (Sharjah) and **Charlotte Stanley** (Abu Dhabi).

UAE Tax Board of Directors Explore Development Plans

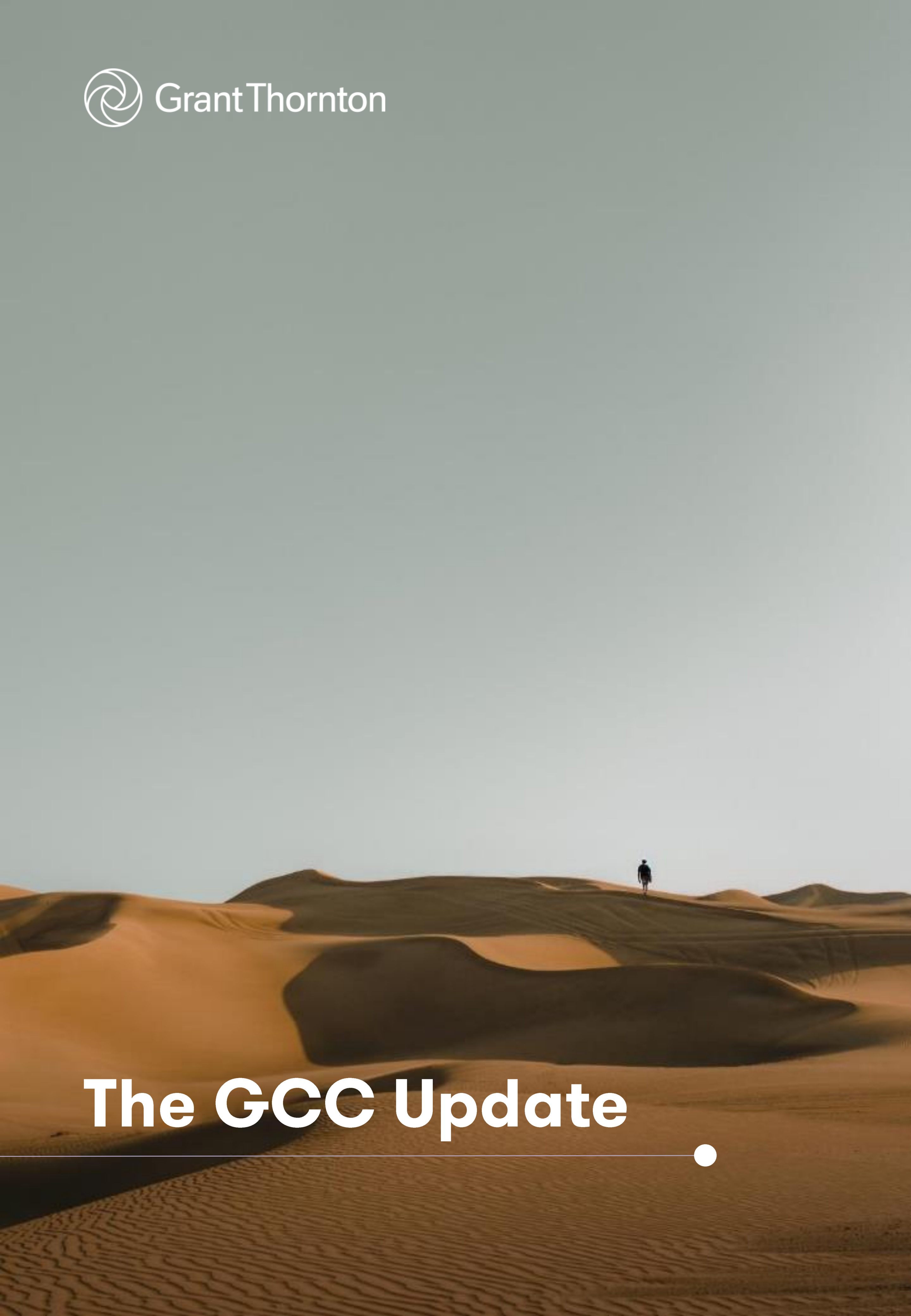
The UAE Federal Tax Authority (FTA) issued a release on a recent meeting of the Board that involved discussion of the FTA's development plans.

