GCC TAX ROUND-UP

Q3 2022

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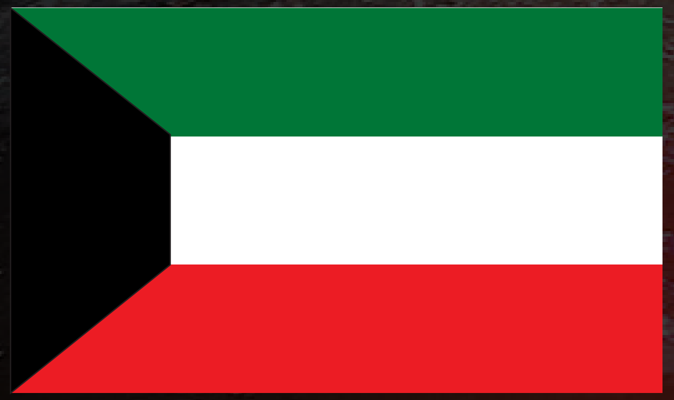
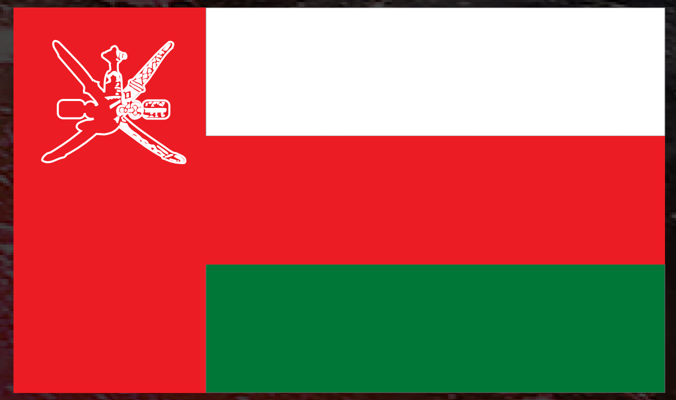


KUWAIT



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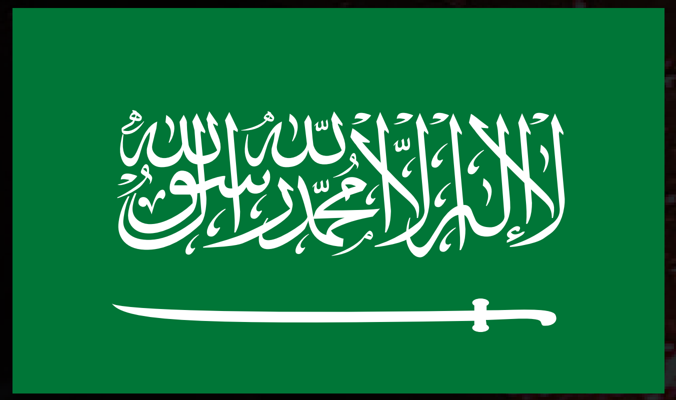

SAUDI ARABIA

UAE

Introduction

As usual, the summer months in the region have been relatively quiet, with no major changes in the world of tax. However, the pace is likely to pick up in the coming quarter, particularly with the expectation that the UAE'S corporate tax legislation will be released very soon. We will bring you our views and insights on the new legislation once it is released. So keep an eye on our website and social media feeds for updates.

In Saudi Arabia, a consultation recently wrapped up on proposed changes to the transfer pricing bylaws that would significantly impact Zakat-paying companies. The KSA continues to lead the field on transfer pricing in the GCC, and the developments there will be of interest to all multinational groups operating in the region.

An inspection campaign by the National Bureau for Revenue and the Ministry of Industry, Commerce and Tourism is underway in Bahrain, and reports suggest penalties have been issued to taxpayers for a range of VAT violations.

VAT inspections are also underway in Oman, where VAT is now over a year old, and the tax authorities have started issuing notices to taxpayers requesting detailed information on transactions reported in VAT returns.

From Kuwait, there is interesting news that a tax treaty has been signed with the UAE. This is Kuwait's first such treaty with another GCC country. Kuwait has also announced new fees for tax certificates.

There have been no significant changes in Qatar in the past quarter.

KINGDOM OF BAHRAIN

VALUE ADDED TAX

NBR imposes penalty for VAT violations

The National Bureau for Revenue (NBR), in association with the Ministry of Industry, Commerce and Tourism, has launched an inspection campaign to ensure the proper application of VAT by commercial establishments.

Based on the data collected and violations reported during the inspections so far, the NBR has issued a number of VAT assessments, along with penalties. Some of the reported violations relate to the issuance of incorrect invoices and for failing to display prices inclusive of VAT.

