ECAG
emirates chartered accountants group

Tax '22 March Updates

Tax updates

2022 March Edition

Message from the CEO

Greetings Readers,

Ramadan Kareem.

As we conclude the first quarter of the Year 2022, the spirit of the Businesses in the UAE is soaring. For me personally, this quarter marks our return to the world before the pandemic. Even though the tensions caused by Russia-Ukraine war are not forgotten, the businesses in this region have shown a huge potential to the future ahead.

It was during this month the world's biggest cultural gathering EXPO 2020 ended with a positive note, "it is not an end it is the beginning" which I certainly would wish for each one of you.

The month March witnessed many major announcements in the UAE business including the announcement of DEWA IPO to a roaring approval from the public increasing the offer from 260 million shares to 760 million shares.

It gives me immense pleasure to note down that Dubai is now one amongst the few judiciaries that regulated management of Virtual Assets.

As the CEO of ECAG, I would like to re-affirm our readers that we are committed to provide you with the details of the recent economic developments in the region that might impact the businesses you are in. In this series, named Tax Updates, we cover the latest major changes in the Tax Laws in the region in brief.

CA. Manu Palerichal
CEO & Partner

The Team

CA. Purvi Mehta
Asst. Manager Direct Tax

CA. Dhara Yagnik
Manager, Audit, Restructuring & Compliance

Mr. Bichinraj KM
Manager Bahrain Operations

Mr. Sachin Harisankar
Asst.Manager Taxation

Preethy Varghese
Senior Executive – Management Accounts

Suravi
Executive Secretary

Hareesh Mohanan
Designer

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United Arab Emirates

Implementation of 2022 Edition of the World Customs Organisation Harmonized System (HS) Nomenclature

The Unified Commodity Description and Coding Table of the GCC States has come into force from 16 February 2022 on the basis of the Harmonized System - Edition 2022. The Federal Decree No. (85) of 2007 of the Common Customs (Regulation) Law for the GCC states has been repealed and replaced by the Federal Decree Law No. (15) of 2022.

Notice on transfer of Dubai Creek - Deira Wharfage operations management to Dubai Ports Authority

With the purpose of regulating the movement of dhow vessels and cargoes and considering the business requirements, the Ports, Customs and Free Zone Corporation (PCFC) has transferred the competencies of managing and operating the Dubai Creek – Deira Wharfage from Dubai Customs to Dubai Ports Authority, vide Customs Notice No. (3/2022).

The Marine Agency shall be responsible for supervising and regulating all commercial dhow operations and collecting fees and charges due to relevant government entities and paying the same on their behalf, in addition to any fine or penalty determined by PCFC.

Dubai issues first Law regarding Virtual Assets

In furtherance of this commitment, the Emirate of Dubai has issued Dubai Law No. 4 of 2022 dated 28 February 2022 on the Regulation of Virtual Assets in the Emirate of Dubai ("Dubai Virtual Assets Law" or the "DVAL").

The DVAL will become effective on its publication in the Official Gazette. Its scope will be limited to authorising the conduct of activities relating to virtual assets in the Emirate of Dubai only (including free zones and special development zones but excluding the Dubai International Financial Centre).

The law establishes a separate authority called the "Dubai Virtual Assets Regulatory Authority" (the "**VARA**") to oversee the regulation and authorisation of virtual asset related activities in Dubai. VARA will report into the Dubai World Trade Centre ("DWTC")

The DVAL defines virtual assets as "digital representation of value which can be digitally traded or transferred or used as an exchange or payment tool or for investment purposes." The DVAL defines virtual tokens as "digital representation of a group of rights which can be issued and traded digitally through a virtual asset platform (a platform operated by a virtual asset provider licenced by VARA)".

Any person who requires an "authorisation" from VARA to conduct virtual asset services, must operate in the Emirate of Dubai and must obtain a trade licence from the relevant commercial authority in Dubai.

