



Grant Thornton

Tax Newsletter

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Landscape

In our September edition of GT's Monthly Tax Newsletter, you can read the latest news updates affecting International Tax, Transfer Pricing and Indirect Tax in the UAE and across the GCC Region.



The UAE Update



INDIRECT TAX

1. VAT in the UAE

The Federal Tax Authority (FTA) Issues Decision No. 6 of 2022 on the Maximum Amount of Cash Refund for the Tourists Scheme

On 21st July 2022, the FTA issued Decision No. 6 of 2022, setting the maximum amount of cash for claiming a VAT refund for tourists. The decision has been divided into three Articles addressing the maximum amount of cash refund, cancellation of conflicting provisions, and the application of the decision respectively.

Article 1: The Maximum Amount of Cash Refund states: “An overseas tourist can claim up to a maximum VAT refund of AED 35,000 per 24 hours”.

Article 2: Cancellation of Conflicting Provisions explains that all prior decisions and provisions contrary to or inconsistent with this decision shall be revoked.

Article 3: Application of the Decision has set the effective date of the decision from 1 September 2022 onwards.

For further information on the above-mentioned decision, please click here for [Arabic](#) and here for [English](#).

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

2. UAE Customs and Excise

The Dubai Customs Authority Launches “Self-Audit Finding Service”

The Dubai Customs Authority has launched a new voluntary disclosure program (“Self-Audit Finding Service”), that enables companies and individuals to disclose errors and report irregularities that may have been committed while reporting import and export declarations.

The key highlights of this service are as follows:

- a. This service will be available to companies and individuals who are registered with the Dubai Customs Authority.
- b. It can be applied at any time after the clearance of goods but must be made before the notice or commencement of customs audit process.
- c. The following are the terms and conditions applicable to the Self-Audit Finding Service:
 - i. The disclosure must be complete with all the relevant information pertaining to the errors and omissions.
 - ii. The party (company/ individual) must undertake to pay the amount of differences in customs duties within 15 days.
 - iii. Further, no penalties will be imposed based on the Self-Auditing Finding upon its successful completion.

We recommend that businesses who import and export in Dubai conduct a thorough review of their customs transactions to identify any errors or omissions (e.g. miscalculation of customs duty liabilities in the past, use of wrong HS code, the wrong description of goods, and understatement or overstatement of customs value). Should these be detected, businesses are encouraged to evaluate the possibility of using the Self-Audit Finding service to avoid any penalties.

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

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

The Federal Tax Authority (FTA) Updates the Import Declaration Guide

The FTA has updated the Import Declaration Excise Guide for Registered and non-Registered Excise tax importers. The guide intends to:

- a. Understand the process for declaring goods at Customs;
- b. Navigate to the Excise Tax declaration forms to declare excisable goods; and
- c. Provide Customs with the appropriate proof to validate the import declaration and the Excise Tax due.

The below table explains the process for registered/unregistered importers for declaring the excisable goods and have them cleared at Customs.

Steps	Registered Importers	Unregistered Importers
Step 1	Before importing, complete the Excise declaration form	Before importing, complete the Excise declaration form
Step 2	Not Applicable (Payment will be declared and paid via the Excise Tax return)	Pay the Excise Tax
Step 3	Print the declaration confirmation	Print the payment confirmation
Step 4	Arrive at Customs with the printout of the confirmation	Arrive at Customs with the printout of the confirmation
Step 5	Custom verifies the declaration form compared to import details	Custom verifies the declaration form compared to import details

If the details are submitted correctly, then Customs Authority will approve and the imports will pass through, however, if the details are incorrect then the Customs Authority will reject and the form will have to be updated with the correct details by logging into the e-Services website.

Additionally, the FTA has updated the guide to include search filters to search for any specific import declarations when initiating the EX201 – Excise goods that require a customs clearance form. This will allow the taxable person to easily identify and link the import declarations with the customs clearance form.

By default, the search filters display an Import Declaration for up to 5 days in the grid. The period to select dates (from-to) should be up to 180 days per search attempt. This update has been made for both Registered and Unregistered importers for Excise Tax declaring excisable goods.

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](#).

The Federal Tax Authority (FTA) Releases A User Guide for “Excise Tax Clearing Companies”

The FTA has released a user guide for Excise Tax Clearing Companies. This guide intends to help with the following:

- a. Suspending Excise Tax upon import;
- b. Releasing suspended Excise Tax for goods that have been exported; and
- c. Declaring consumed goods.

The guide provides a description of the forms that need to be completed for Excise Tax suspension activities.

