

Tax Updates

December '21

Tax *updates*

2021 December
Edition

United Arab Emirates	02
Kingdom of Bahrain	04
Kingdom of Saudi Arabia	05
Sultanate of Oman	06
Certain Other Jurisdictions	06





United Arab Emirates

VAT Public Clarification on Mobile Phones, Data Packages and Airtime Made Available to Employees for Business Use

The UAE Federal Tax Authority (“FTA”) published a new VAT Public Clarification (VATPO28) to provide guidance on the input VAT recoverability related to mobile phones, airtime, and data packages that are made available to employees for business use by their employers.

The Public Clarification inter-alia clarifies that a business is entitled to recover input VAT from mobile phone usage if these costs are incurred to make taxable supplies and all the following conditions are met:

- The business is registered for VAT and has purchased Phones, Airtime, and Packages in its own name (Not in Employees name)
- The business has a detailed documented policy which clearly states that the Phones, Airtime, and Packages may only be used for business purposes, and shall also specify the consequences of any personal use.
- The business regularly monitors the use of Airtime and Packages and retains explanation for the variances
- The business takes action against employees using Phones, Airtime, and Packages for personal use.
- The business shall obtain and maintain the tax invoice received from supplier against their services

United Arab Emirates – Niger Tax Treaty comes into effect:

The 2018 Tax treaty between UAE and Niger entered into force on 18 August 2021 and will apply as from 1 January 2022. When in effect, the treaty provides that dividends and interest will be taxable only in the state of residence of the recipient. A 10% rate will apply to royalties.

UAE issues new Federal Electronic Transactions and Trust Services Law


The UAE has issued Federal Decree by Law No. 46 of 2021 on Electronic Transactions and Trust Services (“Law”). It introduces legal concepts into UAE law that are similar to the European eIDAS Regulation to promote legal certainty in electronic interactions.

The Law provides a new means for regulating Electronic Identification Systems and Trust Services.

Electronic identification allows businesses and consumers to identify and authenticate who they are. Under the Law, The Telecommunications and Digital Government Regulatory Authority (‘TDRA’) is to issue the rules, procedures and standards related to the electronic identification systems, verification procedures and digital ID, after coordination with concerned bodies.

Trust Services are electronic services which aim to improve the confidence of citizens and businesses in the security and certainty of electronic transactions.

The Law repeals the existing Federal Law No. 1 of 2006 concerning e-transactions and e-commerce (“Old Law”) as of 2 January 2022. However, there is a 12-month grace period which allows those subject to the Law to ensure that they are compliant.



Federal Decree No. 32 of 2021 concerning Commercial Companies comes into force from 02 January 2022

The United Arab Emirates government published the Federal Decree No.32 of 2021 concerning Commercial Companies (**CCL 2021**) which comes into force from 02 January 2022, on which date the Federal Decree Law No. 2 of 2015 and its amendments (**CCL 2020**) will be repealed.

The CCL 2021 incorporates changes that will affect (in a positive way) the present operations of companies, and investors that wish to establish business presence in the UAE.

Companies incorporated at the date of commencement of the CCL i.e. January 2022, will be permitted a period of 12 months from that date to amend their memorandum and articles of associations, such that they are not inconsistent with the provisions of the CCL 2021. Failure to do so can result in a company's liquidation and exposure to fines that may be prescribed by Cabinet in this regard.

Kingdom of Bahrain

NBR releases VAT Rate Change Transitional Provisions Guide

The National Bureau for Revenue (NBR) in Kingdom of Bahrain has released a VAT Rate Change Transitional Provisions Guide following the newly published Law No. 33 for the year 2021 which amends some provisions of the VAT Law issued by Decree-Law No. 48 of the year 2018 to increase the standard rate of VAT from 5% to 10% with effect from 1 January 2022.

The Guide explains to taxpayers the four transitional rules which cover contracts for both one-off and continuous supplies, their potential VAT implications and provides clarification on when to apply the new standard rate of VAT. Guidance is also given where changes are made to contracts which result in supplies or consideration being subject to VAT at 5% instead of the new standard rate of 10% and valuing goods and services for the purposes of applying transitional rules 3 and 4.



CbC notifications not required for MNE groups headquartered outside of Bahrain

The Bahrain government recently has indicated that only multinational enterprise (MNE) groups headquartered in Bahrain will be required to submit country-by-country (CbC) notifications for Bahrain constituent entities.

As per article 3(a) of Ministerial Decision No. 28/ 2021, MNE groups headquartered outside of Bahrain are required to submit CbC notifications for all their Bahrain constituent entities. However, according to the current available guidance on the International Tax Information Exchange System (ITIES) portal, CbC notifications are not required for Bahrain constituent entities of MNE groups headquartered outside of Bahrain.

Accordingly, **MNE groups headquartered in Bahrain** and having total consolidated revenues greater than BHD 342 million must submit their CbC report no later than 12 months after the last day of the reporting fiscal year of the MNE group. For the fiscal year ending 31 December 2021, the CbC report must be submitted by 31 December 2022.

Non-compliance may attract administrative penalties upto 100,000 BHD and suspension of CR up to six months.