The Ministry of Human Resources & Emiratisation ("MOHRE") has announced an overhaul to the labour laws in the UAE

The new UAE Labour Law (Federal Decree Law No. 33 of 2021) ("New Law"), which came into effect as of 2 February 2022 ("Effective Date"), seeks to address changes in the work environment, align UAE labour relations with international best practices, and recognise the need for atypical and/or flexible working structures. The New Law has replaced Federal Law No. 8 of 1980, as amended ("Original Law") in its entirety, and it is the most significant amendment to UAE labour legislation since the Original Law's enactment.

The key amendments inter-alia includes:

Type of labour contract:

The labour contracts should be limited contract from 02 February 2022.Existing unlimited contracts must be converted to limited contracts within 12 months. Therefore, Companies in the private sector have to change all the existing unlimited contracts to limited contracts by 1February 2023.

Period of labour contract:

As per the new regulations, all the labour contracts will be limited term contract, the period of which may not exceed three years, and can be renewed an unlimited number of times for either the same length period or a shorter period.

UAE Cabinet Approves Pending Tax Treaty with the Democratic Republic of the Congo

On 28 February 2022, the United Arab Emirates Cabinet approved the pending income tax treaty with the Democratic Republic of the Congo. The treaty, signed 12 October 2021, is the first of its kind between the two countries and will enter into force after the ratification instruments are exchanged.

Tax Treaty between Guyana and the UAE Signed

As reported by Newsroom Guyana, the agreement – Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital – was signed on 24 March 2022 as part of President Dr. Irfaan Ali's ongoing visit to the UAE.

In the case of the UAE, the existing taxes to which the agreement applies includes income tax and corporate tax. For Guyana, it applies to income tax (including withholding tax), corporation tax, capital gains tax and property tax.

As part of this new agreement too, a specific carve-out was made for oil and gas.

It was noted that notwithstanding any other provision, the countries have the authority to apply domestic laws and regulations to tax the income and profits derived from hydrocarbons.

The agreement shall remain in force for a period of five years and shall continue in force thereafter for a similar period unless terminated by either party.

Tax Treaty between Antigua and Barbuda and the UAE has Entered into Force

According to an update from the UAE Ministry of Finance(list of Tax Treaties) , the income tax treaty with Antigua and Barbuda entered into force on 24 February 2022.

The treaty was signed on 15 January 2017. The treaty applies from 1 January of the year in which it was signed, i.e., 1 January 2017.

The UAE Ratifies Pending Protocol to Tax Treaty with Ukraine

According to an update from the UAE Ministry of Finance (list of Tax Treaties), the United Arab Emirates Cabinet approved the pending protocol to the 2003 income and capital tax treaty with the Ukraine on 31 January 2022.

The protocol, signed 14 February 2021, is the first to amend the treaty and includes changes to bring the treaty in line with OECD BEPS standards, as well as amendments to the withholding tax provisions for dividends, interest, and royalties, and other changes.

The protocol will enter into force once the ratification instruments are exchanged and will apply from 1 January of the year following its entry into force.