The FTA has provided a step-by-step guide to navigate through the portal and to complete the forms. The relevant forms are EX201A – Excise Tax Suspension – Import Declaration and EX201B – Excise Tax Suspension – Consumed Goods & Released Declaration.

The FTA provides details on the process that an Excise Tax Clearing Company (TINCE) should follow in order to declare the importers Excise Goods and have them cleared through Customs.

Also, the FTA has provided more details on how to add a product to the FTA list. If the product for a company is not mentioned on the published list, a request to add that product to the list of excise products can be created through the FTA website by clicking on their EX701 – Request to add product to the published FTA list option.

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

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



The GCC Update



INDIRECT TAX

1. VAT

The Oman Tax Authority (OTA) Issues the Arabic Version of the VAT Guide on E-Commerce

On 25th of August 2022, The OTA published a detailed VAT guide focusing on the effect of VAT on businesses operating within the E-Commerce sector. The guide not only discusses general topics such as reverse charge mechanism (RCM), input tax recovery and record keeping requirements but also specific topics like determining the place of actual use and enjoyment and the supplies made through agents acting as disclosed or undisclosed agents.

A detailed understanding of some of the VAT matters on the supply of goods by electronic means, Electronically Supplied Services (ESS) and supplies made through agents have been mentioned below:

1. Supply of goods by electronic means

- i. The 'general place of supply rule' holds good in determining the place of supply of goods provided through an electronic platform, i.e. the place of supply shall be taken into account depending on where the transfer of ownership or the right to dispose off the goods takes place.
- ii. Supply of goods from outside Oman: The guide addresses two instances and the respective VAT treatment where the supply of goods has begun from outside the Sultanate of Oman:
 - a. In terms of the supply of goods from outside Oman, the OTA has clearly stated that they will be solely subject to import VAT.

- b. However, a non-resident supplier has no obligation to account for Oman VAT in a situation where the supplier has delivered goods from outside Oman to customers based in Oman (as the place where transportation begins will be the place of supply of such goods, which is Oman).
- iii. Additionally, the VAT considerations with regards to sale of goods from outside Oman, locally supplied goods and import of goods with assistance of an import clearing agent have also been discussed in the Guide.
- iv. In the case of import of goods, the Guide states further that the import VAT will only be deductible by the person acting as the importer, provided that the importer utilises the products for their taxable activities. Additionally, import VAT cannot be recovered by an agent (broker, clearing agent, etc.) on supplies received on behalf of its principal.
- v. In case a customer who is not registered for VAT in Oman, has received goods from a non-resident supplier that supplies goods from a warehouse in Oman, the supplier will be required to register and account for VAT.

2. Electronically Supplied Services (ESS)

- i. Services that are directly provided over the internet or any digital network are referred to as Electronically Supplied Services (ESS) where the supply is primarily automatic and is only available through information technology. In accordance with the Oman VAT Executive Regulations, the Guide offers a non-exhaustive list of services that can be classified as ESS.
- ii. Special place of supply rule is applicable to ESS ie. the location of "actual use or enjoyment" of such services determines the place of supply for ESS.
- iii. The following principles guide in determining the place of supply for ESS:
 - a. Where the ESS supply includes taxable customers, the place of supply shall be the place of residence of the customer (i.e. workplace or fixed establishment).
 - b. The place of supply for ESS supplies where non-taxable clients are involved shall be the place of actual use or enjoyment of such services, as determined below:
 - c. The physical place shall be considered the place of use and enjoyment in case an electronic service is delivered to a physical place.

- d. The recipient's location at the time the services are supplied shall be considered for determining the use and enjoyment, where the receipt of ESS does not require the customer to be physically present in a specific fixed location. The recipient's location will be determined based on factors such as the country code connected to the SIM card used by the recipient to receive the electronic service, the internet protocol (IP) address of the device used by the recipient to receive the electronic service, the billing address of the recipient, the recipient's bank details used for the payment, other information of commercial nature etc.

- iv. Import of Services: An ESS import from a non-resident supplier by a VAT-registered customer in Oman will be subject to VAT under the RCM. The Guide also states that a non-resident supplier will have to register for VAT if they supply ESS to a customer located in Oman who is not subject to taxation. In such situations, there is no registration threshold.

3. Supplies made through agents

- i. The Guide examines the function of an electronic marketplace, which acts as an intermediary between the supplier and the recipient, in relation to the concept of agents and various agency agreements.

- ii. The Guide lays out the guidelines for interacting with agents on VAT compliance, including tax invoicing, VAT reporting, and record keeping.
- iii. The applicable VAT regulations will apply depending on whether the agents are functioning as disclosed or undisclosed agents. The VAT laws that apply to the intermediary would be the same as if the agent were operating as the supplier of the goods or services, for instance, if the intermediary acts as a principal and on their own account, although in practice they are referred to as an 'agent'.

