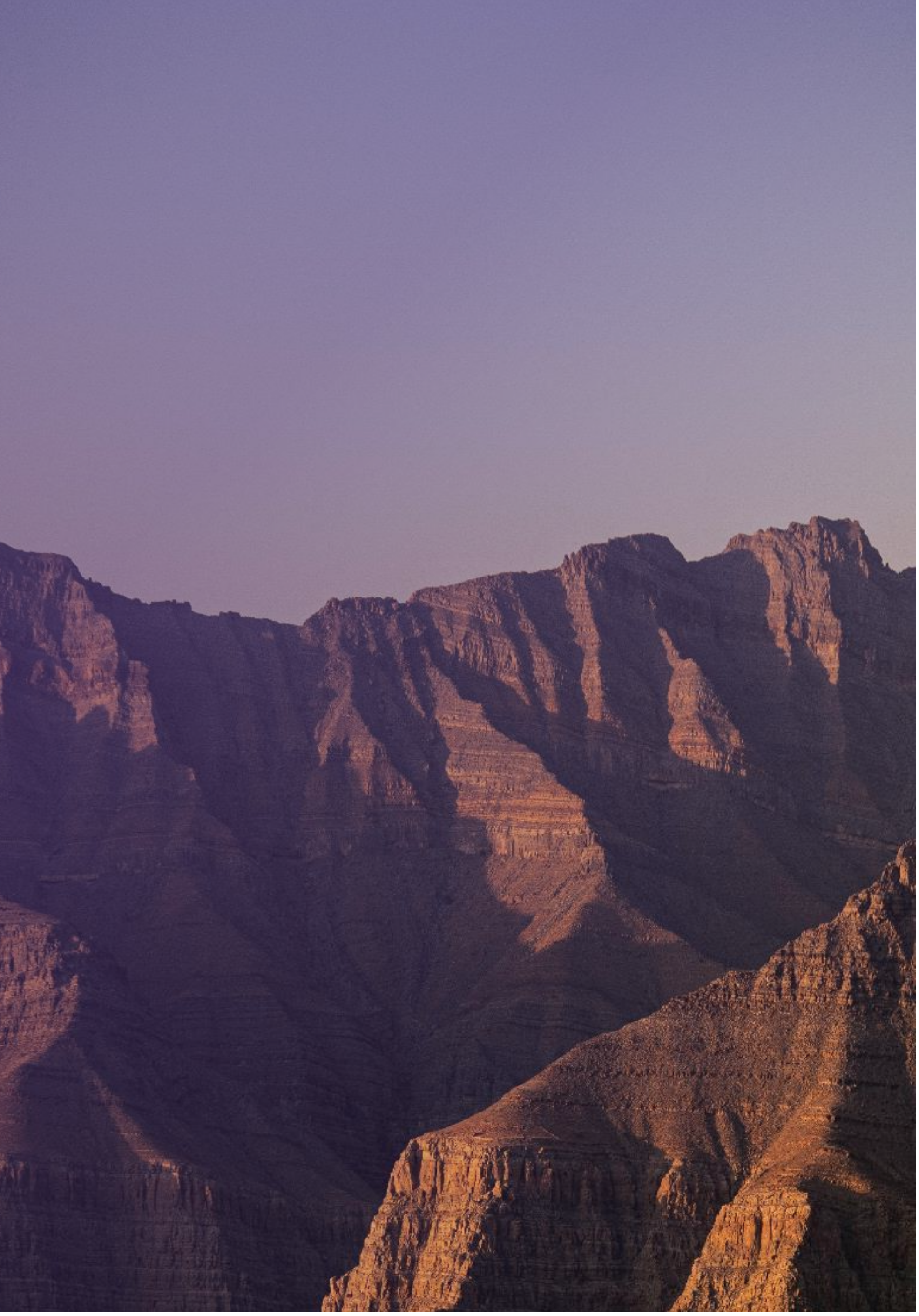

Tax Newsletter

June 2021

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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.

The UAE Update

INDIRECT TAX

1. VAT in UAE

The Federal Tax Authority (FTA) Has Released Further Clarification on the Reduction of Penalties

In a landmark movement last month, the UAE government amended the Cabinet Resolution on Administrative penalties resulting in a substantial reduction of penalties for violation of VAT and Excise laws.

The FTA has issued further clarifications which explain the Cabinet Resolution in more detail. This clarifies that the Amnesty scheme is applicable for all penalties (including fixed and percentage-based penalties). Although the procedure to avail a reduction under the scheme has not been published. Also, the FTA has confirmed that this will be linked to the taxpayer's e-services account.

The FTA has also amended Article 26 of the Tax Procedure Regulations which give an option to the taxpayers to request the FTA for reduction in penalties, if the following conditions are satisfied:

- There is a valid reason that is acceptable to the FTA;
- Availability of evidence that justifies the existence of the reason and the violation it caused, which led to the imposition of administrative penalties; and
- It is demonstrated to the FTA that violation has been corrected.