EXCISE TAX

Importation of cigarette products to carry digital stamps

Following the launch of the digital stamp scheme earlier in 2022, the NBR has achieved the second implementation milestone. Effective 17 July 2022, all cigarette products that arrive at the entry point of the Kingdom of Bahrain for clearance through Customs Affairs must have a digital stamp.

The digital stamp scheme is aimed at tracking the movement of tobacco products from the manufacturing stage up to the point of consumption. This scheme has been implemented in collaboration with Customs Affairs at the Ministry of Interior and the Ministry of Industry, Commerce and Tourism, and the Ministry of Health.

Updated list of excise goods

The NBR has updated the list of excise goods, which can be accessed [here].

ECONOMIC SUBSTANCE REGULATIONS

Economic Substance Regulations (ESR) submission for fiscal year 2021

Bahraini entities that are subject to ESR have started their submissions for the 2021 fiscal year. The Ministry of Industry, Commerce and Tourism (MOICT) has yet to issue an official circular on the submission deadline and relevant requirements, but the ESR submission can be made once an entity has prepared its annual financial statements.

KUWAIT

NEW TAX TREATY WITH THE UAE

On 30 August 2022, the Ministry of Finance announced that it had signed a treaty for the avoidance of double taxation with the United Arab Emirates. This is the first tax treaty Kuwait has signed with a GCC member state. The treaty, which still must be ratified by the two countries, aims to increase tax cooperation and create a more secure investment environment.

This is a promising and timely development for entities operating in both Kuwait and the UAE, particularly after the proposed introduction of corporate tax in the UAE for financial periods beginning 1 June 2023. Generally, tax treaties provide favourable tax treatment in substitution of domestic tax laws in each country. We will keep you informed on the tax treaty provisions as soon as we obtain a signed version of the treaty.

FEES FOR TAX CERTIFICATES

The Ministry of Finance has released an administrative decision that introduces fees for the issuance of electronic tax clearance certificates to an applicant of any nationality. The tax clearance certificates state that the taxpayer does not owe any tax. The relevant decision is no. 765 of 2020 introducing Executive Rule no. 61, concerning Electronic Tax Certificates, to the Executive Rules and Instructions of the Income Tax Decree no. 3 of 1955, as amended by the Law no. 2 of 2008.

The new fees, applicable from 1 September 2022, are KWD 50 for all nationalities, except for Kuwaitis, for whom the fees are KWD 5 per certificate.

THE SULTANATE OF OMAN

VALUE ADDED TAX

It is now over a year since the implementation of VAT in Oman began. This was a major step forward but it also brought about a significant increase in the tax obligations and compliance requirements for businesses in the Sultanate. To support businesses through this period of change, the Oman tax authorities have issued various guides and clarifications focusing on key industry issues and areas of uncertainty.

After this initial year of settling in, the tax authorities have started issuing notices to taxpayers in Oman, requesting detailed transaction-level sales and purchase data relating to VAT returns. Taxpayers should prepare for such notices, and consider reviewing previously submitted returns to ensure the correct VAT treatment has been applied, based on the most recent guidance and clarifications issued by the tax authorities. If errors are found, appropriate revisions should be made as soon as possible.

Taxpayer Guide on E-Commerce sector (only available in Arabic)

The Oman tax authorities have issued a detailed guide on the e-commerce sector, providing useful information regarding the application of the reverse charge mechanism on e-commerce transactions.

KINGDOM OF SAUDI ARABIA

TRANSFER PRICING

The Zakat, Tax and Customs Authority (ZATCA) in the KSA has closed a public consultation on proposed changes to the transfer pricing bylaws that would bring 100% Zakat payers within the scope of the transfer pricing rules. Along with others, BDO also submitted comments on the consultation. The main proposed amendments to the bylaws are as follows:

Scope

100% Zakat payers would be brought within the scope of the transfer pricing bylaws by revising the definition of "taxable persons." The bylaws are currently applicable to income tax payers and taxpayers subject to both income tax and Zakat. The entities subject exclusively to Zakat only have to comply with country-by-country reporting obligations, where applicable.

Documentation

With the exception of individuals and "small enterprises," all Zakat payers would be required to maintain transfer pricing documentation (local and master files) and provide it to the tax authorities upon request. For these purposes, "small enterprises" are defined as juridical persons that carry out controlled transactions for which the total arm's length value does not exceed SAR 6 million (around USD 1.6 million) in a 12-month period.

Disclosure Form of Controlled Transactions (DFCT)

Zakat payers would be required to submit the DFCT, which contains details on controlled transactions and other relevant information within 120 days of the financial year-end, along with the Zakat/tax annual return.

Related Persons Definition

The definition of "related persons" in the transfer pricing bylaws would include persons that have the ability to effectively control the business.