For further information on the above-mentioned guide, please click here for the [Arabic](#) version.

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



International Tax & Tax Treaty

Saudi Arabia Amends Regulations for Real Estate Transaction Tax Including Additional Exclusions

The Saudi Zakat, Tax, and Customs Authority (ZATCA) has issued a [release](#) (in Arabic) announcing amendments to the executive regulations for the Real Estate Transaction Tax (RETT). The RETT was introduced in October 2020 at a rate of 5%, replacing VAT on real estate supplies. The main amendments to the regulations are summarised as follows:

1. Article 3 is amended in regard to the types of transactions that are excluded from the RETT, including five additional exclusions (paras 16, 17, 18, 19, and 20):
 - i. 16 - Disposal of real estate by a natural person to a company established in the Kingdom of Saudi Arabia, the shares or stock of which are 100% directly or indirectly owned by such person, provided that there is no change in the percentage of their ownership in the company for a period of at least five years from the date of the real estate disposal;
 - ii. 17 - Disposal of real estate between companies, the shares or stock of which are 100% directly or indirectly owned by the same person, provided that there is no change in the percentage of their ownership in the company to which the real estate is disposed for a period of at least five years from the date of the real estate disposal;

- iii. 18 - Disposal of real estate by any person to a real estate developer licensed to practice off-plan sales and leasing activities in accordance with the laws, regulations, controls, and instructions in force in the Kingdom of Saudi Arabia, provided that the real estate is allocated to an off-plan sales project licensed by the Off-Plan Sale and Leasing Committee;
 - iv. 19 - Disposal of real estate free of charge to a company established in the Kingdom of Saudi Arabia, the shares or stock of which are 100% directly or indirectly owned by a "private family" or a charitable endowment, provided that there is no change in the percentage of the endowment's ownership in the company to which the real estate is disposed for a period of at least five years from the date of the real estate disposal;
 - v. 20 - Return of real estate to its former owner as a result of the cancellation of a real estate disposal that was duly notarised, provided that the cancellation occurs by mutual agreement between the parties within 90 days from the date of notarisation, there is no change to the description of the property, and the full value of the real estate is refunded;
2. Article 6 is amended with regard to tax refunds, including new provisions that the RETT shall be refunded in the following cases:
 - i. RETT paid in excess or in error, or paid on an incomplete real estate disposal;
 - ii. RETT paid on a canceled real estate disposal, provided that the conditions described in the new Article 3 para 20 (as above) are met;

3. Article 12 is amended with an additional provision to clarify that the dates and periods stipulated in the regulations are calculated according to the Gregorian calendar.

The amendments to the regulations are effective from 19 August 2022. Click the following links for the [Ministerial Resolution approving the amendments](#)(in Arabic) and the [RETT regulations as amended](#)(in Arabic).

Should you need further clarification and details regarding this update, please contact our International Tax team – Partner [Anuj Kapoor](#), and Transfer Pricing Associate Director [Nimesh Malik](#).

GCC Tax Treaty Developments

China Publishes Synthesised Text of Tax Treaties with Bahrain as Impacted by BEPS MLI

China's State Administration of Taxation (SAT) has published the synthesised texts of China's tax treaties with Albania, Australia, Austria, Bahrain, Barbados, Belgium, and Bosnia and Herzegovina 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 on the basis of the reservations and notifications submitted to the Depositary by the respective countries. The authentic legal texts of the treaty and the MLI take precedence and remain the legal texts applicable.

The MLI applies for the [2002 China-Bahrain tax treaty](#):

- 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 2023; and
- with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after 1 March 2023.

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 September 2022, 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.

MLI synthesised texts of China's tax treaties can be found on the [SAT's tax treaty webpage](#) in Chinese.

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

China Publishes Synthesised Text of Tax Treaties with Oman, Qatar, Saudi Arabia as Impacted by BEPS MLI

China's State Administration of Taxation (SAT) has published the synthesised texts of China's tax treaties with Oman, Pakistan, Poland, Portugal, Qatar, Saudi Arabia, Serbia, and Seychelles 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 on the basis of the reservations and notifications submitted to the Depositary by the respective countries. The authentic legal texts of the treaty and the MLI take precedence and remain the legal texts applicable.

The MLI applies for the [2002 China-Oman tax treaty](#):

- 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 2023; and
- with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after 1 March 2023.

The MLI applies for the [2001 China-Qatar tax treaty](#):

- 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 2023; and
- with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after 1 March 2023.