During the meeting held at the Authority's headquarters in Dubai on Wednesday, April 20, 2022, the Board reviewed a report on the FTA's plans to develop and enhance the tax system's procedures, align them with the best practices, and to upgrade customer services through fast, accurate, and easy-to-use digital platforms. The report called for implementing a set of procedures and initiatives to further advance the FTA's performance through continuous follow-up and development to raise the efficiency of the tax system to meet taxpayers' aspirations.

On a different note, the FTA Board of Directors examined the progress made on developing the draft corporate tax law.

The Board further reviewed a report that outlines the FTA's accomplishments over the last year and the first quarter of 2022. Compliance with tax regulations continued to grow across the UAE, and the number of VAT registrants grew to 367,157, an increase of 2.42% within three months post 2021. Meanwhile, the number of Excise Tax registrants reached 1,398 compared to 1,357 last year with an increase of 3.02%. Also, the number of Tax Agents has increased to 446 compared to 433 with an increase of 3%.

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



The GCC Update

1. VAT

The Oman Tax Authority (OTA) Publishes VAT Taxpayer Guide for the Financial Services Sector

The VAT Taxpayer Guide for the Financial Services Sector explains the VAT treatment of financial services in general and other specific types of transactions such as compensatory/ punitive fees, conventional banking products, waiving of customer fees, as well as the VAT treatment of Islamic financial services, insurance services and penalties. The Guide also elaborates on the reporting of VAT and input tax treatment of such financial services.

The Guide emphasizes that VAT exemption is available only to those banks and financial institutions that have been licensed by the Central Bank of Oman or any other competent Authority (including persons licensed to conduct Islamic financial banking activities or life insurance activities by the relevant body in Oman) and has cited interest income on swaps, discounts on bills, etc. as examples of exempt supplies.

Key points to note are:

