



GCC TAX ROUND-UP

Q1-2021

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Welcome to the BDO quarterly tax update for the GCC. Some of the biggest tax changes this quarter are taking place in The Sultanate of Oman, where the country is preparing itself for the introduction of Value Added Tax. Oman is the fourth of the GCC countries to introduce VAT, following in the footsteps of Bahrain (in 2019) and Saudi Arabia and the UAE (both in 2018).

Although Oman grabs the headlines, there have also been some important developments in the rest of the region, and there are signs that 2021 will be a busy year. In Saudi Arabia, businesses are starting to prepare for the introduction of e-invoicing, and it is hoped that in the coming months, we will learn more about the Kingdom's proposed special economic zones. There are also continuing signs that the importance of measures linked to the OECD's BEPs initiative – such as economic substance regulations and country by country reporting - will continue to grow in the coming year. Through our quarterly newsletters and our regular client updates, we will keep you up to speed with all of these matters and more.

ECONOMIC SUBSTANCE REGULATIONS

ESR Reporting

The Ministry of Industry, Commerce and Tourism (MoICT) and the Central Bank of Bahrain (CBB) have been entrusted with administering and regulating the ESR compliance in Bahrain. Currently, ESR filing is only applicable to certain entities whose business activities fall under a list of activities published by MoICT and CBB (for CBB regulated entities). The various compliance parameters of ESR include:

- ▶ The entity's core income-generating activities (CIGA) as per the CR/CBB directive should be carried out in Bahrain
- ▶ The entity's relevant activities must be directed and managed in Bahrain
- ▶ The entity's presence in Bahrain must be supplemented by other business aspects (high level) in Bahrain such as management meetings, adequate number and qualification level of employees, significant income-generating and operating expenses, physical office, etc.

The deadline to file the ESR report is given below:

Year-end	Reporting Deadline
Businesses with a financial year ending 31 December 2020	31 March 2021
Businesses with a financial year ending other than 31 December 2020	3 months from the end of the financial year



Due to the outbreak of COVID-19, the 2019 reporting deadline was extended last year by MoICT to 30 June 2020 and by CBB on a case-to-case basis. So far, no such extension has been announced for 2020 reporting.

As seen during the 2019 ESR reporting, MoICT has issued violations against Bahrain entities for non-submission of the ESR return by the deadline. Such entities could not renew their CR until such time as the ESR return was filed with MoICT. The violation was simply imposed based on the CR activity code falling under the list of covered activities for ESR filing. Further, as provided under Ministerial Decision, failure to adhere to the requirements may, among other things, result in monetary fines, termination of commercial registration and possible prosecution under specified circumstances.

COUNTRY BY COUNTRY REPORTING (CbCR)

Bahrain introduces CbCR

In line with the Organisation for Economic Co-operation and Development's ('OECD') Base Erosion and Profit Shifting (BEPS) inclusive framework, Bahrain has ratified the MCAA CbCR on 28 January 2021 and published the same in its Official Gazette. This has been followed by the Ministry of Industry, Commerce and Tourism (MoICT) issuing a resolution, no. 28 of 2021, in the Official Gazette regarding exchange of reports between relevant countries.

CbCR is applicable to Multinational Entity (MNE) Groups operating in Bahrain with a consolidated revenue of BHD 342 Million (approximately USD 907 million or EUR 748 million) during the year immediately preceding the Reporting Fiscal Year. MNE Groups will be treated as having a presence in Bahrain through a constituent entity such as a tax resident local entity, branch or Permanent Establishment.

CbCR is applicable to financial reporting years commencing on or after 1 January 2021.

Notification (due date 31 December 2021 for 31 December 2021 year-end)

Constituent entities should notify if they qualify as an Ultimate Parent Entity (UPE) or, if not a UPE, details of the UPE. The resolution is silent regarding the form and method of submitting the required notification.

Report (due date 31 December 2022 for 31 December 2021 year-end)

A report is to be made if the Bahrain establishment qualifies as UPE or as a constituent entity that has been designated to file the CbCR of the MNE Group. The contents of the report are provided in the resolution, which primarily includes key financial information such as revenue, profits, taxes, employees, etc. and identification details regarding each jurisdiction where the reporting entity operates.