The application must be submitted to the FTA (as per the specified mechanism) within 40 business days as opposed to the 10 business days period mentioned previously from the time when the reason occurred.

The clarifications can be accessed using the below links:

Amendment of Penalties

Redetermination of administrative penalties levied prior to the effective date of Cabinet Decision No.49

Cabinet Decision No. 49 of 2021 on amending provisions of cabinet decision No. 40 of 2017

Should you need further clarification and details regarding this update, please contact our Tax Director Harsh Bhatia

2. UAE Customs and Excise

Dubai Customs Announces Benefits for Personal Imports via E-Commerce Platforms

The Dubai Customs have released Notice No. 09/2021 on import of personal goods via e-commerce platforms. The companies wishing to benefit from this must register on the Cross-Border e-commerce platform.

The companies registered on the e-commerce platform will benefit from the following:

- Exemption from Customs duties for goods imported for personal purposes via postal parcels, courier companies, and companies not exceeding the value of AED 300.
- Personal goods that are returned via companies will be exempted from Customs duty if returned within 60 days.
- Companies are exempted from service charges in respect of personal goods with value not exceeding AED 10,000.

Companies are permitted to amend or cancel personal goods customs declaration within 60 days from the date of registering the customs declaration.

Requests for refund of Customs deposit and claims settlement will be automated.

The notice is effective from 16th May 2021 and can be found here

Businesses are encouraged to register on the Cross-Border e-commerce platform to avail all the above- mentioned benefits.

The GCC Update

INDIRECT TAX

1. VAT

Zalat, Tax and Customs Authority (ZATCA) Approves E-invoicing Guidelines

The e-invoicing project or 'Fatoorah' as known in Arabic is one of ZATCA's most important projects to date. Earlier this year, ZATCA had introduced draft e-invoicing requirements. This included controls, requirements, technical specifications, and procedural rules for implementing the e-invoicing Regulations.

On 28th May 2021 ZATCA approved the above-mentioned guidelines making a few changes as compared to the draft.

The implementation will include the following phases:

- **Phase 1:** Taxpayers are required to equip their system to comply with the e-invoicing guidelines and requirements effective from 4th December 2021. The system must generate and store e-invoices and stop issuing handwritten or editable invoices.
- **Phase 2:** Process of integration of e-invoices and sharing them with ZATCA will be implemented in phases starting from 1st January 2023.

Taxpayers are urged to start equipping their system with the requirements of ZATCA as soon as possible to ensure a smooth implementation on time.

The approved guidelines can be accessed using the link here

International Tax & Transfer Pricing

G7 Finance Ministers Agree on Global Minimum Tax and Market Country Taxing Rights

Finance Ministers and Central Bank Governers of the G7 have agreed to a minimum global level of corporate tax of at least 15% following their virtual meeting held on 4 June 2020 in London. The G7 comprises of the United Kingdom, Canada, France, Germany, Italy, Japan, and the United States (US). The meeting was also joined by the heads of the International Monetary Fund, World Bank Group, Organisation for Economic Co-operation and Development (OECD) and the Financial Stability Board (FSB).

The move aims to address the tax challenges arising from globalisation and the digitalisation of the economy and to adopt a global minimum tax. According to the statement released by the US Secretary of the Treasury, Janet L. Yellen, "The G7 Finance Ministers have made a significant, unprecedented commitment that provides tremendous momentum towards achieving a robust global minimum tax at a rate of at least 15%. That global minimum tax would end the race-to-the-bottom in corporate taxation, and ensure fairness for the middle class and working people in the U.S. and around the world. The global minimum tax would also help the global economy thrive, by leveling the playing field for businesses and encouraging countries to compete on positive bases, such as educating and training our work forces and investing in research and development and infrastructure."

In addition to the global minimum tax, G7 Finance Ministers have also agreed on reaching an equitable solution on the allocation of taxing rights, with market countries awarded taxing rights on at least 20% of profit exceeding a 10% margin for the largest and most profitable multinational enterprises.

A further meeting will be held in July 2021 to reach agreement with G20 Finance Ministers and Central Bank Governors. Middle East Countries, including Saudi Arabia which is a member of the G20, are expected to follow the lead of the G7 nations to introduce a minimum global corporate tax.

Join Economist Corporate Network's event at the Capital Club on 15 June where Steven Ireland will join a panel discussion to discuss the implications for the UAE. Click here to register for the event.