Chile Lower House ratifies Tax Treaty with the UAE

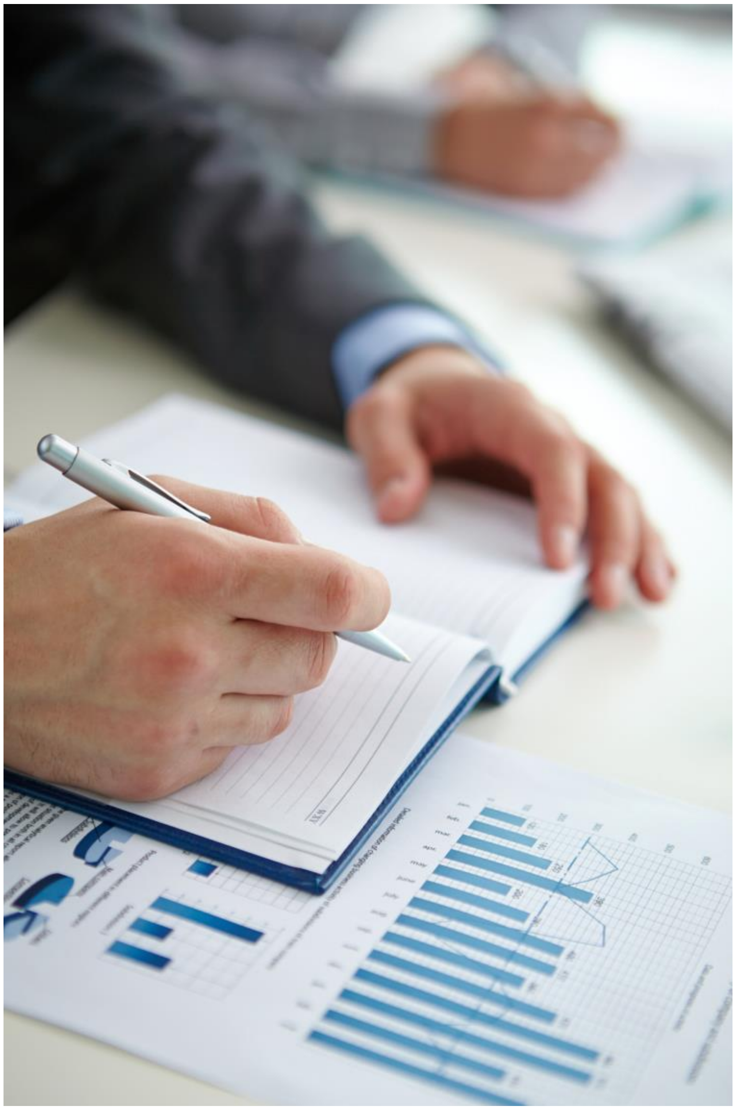
The Chile Lower House of Parliament on 3 March 2022 adopted the ratification law bills regarding the tax treaty signed between Chile and the United Arab Emirates on 31 December 2019 (Bill No. 14742-10).