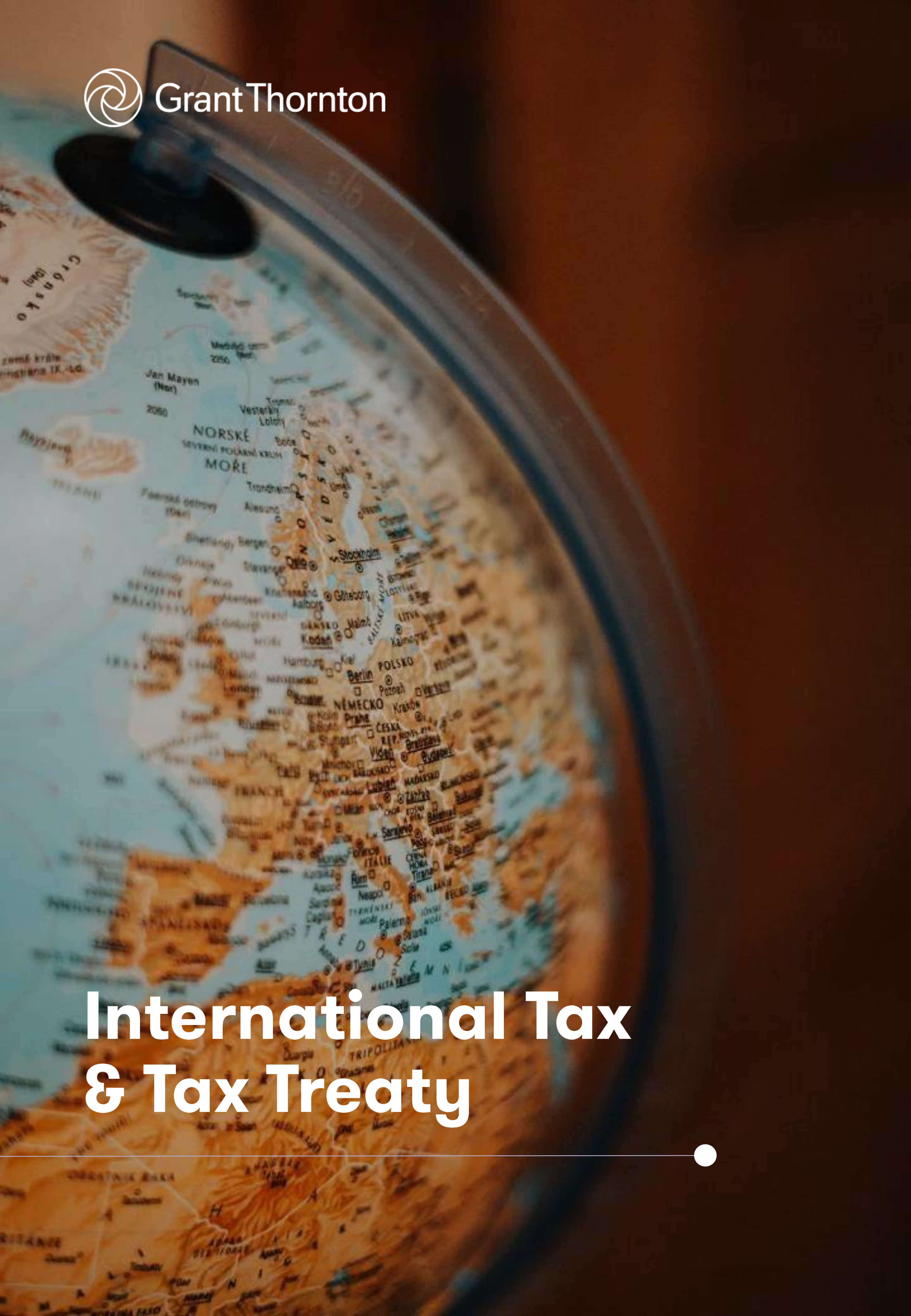
- The guide provides detailed guidance on the VAT treatment of conventional banking products and these are detailed in the table under 4.5 Conventional Banking Products.
- Islamic Finance - key clarifications on the VAT Treatment of Islamic Finance products are as follows:
    - Interest/ profit received by a customer on his deposit must be considered as a passive income and hence Outside the scope of Omani VAT.
    - The guide clarifies that where a financial provider sells an asset or goods to a borrower under a Murabaha agreement, it will be considered as not subject to VAT since it does not constitute a supply by the finance provider.
- Insurance - the following clarifications relate to the insurance sector:
    - The Guide clarifies that all non–life insurance services must be treated as standard-rated while warranties should be considered as Outside the Scope of VAT.
    - The deductible payable by an insured under an insurance contract/ policy is not treated as a consideration for a supply by an insurance company, and as such is Out of the Scope of VAT.
    - The Guide clarifies the Input VAT Recovery by the insurer on “repairs under an insurance agreement.” If the repair services are directly provided to the insured, then the insurer does not qualify to recover Input VAT on expenses related to such claims. However, if the insurer is the recipient of the services then the insurance company may deduct Input VAT on the related expenses.

- Updates on administrative practices - the following clarifications regarding the administrative practices are also highlighted in the Guide:

    - The OTA allows the provisional usage of the percentage of the previous year subject to certain conditions. This can be made use of instead of the quarterly calculation of the partial deduction percentage.
    - The OTA requires a separate reference to the payment date on the VAT invoice where the payment is made before the invoice date.
    - Where VAT invoices are issued before the daily rates are published by the Central Bank of Oman, the OTA has permitted the use of the previous day's published forex rates.
    - The Guide clarifies that a monthly bank statement can be treated as a valid summary VAT invoice where it contains all the information required on a VAT invoice.

For further information on the above-mentioned Guide, please click **here**.

Should you need further clarification and details regarding this update, please contact our VAT Associate Director **Sunny Kachalia**.



