



Grant Thornton

# Tax Newsletter

November 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') Has Issued Public Clarification ('VATP027') on the VAT Treatment for Supply of Goods in Designated Zones and Connected Shipping/Delivery Services**

The main aim of the amendment which has become effective from October 30, 2021 is to prevent double taxation on the goods supplied in the Designated Zones and to provide relief to non-resident suppliers, operating in the Designated Zones, who also ship or deliver the goods.

Article 51(5) of VAT Executive Regulations has undergone amendment to include sub-clauses (b) and (c) which state the 'exceptions', where the place of supply shall 'not' be the State. Listed below are the amendments to Article 51(5):

- a. It has been delivered to a place outside the country, with the supplier maintaining commercial or official and customs evidence that the goods have been removed from the Designated Zone.
- a. It was taken out of the Designated Zone to a place inside the country, with the supplier maintaining official evidence which proves that VAT has been applied to import transactions.

The impact of the amendments to Article 51(5) of VAT Executive Regulations are - It has become mandatory to obtain and maintain commercial/official evidence for sales taking place from Designated Zones to outside the UAE. The failure to produce the required documents would result in the transaction being regarded as a 'Standard Rated Supply.' The supply would be regarded as outside the scope of VAT where goods were stored in the Designated Zone and then, supplied to a customer in the UAE provided 5% VAT has been accounted for at the time of import.

This is specifically relevant for non-resident suppliers who sell their goods on a B2C basis to a UAE mainland customer.

Article 51(6) of VAT Executive Regulations states that the Place of supply of Services will be considered inside the State if the place of supply is in the Designated Zone. However, Article 51(7) of VAT Executive Regulations has been amended as an 'exception' with a few conditions to be met simultaneously as well.

As per the amendment, the place of supply of services is outside the State when shipping and transportation services directly relate to goods delivered outside the State along with compliance of certain conditions.

Before the amendment, the sale of goods from the Designated Zone to a customer outside of the UAE should be treated as outside the scope of VAT. However, international shipping services are zero-rated. This triggered VAT registration for non-resident suppliers of goods (registered on e-commerce platforms) if they provided international shipping services to the customer.

However, with introduction of amendment in Article 51(7) of the Executive Regulations, supply of shipping services to customers outside the UAE would be treated as outside the scope of VAT, if the non-resident supplier has maintained evidence proving that the goods have left the UAE and have been delivered to a place outside of the UAE. However, the non-resident supplier must not be registered for VAT in the UAE nor own the electronic sales platform through which the goods are supplied. This change is not relevant for UAE resident suppliers for whom the international shipping services would still be Zero-Rated.

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 [Angela Sharma](#).

### **Public Clarification (TAXP003) Issued by the FTA Introducing New Procedures for Reconsideration Applications and Objection of Decisions**

The FTA has declared its intention to start executing new procedures for VAT registrants applying for reconsiderations and objections of decisions commencing from November 1, 2021.

This is applicable to VAT registrants who wish to challenge FTA's decision in relation to reconsideration or objection to a decision. The new procedures cover decisions made by the Tax Disputes Resolution Committee ('TDRC'), challenge mechanisms, controls for paying by installment, and waiver of administrative penalties.

The procedure for reconsideration is summarized as follows:

- a. Any person has the right to submit a request to the FTA to reconsider any decision or part thereof, issued in connection to him, provided that the request includes reasons and meets the prescribed conditions, within 40 business days from the date the business was notified of the decision.
- b. The FTA will review the reconsideration request and issue a decision, giving their reasons within 40 business days from the date of receiving the application and informing the applicant of its decision within 5 business days from the date of issuance of the decision.

Regarding objection to decisions, the following should be noted:

- a. The new amendments allow VAT registrants to submit an objection to FTA's decision regarding reconsideration application to the TDRC.
- b. The objection submitted to the TDRC will not be admissible in three cases:
  - If a reconsideration request has not been previously submitted to the FTA.
  - If VAT in connection with the objection has not been settled.
  - If the objection is not submitted within 40 business days from the date of notification of the FTA's decision.
- c. The final decision issued by the TDRC regarding disputes which do not exceed AED 100,000 shall be deemed as executory instruments.
- d. The final decision of disputes exceeding AED 100,000 shall be deemed as executory instruments if they were not appealed before the competent court within 40 business days from the date of notification of result of the objection.
- e. The final decision of the committee, which has the power of executory instruments shall be enforced through the execution judge at the competent court pursuant to the legal provisions.

The taxpayers have also been given more flexibility to settle the payment of VAT and penalties. The businesses are now eligible to file objections with the TDRC upon making payment of VAT only.

However, to become eligible for filing appeals with the Courts, the taxpayers need to pay 50% of the administrative penalties or submit an equivalent bank guarantee to the FTA.

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](#).

## 2. Upcoming UAE Compliance

For businesses with financial year end of 31 December, the deadline for filing the annual Economic Substance Regulations (ESR) Report and Country by Country Reporting ('CbCR') compliances is due on or before 31 December 2021. Please refer to the below table for more details.