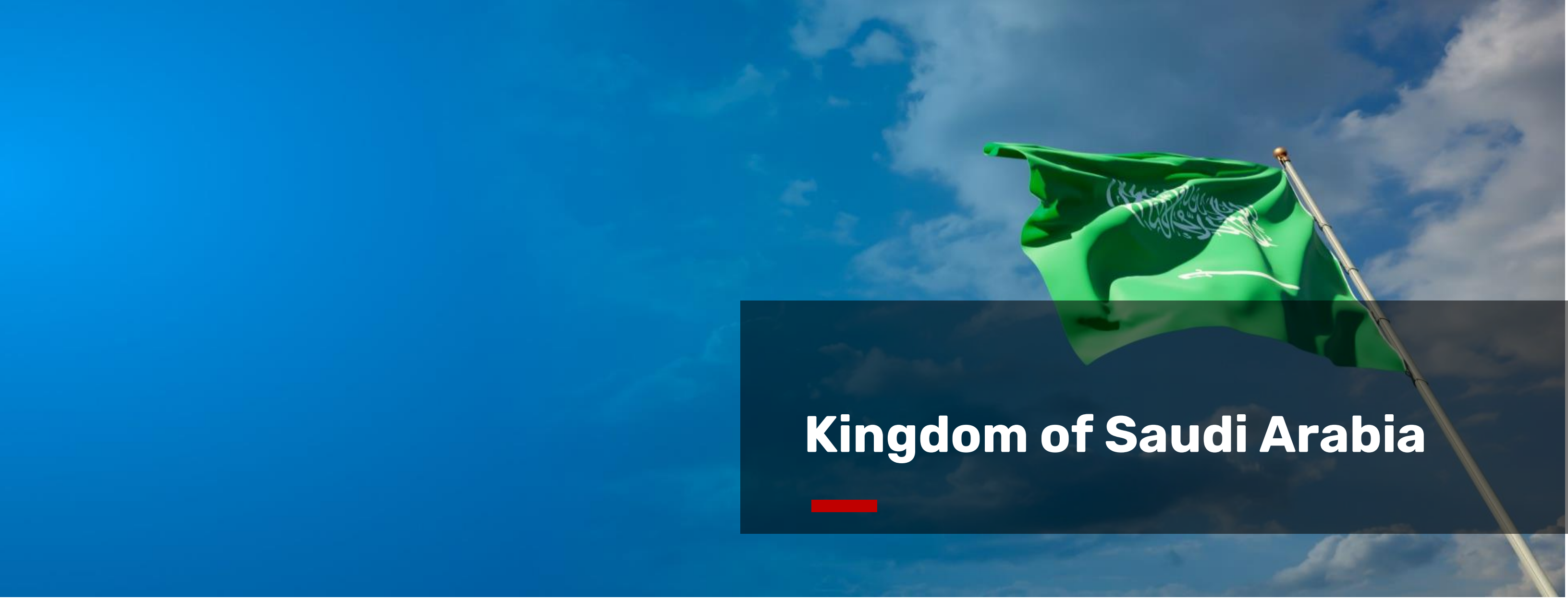
Kingdom of Bahrain

Kingdom of Bahrain Deposits Ratification Instrument for BEPS MLI

On 23 February 2022, Bahrain deposited its instrument of ratification for the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI). Based on the date of deposit, the MLI will enter into force for Bahrain on 1 June 2022, although its entry into force for Bahrain's covered agreements (tax treaties) will depend on the ratification of the MLI by the counterparty to a particular covered agreement.

The MLI will generally enter into force for a particular covered agreement on the first day of the month following a three-month period after both parties to the covered agreement have deposited their ratification instrument. Once in force, the provisions of the MLI will generally apply for a covered agreement from 1 January of the year following its entry into force in respect of withholding taxes, and for all other taxes with respect to taxable periods beginning on or after the expiration of a 6-month period following the date of entry into force.