Comments

Transfer pricing is a key area of focus for many taxpayers and tax authorities around the globe, and the KSA tax authorities have been at the forefront of transfer pricing developments in the GCC.

Until the final law and regulations are published, Zakat payers will probably not wish to commit to major changes. However, Zakat payers should consider assessing their current transfer pricing policy (if any) and, where applicable, the structure of their intercompany dealings. This will help identify whether those transactions are likely to be in compliance with the arm's length principle (fair market value) test that is currently followed by all taxpayers carrying out controlled transactions in the KSA, and whether adequate and robust documentation exists to support the valuation.

UNITED ARAB EMIRATES

CORPORATE TAX

Corporate tax legislation to be published soon

A local newspaper interview with officials from the UAE Ministry of Finance suggests the corporate tax law will be released within the next month. The legislation will include regulations and Cabinet Decisions to support the interpretation and implementation of the new law, and is eagerly awaited as the introduction of corporate tax will have an impact on almost all businesses in the UAE.

VALUE ADDED TAX

Input VAT on mosques

The Federal Tax Authority (FTA) has released a Cabinet Decision that allows mosques to request a refund of input VAT incurred on the construction of mosques. The refund claim will be subject to conditions related to obtaining planning approvals and approvals for the operation of the mosque. The refund application will be separate from VAT return filings.

The new scheme for mosques is an addition to the list of special refund schemes available under the UAE VAT Law, which includes schemes for charities, government entities, tourists and business visitors.

Changes to the tourist refund scheme

Tourists can claim a refund of VAT incurred on purchases made in the UAE during their visit, subject to certain conditions. The refund claim is electronic and managed in partnership with a company known as "Planet." An approved refund can be collected in cash in UAE dirhams or applied to a credit card. The maximum amount that can be claimed in cash has been increased from AED 10,000 to AED 35,000 (about USD 9,500). This would entail a refund for goods worth approximately AED 823,000 (about USD 224,000).

Public clarification issued on excise tax financial guarantees

TThe FTA released guidance on 31 August 2022 that updates the basis for calculating the amount of the financial guarantee required to be provided by warehouse keepers to Designated Zones in which they are registered, in order to mitigate any risks related to excise tax payments on goods stored in or moved from the zone. The new rules, applicable from 1 September 2022, take into account the compliance history of the warehouse keeper and the excise tax registrant.

A risk-based approach is adopted, and the amount of the financial guarantee will be computed based on the following factors:

- Residence status
- Compliance history
- Financial status
- Number of years of operation

The detailed mechanism for computing the excise tax financial guarantee is explained in the public clarification.

The minimum financial guarantee is AED 175,000 and is capped at AED 25 million, if all of the following conditions are met:

- The FTA has not assessed any excise tax liability amounting to more than 5% of the excise tax due under the tax amounts reported
- The FTA has not liquidated any financial guarantees in the past five years
- The taxpayer or its employees have not facilitated any tax evasion

KEY CONTACT INFORMATION

BDO IN BAHRAIN

ALI JAWAD
17th Floor, Diplomat Commercial Office Tower,
Manama, Kingdom of Bahrain
Email: ali@bdo.bh
Telephone: +973 17 530 077
www.bdo.bh

BDO IN KUWAIT

QAIS AL NISF
6th Floor, Al-Shaheed Tower,
KhledBen Al Waleed Street, Kuwait City, Kuwait
Email: qais.alnisf@bdo.com.kw
Telephone: +965 22 42 6999
www.bdo.com.kw

BDO IN OMAN

BIPIN KAPUR
Suite No. 601 & 602, Penthouse, Beach One Building
Way 2601, Shatti Al Qurum, Sultanate of Oman
Email: bipin.kapur@bdo.com.om
Telephone: +968 2 495 5100
www.bdo.com.om

BDO IN QATAR

GAVIN BROWN
38th Floor, Palm Tower (B), West Bay, Doha,
State of Qatar
Email: gavin.brown@bdo.com.qa
Telephone: +974 4434 9770
www.bdo.com.qa

BDO IN SAUDI ARABIA

GIHAD AL AMRI
7th & 8th floor, Moon Tower, King Fahd Branch Road,
Riyadh 21421, Kingdom of Saudi Arabia
Email: g.alamri@bdoalamri.com
Telephone: +966 11 278 0608
www.bdoalamri.com

BDO IN UNITED ARAB EMIRATES

SHIVENDRA JHA
23rd Floor, Burjuman Office Tower, Sheikh Khalifa Bin
Zayed Road, Dubai, United Arab Emirates
Email: shivendra.jha@bdo.ae
Telephone: +971 4 518 6666
www.bdo.ae