Penalties for non-compliance include suspension of commercial registration, imposition of administrative fines, omission of commercial registration and administrative investigation.

DIGITILISATION OF TAX RELATED CORRESPONDENCE

Web-Based Portal for submission of documents

On 31 January 2021, the Ministry of Finance in Kuwait (MOF) launched a web-based portal service ("the Portal") for accepting all correspondence with the MOF, including all tax-related filings (covering Corporate Income Tax, Zakat and NLST), except for the following applications whereby the existing applicable system must be used (see **Tax Certification System** below):

- a) Applications for retention release letters for fully owned Kuwaiti/GCC entities; and
- b) Applications for tax residency certificates.

The Portal is available through the MOF's official website (www.mof.gov.kw).

Historically, all correspondence with the MOF had to be done manually by filing physical documents to the MOF's office. In July 2020, and as part of COVID-19 precautionary measures, the MOF introduced new procedures for electronic communication wherein all tax correspondences were required to be sent electronically to a designated e-mail address of the MOF. The recent introduction of the Portal is part of the MOF's plans to fully digitalise its services and to move away from paper transactions.

Tax Certification System

The MOF expanded the capability of its existing Tax Certification System ("TCS") that was put in place to handle requests for tax retention release letters for fully owned Kuwaiti/GCC companies. The TCS now handles the processing and issuance of tax residency certificates.

The following Companies, Institutions and Individuals can avail of the aforementioned services.

- 1. Kuwaiti and Gulf Companies
- 2. Individual Institutions
- 3. Individuals (Kuwaiti, Foreign or Gulf)

Foreign companies, however, are not permitted to register through the system and are required to submit the applications through the Portal.

UPCOMING REPORTING DEADLINES UNDER FATCA & CRS

Financial institutions in Kuwait subject to reporting under Foreign Accounts Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) have the upcoming reporting deadlines as follows:

Compliance Requirement	Deadline
CRS	31 May 2021
FATCA	31 August 2021

Given the recent government decision to implement a 12-hour curfew from 7 March 2021 and to reduce staff capacity in the private sector, some financial institutions in Kuwait have recently submitted a request to the MOF seeking an extension of time to file the FATCA & CRS reports; however, no extension has been granted as of date. Please feel free to contact us if you would like to receive further updates on this matter.

VALUE ADDED TAX

Deadline approaching for VAT

Businesses with annual supplies exceeding 1 million Omani Riyal were required to register for VAT on or before 15 March 2021. The registration window for businesses having annual supplies between 500,000 and 1,000,000 opened on 1 April 2021. Given this, the second phase businesses have the opportunity to learn from the experience of the first registration phase. They should ensure they have documents and information ready, and to hand, while filing the VAT registration form.

VAT goes live for the first phase of businesses

Businesses having annual supplies exceeding 1 million Omani Riyal were required to implement VAT with effect from 16 April 2021 and have their VAT treatment and Information Technology aligned. Large businesses must gear up their processes to avoid any last-minute hassle and consequences.

OTHER TAXES

Like many other countries, the Sultanate of Oman has announced an economic plan to negate the adverse impact of the pandemic. The Minister of Commerce, Industry, and Investment Promotion (MOCIIP) has launched the 'Economic Stimulus Plan' with an objective to improve the financial position, the credit rating, and to reduce the public debt in the Sultanate of Oman.

The economic stimulus plan addresses five key areas as follows: (i) taxes and fees, (ii) Business Environment and Investment Climate, (iii) Small and Medium Enterprises, (iv) Labour Market and Employment and (v) Banking sector. The key incentives under 'taxes' are as below:

- ▶ Companies, registering their main activity in the economic diversification sectors during the period from January 2021 until the end of 2022, shall be exempted from income tax for five years;
- ▶ Hotels shall be exempted from income tax due for 2020 and 2021;
- ▶ A waiver of one percent tax payable, with a maximum amount of 10,000 OMR, will be allowed for those who file and pay tax on time;
- ▶ Carried forward and deduction of loss from the previous year 2020 against the taxable income of 2021, until the loss is settled and exhausted;
- ▶ Suspension of tax on dividends for five years starting from 2020;
- ▶ Exemption of tourism tax and municipality tax, collected from tourist facilities, until the end of 2021.
- ▶ Delay the collection of tourism tax and municipality tax from tourist facilities, until the end of December 2021.