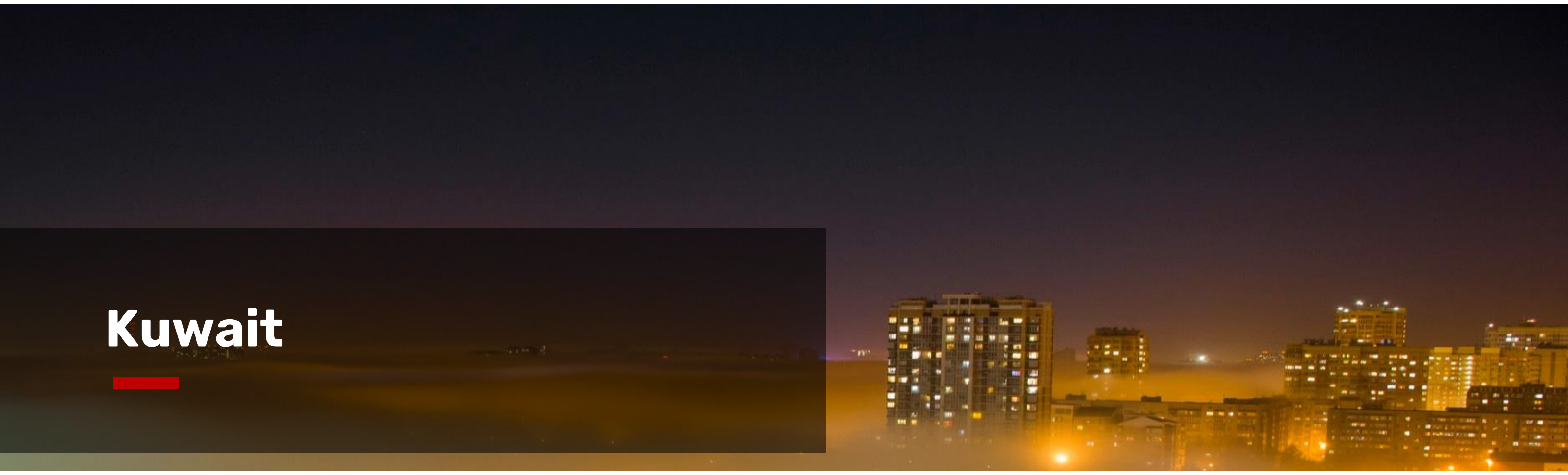


Kingdom of Saudi Arabia

Elimination of export charges by ZATCA in Kingdom of Saudi Arabia

As reported by the Saudi Gazette, in February 2022, the fees that used to be charged by ZATCA (Zakat, Tax and Customs Authority) for issuing custom statement would not be charged from now on as the government intends to maximize exports in Kingdom of Saudi Arabia. Its purpose is to empower local industries by changing custom procedures.

It is expecting, new procedures would contribute to growth. It will support all local industries by providing assistance in logistics, export processes which would ultimately lead to international competitiveness.



Kuwait

South African Cabinet Approves Pending Protocol to Tax Treaty with Kuwait

On 23 March 2022, the South African Cabinet approved the submission to parliament of the pending protocol to the 2004 income tax treaty with Kuwait.

The protocol, signed 1 April 2021, is the first to amend the treaty. It will enter into force once the ratification instruments are exchanged.

Sultanate of Oman

India and Oman to Finalize Negotiations for Tax Treaty Protocol

According to a joint press statement published by India's Ministry of External Affairs, officials from India and Oman met for delegation level talks on 23 March 2022 and agreed to finalize negotiations for an amending protocol to the 1997 tax treaty between the two countries.

The protocol will be the first to amend the treaty and must be finalized, signed, and ratified before entering into force

Oman VAT Guide for Associated Persons Including VAT Groups

The Oman Tax Authority (OTA) has published a VAT Guide for Associated (Related) Persons in Feb 2022. The guide is currently only available in Arabic. An English-language version is expected to be published on the OTA VAT webpage.

The guide provides guidance on formation of tax group and treatment of transactions between associated persons.

Certain Other Jurisdictions

OECD

A Framework to Decarbonise the Economy

To further support the need for decisive action, the OECD is putting forward A Framework to Decarbonise the Economy: a framework for designing and implementing country-tailored decarbonisation strategies while considering broader economic and social issues.

The framework builds on the latest OECD work and academic evidence, as well as provides concrete country examples to lay out the key elements for appraising the existing policy gaps and addressing them with a cost-effective, comprehensive, inclusive and acceptable policy mix.

This paper highlights the need for developing decarbonisation strategies based on a wide policy mix consisting of three main components:

1. emission pricing policy instruments;
2. standards and regulations;
3. complementary policies to facilitate the reallocation of capital, labour and innovation towards low-carbon activities and to offset the adverse distributional effects of reducing emissions.

OECD releases extensive technical guidelines for a global minimum tax of 15%

The OECD/G20 Inclusive Framework on BEPS announced new technical guidelines on March 14, 2022 on the 15% global minimum tax, which was agreed in October 2021 as a strategy to overcome the tax issues posed by the digitization of the economy. The Commentary delves deeper into the application and operation of the Global Anti-Base Erosion (GloBe).

The GloBE Rules establish a coordinated mechanism to enable that Multinational Enterprises (MNEs) with revenues over EUR 750 million pay an average of 15% tax on income generated in each of the nations where there is a place of effective management.

The GloBE Rules Commentary delivers MNEs and tax administrations with thorough and complete technical assistance on the rules' operation and intended effects, as well as clarifying the meaning of certain terminology. The Commentary's goal is to encourage uniform interpretation of the GloBE Rules, which will make it easier for tax authorities and MNE Groups to work together.

The OECD/G20 Inclusive Framework on BEPS will now establish an Implementation Framework to assist tax authorities in putting the GloBE Rules into effect and administering them.

Egypt

Egypt Confirms Tax on Real Estate Transactions

The Egyptian Ministry of Finance on 24 February 2022 clarified the 2.5 percent tax on real estate transactions involving the sale or transfer of built property and land designated for construction, regardless of the value or the transaction date.