Qatar's General Tax Authority Published FAQs on Transfer Pricing Declaration, Master File, and Local File

Qatar's General Tax Authority has published a Transfer Pricing ("TP") Declaration, Master File, Local File FAQs in English on the Dhareeba tax portal. The TP requirements in Qatar generally apply for tax years commencing on or after 1 January 2020. Key points of the FAQs include:

- Qatar entities must submit a TP declaration when they meet the following conditions:
    - the annual tax-free turnover of these entities or the gross assets appearing on their balance sheet is greater than or equal to QAR 10,000,000; and
    - these entities are associated to other entities established in Qatar or abroad;

- The TP declaration must be filed with the income tax return through the Dhareeba tax portal;

- Qatar entities must submit a Master file and a Local file when they meet the following conditions:

    - the annual tax-free turnover of these entities or the gross assets appearing on their balance sheet is greater than or equal to QAR 50,000,000; and

    - these entities are associated to other entities established abroad;

- In applying the above requirements, an entity is deemed to be associated to another entity in the following cases:

    - the reporting entity holds, at the end of the financial year, directly or indirectly, more than half of the capital or voting rights of the other entity; or

    - more than half of the reporting entity's capital or of its voting rights are held, at the end of the financial year, directly or indirectly, by the other entity;

- A general QAR 200,000 aggregate transaction (materiality) threshold per category applies with respect to reporting in the declaration and preparing full documentation in the Local file;

- Entities that do not carry out any transactions with related entities may submit a "nil" declaration;

- The reporting obligations described above also apply to foreign entities with a permanent establishment (PE) in Qatar, if the respective conditions are met at the level of the PE in Qatar;

- Enterprises not required to produce the Master file and Local file are still required to provide information and documents about their material cross-border transactions upon a specific request of the GTA in the course of a tax examination or for transfer pricing risk assessment purposes;

- The deadline for submitting the Master file and Local file is 30 June of the year following the fiscal year in question; and the deadline for submitting documentation upon request is 30 days.

We would encourage all taxpayers to monitor their International Tax, Transfer Pricing obligations and ensure compliance with respective regulatory authorities within the deadline.

UAE Permits 100% Foreign Business Ownership

The UAE has made significant change in the Commercial Companies Law (CCL) No. 2 of 2015 and issued the Federal Decree-Law 26 2020, with effect from 1 June 2021.

Under the amended law, a branch of a foreign entity no longer requires an Emirati agent and a Limited Liability Company no longer requires a 51% UAE shareholder. Foreign entrepreneurs can therefore now have 100% ownership of their businesses in the mainland of UAE.

Furthermore, the Department of Economic Development has announced more than 1,000 business activities that will benefit from the revised law. The UAE Abu Dhabi Business Center has published a list of activities where full foreign ownership is permitted, and can be accessed here.

This improved law will ease the entry barriers to set up businesses in the country without requiring a UAE agent or shareholder. It brings in agility that would attract Foreign Direct Investment and make the UAE an attractive global investment destination.

Further details on the new foreign ownership of business can also be accessed here.

Join British Business Group's Breakfast Briefing Event at the Address Dubai Mall on 16 June where Steven Ireland together with finance and legal experts will share their expertise and outlooks followed by a Q&A session addressing the following issues from a legal, economic/financial and commercial perspective:

- The overarching objectives of the UAE Government in making these changes
- Anticipated impact of the changes
- Challenges associated with the changes

Click here to register for the event.

GCC Tax Treaty Development

Tax Treaty Between the UAE and Costa Rica has Entered Into Force

The income and capital tax treaty between the UAE and Costa Rica has entered into force on 9 June 2021. The treaty, signed 3 October 2017, is the first of its kind between the two countries and will apply from 1 January 2022.

Some of the key features of the treaty include:

- Dividends - 5% if the beneficial owner is a company that has directly held at least 20% of the paying company's capital for a period of at least 365 days including the date of payment; otherwise, 15%
- Interest - 5% where the maturity of the loan is at least five years and 10% if the maturity of the loan is less than five years
- Royalties - 12%

The tax treaty will apply from 1 January 2022.

Egypt Ratifies New Tax Treaty with the UAE

On 3 June 2021, Egypt published Presidential Decision No. 558 in the Official Gazette, providing for the ratification of the new income tax treaty with the UAE. The treaty signed was signed 14 November 2019. It will enter into force once ratification instruments are exchanged and will apply from 1 January of the year following its entry into force. Once the tax treaty is effective, the new treaty will replace the 1994 tax treaty between the two countries.

Turkey Ratifies Pending Protocol to Tax Treaty with Kuwait

On 2 June 2021, Turkey has published Law No. 7320, which provides for the ratification of the pending protocol to the 1997 income and capital tax treaty between Turkey and Kuwait. The protocol, signed 14 September 2017, is the first to amend the treaty and provides for the implementation of the minimum BEPS standards and certain other changes. The protocol will enter into force once the ratification instruments are exchanged and will apply from the date of its entry into force.