The plan has been published by MOCIIP on its website. Detailed communication in relation to the Economic Stimulus plan is still awaited from the Ministry.

TRANSFER PRICING COMPLIANCE AND DOCUMENTATION REQUIREMENTS

Introducing Transfer Pricing Requirements in Qatar

Pursuant to President's Decision No. 4 of 2020, the Qatar General Tax Authority has confirmed additional guidelines on the submission of Transfer Pricing disclosure forms.

The Master File, Local File and Transfer Pricing (TP) Declaration are the main documentation requirements under the "Statement of Transfer Pricing" which is effective from financial years beginning on or after 1 January 2020. These requirements ensure that the taxpayer reports related party transactions along with the income tax return and identifies compliance with the arm's length principle.

The taxpayer is required to file the TP declaration 4 months from the end of its financial year if its total revenues or total assets are equal to or above QAR 10 million for the year. This is applicable to both domestic and international related party transactions.

Taxpayers are required to file the Master File and Local File 6 months from the end of the financial year, if they have related party transactions abroad, and total revenues or total assets are equal or above QAR 50 million for the year. This is applicable to related party transactions abroad only.



E-INVOICING - VAT

The e-invoicing journey so far

On 17 September 2020 General Authority of Zakat and Tax (GAZT) published draft e-invoicing Regulations for public consultation and on 4 December 2020, GAZT issued e-invoicing regulations (including 7 articles). In the light of these regulations taxpayers subject to VAT need to develop the capability to generate and store electronic invoices and electronic credit notes within a maximum of 12 months from the issuance of the regulations. Therefore, 4 December 2021 will be the date by which the generation and storing of e-invoices will become compulsory.

What is an electronic invoice?

An electronic invoice relies on an electronic process that allows the exchange and processing of invoices, credit and debit notes in a structured electronic format between the buyer and seller. It must meet all the requirements of a tax invoice. GAZT considers a handwritten or scanned invoice is not an electronic invoice.

Who is subject to the electronic invoice provisions?

GAZT has identified the persons subject to the provisions of the electronic invoice regulations as follows:

- ▶ Taxpayers subject to VAT.
- ▶ Any other parties issuing tax invoices on behalf of taxpayers subject to VAT.

GAZT Excluded non-resident Taxable Persons for VAT purposes.

GAZT has also clarified that all provisions related to tax invoices in the VAT Law are applicable to electronic invoices including fines and penalties.



Is it sufficient for any company only to have an ERP system to be in line with e-invoice provisions?

GAZT has determined the Prerequisites for technical solutions related to e-invoicing (Establishment's tools and systems) as following:

- ▶ Ability to connect to the Internet.
- ▶ Compliance with the requirements and controls for data & information security or cybersecurity in the Kingdom.
- ▶ A tamperproof solution (which allows the detection of any tampering performed anti-tampering).
- ▶ Ability to integrate with external solutions using Application Programming Interface (API).

On 18 March 2021 GAZT published a draft decision setting out controls, requirements, technical specifications and procedural rules necessary to implement e-invoicing. It also published two annexes to the decision.

This decision and the annexes covers two main stages:

- ▶ Stage 1 covers the issuing of e-invoices and e-notices, including provisions related to the processing and saving of electronic documents, which will start from 4 December 2021.
- ▶ Stage 2 covers the linking of systems and the sharing of data with GAZT, which is to be implemented in stages, beginning 1 June 2022.

The Decision also confirmed that electronic invoices would be required for an input tax deduction.

Final comments: The Kingdom of Saudi Arabia will be the second Arab country, after Egypt, to implement e-invoicing in the Middle East. In doing so it will take great steps towards ensuring a modern, efficient tax system that creates transparency and combats tax avoidance. It also has the potential to provide economic data that will support long and short-term financial and tax policy.