The MLI applies for the [2006 China-Saudi Arabia tax treaty](#):

- 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 2023; and
- with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after 1 March 2023.

MLI synthesised texts of China's tax treaties can be found on the SAT's [tax treaty webpage](#) in Chinese.

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

Tax Treaty Between Latvia and Saudi Arabia in Force

According to a recent [update](#) from Latvia's Ministry of Finance, the income and capital tax treaty between Latvia and Saudi Arabia entered into force on 1 July 2021. The treaty, signed 7 November 2019, is the first of its kind between the two countries.

Taxes Covered

The treaty covers Latvian enterprise income tax, personal income tax, and immovable property tax. It covers Saudi Zakat and income tax including natural gas investment tax.

Service PE

The treaty includes the provision that a permanent establishment will be deemed constituted when an enterprise furnishes services within a Contracting State through employees or other engaged personnel for a period or periods aggregating more than 183 days within any 12-month period.

Offshore PE

The final protocol to the treaty includes the provision that a person that is a resident of a Contracting State and carries on offshore activities (defined as activities carried on in any area adjacent to the territorial waters of a Contracting State in connection with the exploration or exploitation of the seabed and its subsoil and their natural resources) in the other State shall be deemed to have a permanent establishment in that other State.

Additional Tax on PEs

The final protocol to the treaty includes the provision that profits of a company of a Contracting State carrying on business in the other Contracting State through a permanent establishment may, after having been taxed under Article 7 (Business Profits), be taxed on the remaining amount of its profits in the Contracting State in which the permanent establishment is situated and the tax so charged shall not exceed 5%.

Withholding Tax Rates

- Dividends - 0%, if the beneficial owner is a company directly holding at least 25% of the paying company's capital; otherwise, 5%
- Interest - 0%, if the beneficial owner is a company; otherwise, 5%
- Royalties - 5%, for royalties for the use of, or the right to use, industrial, commercial or scientific equipment; otherwise, 7%

Capital Gains

The following capital gains derived by a resident of one Contracting State may be taxed by the other State:

- Gains from the alienation of immovable property situated in the other State;
- Gains from the alienation of movable property forming part of the business property of a permanent establishment in the other State;
- Gains from the alienation of shares in a company or a comparable interest in a partnership, trust, or other similar entity deriving more than 50% of their value directly or indirectly from immovable property situated in the other State; and
- Gains from the alienation of shares in a company that is a resident of the other State, other than those mentioned above and those listed on a recognised stock exchange.

Gains from the alienation of other property by a resident of a Contracting State may only be taxed by that State.

Double Taxation Relief

Both countries apply the credit method for the elimination of double taxation.

Miscellaneous Provisions

Article 27 (Miscellaneous Provisions) includes the provision that a benefit of the treaty will not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of the treaty.

Effective Date

The treaty applies from 1 January 2022.

Should you need further clarification and details regarding this update, please contact our International Tax team –

Partner [Anuj Kapoor](#),

Tax Senior Manager [Amisha Anil](#).

Tax Treaty Between Kuwait and the UAE Signed

Kuwait's Ministry of Finance [announced via Twitter](#) (in Arabic) the signing of an income tax treaty with the United Arab Emirates on 30 August 2022. The treaty is the first of its kind between the two countries and will enter into force after the ratification instruments are exchanged. Details of the treaty will be published once available.

Should you need further clarification and details regarding this update, please contact our International Tax team –

Partner [Anuj Kapoor](#),

Tax Manager [Tamer El Khatib](#).

China Publishes Synthesised Texts of Tax Treaties with UAE as Impacted by BEPS MLI

China's State Administration of Taxation (SAT) has published the synthesised texts of China's tax treaties with Singapore, the Slovak Republic, Slovenia, South Korea, Thailand, Ukraine, the United Arab Emirates, and the United Kingdom 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 on the basis of the reservations and notifications submitted to the Depository by the respective countries. The authentic legal texts of the treaty and the MLI take precedence and remain the legal texts applicable.

The MLI applies for the [1993 China-United Arab Emirates tax treaty](#):

- 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 2023; and
- with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after 1 March 2023.

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 September 2022, 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.

MLI synthesised texts of China's tax treaties can be found on the SAT's [tax treaty webpage](#) in Chinese.

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

Tax Treaty Between Qatar and Switzerland to be Revised

According to a [release](#) from the Swiss Federal Department of Finance, officials from Qatar and Switzerland met on 5 September 2022 to discuss bilateral relations, including the revision of the 2009 tax treaty between the two countries. Any revisions, likely in the form of an amending protocol, 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](#), Tax 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.

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