Ecuador Ratifies Pending Tax Treaty with the UAE

On 21 May 2021, Ecuador signed the executive decree for the ratification of the pending income tax treaty with the UAE. The treaty, signed 9 November 2016, is the first of its kind between the two countries. It will enter into force once the ratification instruments are exchanged, and will apply from 1 January of the year following its entry into force.

Tax Treaty Between the UAE and Israel Signed

On 31 May 2021, officials from Israel and the UAE signed an income tax treaty. The treaty is the first of its kind between the two countries and will enter into force after the ratification instruments are exchanged.

The between the two countries double tax treaty aims to further develop economic relationship, boost trade and investment flows, and to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes.

Kenya and Saudi Arabia Accelerates Negotiations on Tax Treaty

On 26 May 2021, officials from Kenya and Saudi Arabia discussed bilateral relations and agreed to accelerate the negotiation and signing of an income tax treaty. The treaty is the first of its kind between the two countries and will enter into force after the ratification instruments are exchanged.

Tax Treaty Between Brazil and the UAE has Entered into Force

On 26 May 2021, Brazil has published Decree No. 10.705, providing that the income tax treaty with the UAE entered into force on 15 March 2021. The treaty, signed 12 November 2018, is the first of its kind between the two countries.

The treaty covers Brazilian federal income tax and the social contribution on net profit and covers UAE income tax and corporate tax. Some of the key features of the treaty include:

- Dividends - 5% if the beneficial owner is a Contracting State, any political subdivision or local government thereof or a government institution; otherwise, 15%
- Interest - 10% if the beneficial owner is a bank and the loan has been granted for at least five years for the financing of the purchase of equipment or of investment projects; otherwise, 15%
- Royalties - 15%
- Fees for Technical Services of a managerial, technical, or consultancy nature - 15%

The tax treaty also provides that where a resident of a Contracting State has a permanent establishment in the other Contracting State, that permanent establishment may be subject to a tax withheld at source in accordance with the law of that other Contracting State. However, the tax so charged shall not exceed 15% of the gross amount of the profits of that permanent establishment determined after the payment of the corporate tax related to such profits.

The treaty applies from 1 January 2022.

Pending Protocol to Tax Treaty Between Kuwait and South Africa Signed

On 1 April 2021, the pending protocol to the 2004 income tax treaty between Kuwait and South Africa was signed. The protocol is the first to amend the treaty and includes some of the following changes:

- Paragraph 3 of Article 2 (Taxes Covered) is replaced regarding the taxes covered for both Contracting States:
    - Kuwait taxes as per Decree No.3 of 1955 as amended by Law No 2 of 2008, Law No. 23 of 1961 of the Neutral Zone, and Law No. 19 of 2000 of Supporting of National Employees; and South African normal tax, withholding tax on royalties, dividends tax, withholding tax on interest, and tax on foreign entertainers and sportspersons;
- The term "resident of a Contracting State" is updated in Article 4 (Resident), providing that in the case of Kuwait, a resident is:
    - a Kuwaiti national and a company or an entity which is incorporated in Kuwait; and
    - an individual who is present in Kuwait for a period or periods totaling in the aggregate at least 183 days in the fiscal year concerned;
- Article 10 (Dividends) is replaced, providing for a 5% withholding tax rate on dividends if the beneficial owner is a company directly holding at least 10% of the paying company's capital; otherwise, 10% with an exemption for dividends paid to the government of a Contracting State;
- Article 11 (Interest) is replaced, providing for a 5% withholding tax rate on interest, with certain exemptions.

The protocol will enter into force once the ratification instruments are exchanged and will have effect beginning on the date on which a system of taxation at the shareholder level of dividends declared enters into force in South Africa.

Tax Treaty Between Gabon and Saudi Arabia has Entered into Force

On 1 February 2021, the income tax treaty between Gabon and Saudi Arabia entered into force. The treaty, signed 17 December 2015, is the first of its kind between the two countries.

The treaty covers Gabon corporate income tax and flat rate minimum tax, personal income tax, supplementary tax on salaries, and special property tax on rents. It also covers Saudi Zakat and income tax, including the natural gas investment tax. Some of the key features of the tax treaty include:

- A permanent establishment will be deemed constituted when an enterprise furnishes services through employees or other engaged personnel if the activities continue for the same or connected project within a Contracting State for a period or periods aggregating more than 6 months within any 12-month period.
- 5% withholding tax on dividends
- 7.5% withholding tax on interest
- 10% withholding tax on royalties, including for the rendering of any services or assistance of a technical nature

The treaty applies from 1 January 2022.

Tax Treaty Between Jamaica and the UAE to be Negotiated

On 19 May 2021, the Jamaican cabinet authorised the negotiation of an income tax treaty with the UAE. The tax treaty would be the first of its kind between the two countries and will enter into force once signed and ratified.

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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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