AMNESTY FROM TAX PENALTIES AND FINES (Under Ministerial Resolution (MR No.2303)):

On 21 January 2021, Saudi Arabia's Ministry of Finance issued Ministerial Resolution (MR No.2303), extended the GAZT tax amnesty initiative until 30 June 2021. This provides relief from fines related to tax returns, withholding tax returns, Value Added Tax return corrections, and tax payments due before 21 January 2021.

Following the resolution, the effect of the amnesty is as follows:

- ▶ If the principle tax due is fully paid by 31 March 2021, 100% of the fines will be waived.
- ▶ If the principle tax due is fully paid by 31 May 2021, 75% of the fines will be waived.
- ▶ If the principle tax due is fully paid during June 2021, 50% of the fines will be waived.

SAUDI ARABIA

The full and partial waivers are available for fines arising from any assessment raised by the General Authority of Zakat and Tax (GAZT) in respect of any tax return due for filing before 20 January 2021 (i.e., the effective date of the present amnesty), provided the principal amount of tax due is paid during the period from January to June 2021. Where the principal amount of tax due was paid before 20 January 2021, any unpaid late payment fines will be waived in full.

Relief is not available in respect of late payment fines that were paid before 20 January 2021, or in respect of penalties arising due to tax evasion.

SPECIAL ECONOMIC ZONES

On 17 December 2020, the minister of investment said that the free economic zones that the Kingdom intends to launch are in the government's final review phase. These areas will have exemptions from some taxes and will have a special legislative and incentive environment. We will bring further news of developments in this area, as they become available.

TRANSFER PRICING

Upcoming deadlines

For most businesses in Saudi Arabia (those having a financial year-end of 31 December) the notification deadline for transfer pricing will fall in April. As a reminder, a summary of all the TP requirements and deadlines is set out in the table here.

Requirement	Threshold (SAR)	Due Date
Disclosure Form & Transfer Pricing Certification (Affidavit)	No threshold	120 days from the year end
Local File (once in 3 years unless major changes required)	Aggregate annual value of controlled transaction is SAR 6 Million or over	120 days from the year end (Prepared and maintained). Submit within 30 days upon GAZT request
Master File (once in 3 years unless major changes required)	Aggregate annual value of controlled transaction is SAR 6 Million or over	120 days from the year end (Prepared and maintained). Submit within 30 days upon GAZT request
Country by Country (CbCR) Notification & Report	Consolidated Revenue exceeding SAR 3.2 Billion in preceding year (Approximately 750 Million Euros/850 Million USD)	Notification – 120 days from the year end. Filing should be carried out by the KSA entity through Automated Exchange of Information portal (AEOI)
	Consolidated Revenue exceeding SAR 3.2 Billion in preceding year (Approximately 750 Million Euros/850 Million USD)	Report - 12 months from end of reporting year of the Ultimate Parent Entity (UPE)

UNITED ARAB EMIRATES

VALUE ADDED TAX

FTA Bulletin on VAT implications for Social Media Influencers and Artists

The Federal Tax Authority has published a bulletin to highlight the tax implications for supplies made by Social Media Influencers ('SMIs') and Artists (performers, singers, dancers, stage artists, make-up artists, DJs, poets, songwriters etc.). This guidance highlights the compliance requirements of freelance SMIs and Artists who work in their own capacity.

Key takeaways from the guidance are as follows:

- ▶ Resident SMIs and Artists are required to register for VAT if their taxable supplies exceed the mandatory registration threshold of AED 375,000 per annum.
- ▶ Non-resident SMIs and Artists are required to register if there is no other person (i.e. a VAT registered recipient of the supply in the UAE) who is obligated to account for VAT on the supplies on a reverse charge basis. There is no registration threshold for non-residents.
- ▶ There is no special tax treatment for SMIs and Artists, the VAT treatment will follow the general rules.
- ▶ Barter arrangements and free services need to be assessed and potentially give rise to VAT liabilities.
- ▶ Input VAT is available subject to normal VAT rules. Restrictions on input tax credit on entertainment and personal motor vehicles apply as usual.