Filings	Year of Implementation	Applicability	Threshold	Filing Deadline	Penalties for Non-Compliance
<b>ES Report</b>	The financial year beginning on or after 1 January 2019	Only applicable in case the business earns income from its Relevant Activity	All UAE entities undertaking Relevant Activity as per the ESR Guidelines	Within 12 months from the end of the relevant financial period (i.e., by 31 December 2021 for businesses with calendar year-end)	Failure to submit a Report: AED 50,000
<b>CbC Report</b>	The financial year beginning on or after 1 January 2019	Only the UAE tax resident Ultimate Parent Entity of an in-scope MNE Group is required to file the CbC Report and CbCR Notification	All UAE tax resident MNEs with consolidated group revenue equal to or exceeding AED 3.15 billion (approximately USD 850 million) in the previous financial year	Within 12 months of the financial year end of the MNE Group (i.e., by 31 December 2021 for businesses with calendar year-end)	Failure to submit CbCR/ CbCR Notification on time: AED 1,000,000 (plus AED 10,000 for each day of failure up to a maximum of AED 250,000)
<b>CbCR Notification</b>				The last day of the reporting financial year of the MNE group (i.e., by 31 December 2021 for businesses with calendar year-end)	



# The GCC Update

---



# INDIRECT TAX

## 1. VAT

### **The Zakat, Tax and Customs Authority (ZATCA) Develops “SDK Toolkit” for Easing E-Invoicing Compliance**

The ZATCA has developed a Compliant and Enablement Toolbox known as ‘SDK Toolkit’ with the purpose of verifying the VAT compliance of E-Invoices to be generated by the VAT taxpayers in line with the E-Invoicing Regulations.

The SDK Toolkit serves the following purposes for VAT taxpayers and developers:

- a. Verification of VAT Compliance status of E-Invoices generated as per the E-Invoicing Regulations in KSA.
- b. Assessment of various requirements such as fulfillment of security protocol, specification documents etc.
- c. Assessment of fulfillment of requirements of the integration phase of E- Invoicing.

The ZATCA has further cautioned that SDK Toolkit is purely meant for assessment purposes only and it does not imply certification of fulfillment of all obligations by taxpayers as mandated under the E- Invoicing Regulations of KSA.

The user manual explaining the functional and technical aspects of the ‘SDK Toolkit’ can be accessed using the following link: [Download SDK \(zatca.gov.sa\)](#).

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

### **The Oman Tax Authority (OTA) Intends on Opening More Branches Across Different Governorates**

The OTA has recently opened a branch in the Wilayat, Province of Sohar in the North Al Batinah Governorate and has confirmed its intent of opening more branches across different governorates. The OTA has addressed this step as an initiative for developing and providing better VAT services to the taxable persons and for a better reach.





# International Tax & Transfer Pricing

---

## **GCC Tax Treaty Developments**

### **Saudi Arabia Negotiates Tax Treaty with Guinea-Bissau**

On 3 November 2021, Saudi Arabia and Guinea-Bissau discussed bilateral relations, including the negotiation and signing of an income tax treaty. Any resulting treaty would be the first of its kind between the two countries and must be finalised, signed, and ratified before entering into force.

### **Saudi Arabia Negotiates Tax Treaty with Ivory Coast**

On 3 November 2021, Saudi Arabia and Ivory Coast discussed bilateral relations, including the negotiation and signing of an income tax treaty. Any resulting treaty would be the first of its kind between the two countries and must be finalised, signed, and ratified before entering into force.

### **UAE and Qatar Negotiate Tax Treaties with Curacao**

The UAE is negotiating income tax treaties with the Curacao. Any resulting treaties would be the first of its kind between Curacao and the UAE and must be finalised, signed, and ratified before entering into force.

### **Oman Negotiates Tax Treaty with Greece**

On 20 October 2021, Oman and Greece discussed bilateral relations, including the negotiation and signing of an income tax treaty. Any resulting treaty would be the first of its kind between the two countries and must be finalised, signed, and ratified before entering into force.

### **Bahrain Publishes Updated Manual Agreement Procedure (MAP) Guidance**

In September 2021, Bahrain has published and updated Mutual Agreement Procedure (MAP) Guidance which supersedes the prior guidance issued in April 2020.

Key amendment under the updated MAP Guidance includes changes in the contact information for the Bahrain competent authority which has been changed to the Foreign Tax Relations Directorate.

In addition, the list of Bahrain's in-force tax treaties which form the legal basis for MAP in Bahrain, has been updated to include the 2019 tax treaty with Switzerland. The tax treaty with Switzerland entered into force on 27 July 2021 and generally applies from 1 January 2022.

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](mailto:steve.kitching@ae.gt.com)



**Anuj Kapoor**  
Partner,  
Tax Advisory

☎ +971 4 388 9925  
✉ [anuj.Kapoor@ae.gt.com](mailto: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](mailto:iadileh@sa.gt.com)



**Adel Daglas**  
Director,  
Zakat & Tax, GT KSA

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



**Mohamed Hwitat**  
Senior Manager,  
VAT Advisory, GT KSA

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

## Bahrain



**Jatin Karia**  
Senior Partner,  
Tax Advisory, GT Bahrain

☎ +937 3957 5562  
✉ [jatin.karia@bh.gt.com](mailto:jatin.karia@bh.gt.com)

## Oman



**Tammam Al-Mughairi**  
CEO,  
GT Oman

✉ [tammam.al-mughairi@om.gt.com](mailto: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

Rolex Tower, 23 Floor  
Sheikh Zayed Road  
PO Box 1620  
Dubai, UAE

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

### Abu Dhabi

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

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

### Abu Dhabi

DD-16-121-031  
16<sup>th</sup> 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