Grant Thornton

International Tax & Tax Treaty

GCC Tax Development

Bahrain Extends Economic Substance Return Deadline

Bahrain's Ministry of Industry, Commerce and Tourism has reportedly extended the deadline for the submission of the annual economic substance return. The standard deadline for the annual return is within three months following the end of the year, although an extended deadline until mid-August 2022 has been provided for companies whose financial statements for 2021 were not audited by 31 March 2022.

The annual economic substance return filing requirement must be met through the **International Tax Information Exchange System (ITIES).**

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

GCC Tax Treaty Developments

Pakistan Publishes Synthesised Texts of Tax Treaties with Saudi Arabia and UAE as Impacted by the BEPS MLI

Pakistan's Federal Board of Revenue has published the synthesised texts of the tax treaties with Saudi Arabia, and the United Arab Emirates, as impacted by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI). The synthesised texts were prepared based on the reservations and notifications submitted to the Depositary by the respective countries. The authentic legal texts of the treaties and the MLI take precedence and remain the legal texts applicable.

- The MLI applies for the 2006 Pakistan-Saudi Arabia tax treaty:

  in Pakistan:

  - with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after the first day of the next taxable period that begins on or after 1 April 2021; and
  - with respect to all other taxes levied by Pakistan, for taxes levied with respect to taxable periods beginning on or after 1 October 2021; and

  in Saudi Arabia:

  - with respect to 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 2022; and
  - with respect to all other taxes levied by Saudi Arabia, for taxes levied with respect to taxable periods beginning on or after 1 October 2021.

Notwithstanding the above, Article 16 of the MLI (Mutual Agreement Procedure) has effect for a case presented to the competent authority of a Contracting State on or after 1 April 2021, except for cases that were not eligible to be presented as of that date under the treaty prior to its modification by the MLI, without regard to the taxable period to which the case relates.

- The MLI applies for the 1993 Pakistan-United Arab Emirates tax treaty:

in Pakistan:

- with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after the first day of the next taxable period that begins on or after 1 April 2021; and
- with respect to all other taxes levied by Pakistan, for taxes levied with respect to taxable periods beginning on or after 1 October 2021; and

in the United Arab Emirates:

- with respect to 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 2022; and
- with respect to all other taxes levied by the United Arab Emirates, for taxes levied with respect to taxable periods beginning on or after 1 October 2021.

Notwithstanding the above, Article 16 of the MLI (Mutual Agreement Procedure) has effect for a case presented to the competent authority of a Contracting State on or after 1 April 2021, except for cases that were not eligible to be presented as of that date under the treaty prior to its modification by the MLI, without regard to the taxable period to which the case relates.

Should you need further clarification and details regarding this update, please contact our International Tax team –
Partner **Anuj Kapoor**,
Manager **Tamer El Khatib**

New Tax Treaty Between Oman and Russia to be Signed

Officials from Oman and Russia met on 11 May 2022 to discuss bilateral relations and reportedly agreed to the signing of a new income tax treaty. A treaty had been signed but not ratified in 2001. The new treaty must be finalised, signed, and ratified before entering into force.

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

Continued Negotiations for New Tax Treaty Between the Czech Republic and the UAE

Officials from the Czech Republic and the United Arab Emirates held the second round of negotiations for a new income tax treaty from 3 to 6 May 2022. The new treaty will be finalised, signed, and ratified before entering into force and, once in force and effective, will replace the 1996 tax treaty between the two countries.

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

Iraq Negotiate Tax Treaty with Qatar

On 12 April 2022, the Iraq Council of Ministers authorised the negotiation and signing of income tax treaties with Qatar. Any resulting treaties would be the first of their kind between Iraq and Qatar and must be finalised, signed, and ratified before entering into force.

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

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

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

www.grantthornton.ae

Bahrain

Jatin Karia

Senior Partner,
Tax Advisory, GT Bahrain

+973 3957 5562

jatin.karia@bh.gt.com

Suresh Nandlal Rohira

Partner,
Tax Advisory, GT Bahrain

+973 34017 496

suresh.rohira@bh.gt.com

Oman

Tammam Al-Mughairi

CEO
GT Oman

tammam.al-mughairi@om.gt.com

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

www.grantthornton.ae