An exemption is provided for:

1) certain residential properties in villages and inherited properties; and 2) contributions of property to the share capital of joint-stock companies, if the corresponding shares aren't disposed of within five years.

The release also notes that the House of Representatives is considering a draft bill that would provide for a lump-sum tax up to 4,000 Egyptian Pounds where the contract is dated before 19 May 2013, but until this is approved, the tax on real estate transactions will continue to apply as is at a rate of 2.5%.

Turkey

Turkey publishes guide on 5% Tax Reduction for compliant Taxpayers

Turkey's Revenue Administration has announced the publication of a guide (brochure) on the tax reduction (discount) for compliant taxpayers, which is equal to 5% of the individual income tax or corporate tax liability declared in the annual return.

The guide clarifies that the 5% tax reduction is available for:

- Individual (income) taxpayers engaged in commercial, agricultural, and professional activities; and
- Corporate taxpayers, excluding those operating in the finance and banking sectors, insurance and reinsurance companies, and pension companies and pension mutual funds.

The guide also explains the conditions for the reduction, which include:

1. The tax return for the year the reduction is claimed and for the previous two years must be filed within the legal deadline;
2. No additional or administrative assessments have been finalized in respect of the returns; and
3. The taxes due according to the returns have been paid and, in any case, no unpaid tax debts exceeding TRY 1,000.

One change that applies in 2022 is in relation to the second condition regarding assessments. This includes that the condition will still be considered met as long as such assessments are less than 1% of the reduction limit. The reduction limit is equal to TRY 2 million for annual returns submitted from 1 January 2022.

The guide also explains that taxpayers must submit other tax returns within the legal deadlines to qualify for the income/corporate tax reduction, including VAT and special consumption tax returns.

United States of America

U.S. IRS Issues Revenue Procedure on Countries Qualifying for Foreign Income Exclusion Eligibility Waiver for 2021

The U.S. IRS has published Internal Revenue Bulletin 2022-13, which includes Rev. Proc. 2022-18 concerning the foreign earned income exclusion for individuals who failed to meet the eligibility requirements because adverse conditions in a foreign country precluded the individual from meeting those requirements.

In this respect, an exception is provided so that an individual will be treated as a qualified individual with respect to a period in which the individual was a bonafide resident of, or was present in, a foreign country if the individual left the country during a specified period due to adverse conditions and it is established that the individual would have met the conditions if they would not have needed to leave.

For tax year 2021, the countries for which this exception applies, and the date of departure (on or after), are as follows:

- Iraq - 19 January 2021
- Burma - 30 March 2021
- Chad - 17 April 2021
- Afghanistan - 27 April 2021
- Ethiopia - 5 November 2021

To qualify for the exception, an individual must have established residency, or have been physically present, in the foreign country on or before the dates above.

United kingdom

UK Spring Statement 2022 Presented Including Basic Income Tax Rate Reduction and Other Support Measures

On 23 March 2022, UK Chancellor of the Exchequer, Rishi Sunak, presented the Spring Statement 2022 speech to Parliament. As part of the Spring Statement, several tax measures have been announced as follows:

- The annual National Insurance Primary Threshold and Lower Profits Limit, for employees and the self-employed respectively, will be increased from GBP 9,880 to GBP 12,570 from July 2022, which is aligned with the income tax personal allowance;
- The Employment Allowance will be increased to GBP 5,000 from April 2022, meaning eligible employers will be able to reduce their employer NICs bills by up to GBP 5,000 per year;
- The basic rate of income tax will be reduced from 20% to 19% from April 2024;
- The VAT relief available for the installation of energy saving materials (ESMs) will be extended from April 2022, including a time-limited zero rate for the installation of ESMs;
- Green reliefs for Business Rates, previously proposed to apply from 1 April 2023, will be brought forward with effect from April 2022, including targeted business rate exemptions for eligible plant and machinery used in onsite renewable energy generation and storage;
- R&D tax relief reform is confirmed from April 2023, including the expansion of qualifying expenditure to include data and cloud costs, as well as expenditure on overseas R&D activities where there are.