As a result of this clarification, it is possible the authorities will be taking a closer look at the entertainment and advertising industry in the near future. SMIs and Artists (both resident and non-resident) who work with businesses in UAE should evaluate their VAT registration liability.



Temporary Zero-rating of Certain Medical Equipment

It was announced in December 2020, that effective from 1 September 2020 to 28 February 2021, certain medical equipment was granted temporary zero-rating by the tax authorities. The medical equipment concerned were personal protective equipment used for protection from COVID-19 (i.e. face masks, single-use gloves, chemical disinfectants and antiseptics), which are not covered under the normal zero-rating rules.

This temporary zero-rating applies to the supply and import of such goods made specifically during the period of 1 September 2020 to 28 February 2021.

Taxpayer success in the Supreme Court

Gulf News has reported that the Supreme Court has ruled in favour of the taxpayer in a case concerning administrative penalties. The court ruled the penalties had been imposed incorrectly. This is an important case, which demonstrates the robustness and independence of the UAE judiciary. It will be encouraging for taxpayers, as many previous cases had been found in favour of the tax authority. However, it should be noted that strict deadlines and procedures are applied to the appeals process, and it is important that these are adhered to.

ECONOMIC SUBSTANCE REGULATIONS

First ESR filings and on-going ESR compliance

The first filings of Economic Substance Regulation Notifications and reports fell due on 31 January 2021. This deadline was further extended by the Ministry of Finance from the initial deadline of 31 December 2020.

Businesses that have failed to file their notifications or reports on time have been levied penalties amounting to AED 20,000 and AED 50,000, respectively.

It is important for companies operating from the UAE to note that this will be an annual compliance task and is not a one-off reporting requirement. Penalties for non-compliance from the second year onwards increase significantly, to AED 400,000, with a possibility of the suspension/cancellation of the company's trade license.

Note: The ESR deadlines are determined by the financial year-end, of the company concerned. The deadline for making notifications is six months after the company's financial year-end and the deadline for reports is twelve months after the year-end. Businesses should monitor the deadlines for their companies, and that the deadlines are met.

TAXES AND TAX REPORTING OBLIGATIONS IN THE GCC

Taxes	Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
Corporate Income Tax	N/A	Rate 15%	15% and Exploration of Oil and Gas 55%	10%	Rate 20%	Generally N/A but Corporate Tax is levied on Oil Companies and Foreign Banks.
Withholding Tax	N/A	N/A*	Rate 10%	5%	Rate 5,10,15, 20%	N/A
Capital Gains Tax	N/A	N/A	Part of Corporate Income Tax	10%	Rate 20%	N/A
Personal Income Tax	N/A	N/A	N/A	N/A	N/A	N/A
Value Added Tax	Standard-Rate 5%	N/A	Standard-Rate 5%	N/A	Standard-Rate 15%	Standard-Rate 5%
Excise Tax	Rates 50-100%	N/A	Rates 50-100%	Rates 50-100%	Rates 50-100%	Rates 50-100%
Zakat	N/A	Rate 1%	N/A	N/A	Rate 2.5% & 2.578%	N/A
National Labour Support Tax	N/A	Rate 2.5%	N/A	N/A	N/A	N/A
Real Estate Transfer Tax	N/A	N/A	N/A	N/A	5%	N/A

Tax related reporting	Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
Economic Substance Regulations	Yes	N/A	N/A	N/A	N/A	Yes
Country by Country Reporting	Yes	N/A	Yes	Yes	Yes	Yes
Transfer Pricing	N/A	N/A	N/A	Yes	Yes	N/A
FATCA	Yes	Yes	Yes	Yes	Yes	Yes
CRS	Yes	Yes	Yes	Yes	Yes	Yes

The table provides an at-a-glance check on the main taxes and reporting obligations apply in each of the jurisdictions. It does not provide the detailed scope and application of the measures. There may be additional local taxes such as municipal taxes, land taxes or tourist taxes in some jurisdictions.

*Kuwait follows a 5% tax retention regime wherein the payer is required to retain 5% from all payments. Such retentions are released upon submission of a retention release letter or no objection letter obtained from the Kuwait tax department to the payer by the contracting party.

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