Kingdom of Saudi Arabia

Amendments proposed to RETT implementing regulations

On 15 December 2021, Saudi Arabia's Zakat, Tax and Customs Authority (ZATCA) published (in Arabic) proposed amendments for public consultation to the implementing regulations for the real estate transaction tax (RETT).

The draft amendments (available only in Arabic) were published on the Public Consultation Platform of the National Competitiveness Center on 15 December 2021 - for public consultation.

The proposed amendments to the implementing regulations would rationalize and extend the scope of certain RETT exemptions, especially regarding transfers of real estate by Waqfs/licensed charities and on disposals of real estate pursuant to a legally certified Shariah-compliant will.

Tax agreement between Taiwan and Kingdom of Saudi Arabia applies from 1 January 2022

On 18 November 2021, Taiwan's Ministry of Finance announced that the Agreement between the Taipei Economic and Cultural Representative Office in the Kingdom of Saudi Arabia and the Council for Saudi Chambers of Commerce and Industry for the Avoidance of Double Taxation with Respect to Taxes on Income and the Prevention of Tax Evasion (Taiwan-Saudi tax agreement or agreement) entered into force on 1 November 2021 and is applicable as from 1 January 2022.

Saudi Arabia: National Rules of Origin - Guidelines to Procedures to Issue Origin Reports

ZATCA has recently published the "Guideline to Procedures to Issue Origin Reports", clarifying the necessary steps for Chartered Accountants and GCC producers looking to issue and obtain an Origin Report, respectively, in accordance with the KSA National Rules of Origin.

An Origin Report issued in Arabic by a Chartered Accountant is a mandatory requirement to benefit from the customs duty exemption on GCC manufactured goods as per the Rules and Conditions for Verification of Proof of Origin published on 6 August 2021. This comes as a further development to the Ministerial Decree dated 22/11/1442 (02/07/2021) approving the new KSA National Rules of Origin.





Sultanate of Oman

Oman issues decision on determination of license fee for excise warehouses

The Oman Tax Authority (“OTA”) issued Ministerial Decision 339/2021 (“Decision”) on 16 December 2021 for the determination of license fee on application for a license to operate an excise warehouse.

According to this Decision, the license fee is based on the value of the bank guarantee submitted by the applicant at the time of applying for establishment or renewal of an excise warehouse.



Certain Other Jurisdictions

OECD

The OECD releases model rules for a global minimum tax

On 20 December 2021, the G20/OECD Inclusive Framework on BEPS (“inclusive framework”) published *Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two)* (“Model Rules”).

The key elements of these Model Rules were agreed upon and described in the *Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy agreed by more than 135 of its members on 8 October 2021*.

Based on the global minimum tax model rules published by the G20/OECD inclusive framework on BEPS, the European Commission published (on 22 December 2021) a Proposal for a council directive on ensuring a global minimum level of taxation for multinational groups in the Union (“draft directive”) for EU Member States to implement these rules in 2023.

European Union

EU Commission proposes directive to prevent misuse of shell entities in the EU

On 22 December 2021, the European Commission released a draft for a new directive laying down rules to prevent the misuse of so-called “shell” entities for tax purposes in the EU and amending Directive 2011/16/EU on administrative cooperation in the field of taxation (DAC), referred to as the “Unshell initiative.”

The draft directive relates only to intra-EU situations, and the European Commission already has announced a new directive to be published in 2022 to respond to the challenges linked to non-EU shell entities.

The draft directive lays down a “substance test,” imposes additional tax compliance obligations on taxpayers, provides for sanctions, and extends the scope of automatic exchange of information between member states.

The draft, once adopted as a directive, would be required to be transposed by member states into their domestic legislation by 30 June 2023 and would apply as from 1 January 2024.

EU Commission proposes new own resources for EU budget

On 22 December 2021, the European Commission (EU Commission) released a Communication on the next generation of own resources for the EU Budget.

The Commission is proposing three new sources of revenue for the EU budget that will help to repay the funds raised by the EU to finance the grant component of NextGenerationEU. They are as under:-

- Emissions Trading System own resource
- Carbon Border Adjustment Mechanism (CBAM) own resource
- Own resource based on the reallocated profits of very large multinational companies considering the 2 Pillar Solution.

The new own resources should also finance the Social Climate Fund, designed to make sure the transition to a decarbonized economy leaves no-one behind.

These new sources of revenue are expected to generate on average a total of up to EUR 17 billion annually for the EU budget at “cruising speed,” (i.e., once fully implemented) in the years 2026–2030.

Reach Us :

Corporate office

Office Suite: 503 | 504 | 804, Wasl Business Central Deira, PB No. 122957, Dubai, UAE
Ph: +971 42500 290 | +971505282838

Abu Dhabi

United Auditing
M01, Al Dhabi Tower, Airport Road, Abu Dhabi

Bahrain

Servcorp Diplomatic Commercial Office Tower Office
Suite:1619 Building:1565, Road No:1722, Block 317
Diplomatic Area, Bahrain.



UAE | BAHRAIN | OMAN | UK | INDIA



Member in a network of International
Independent Professional Firms.



Disclaimer: The publication has been prepared for general guidance by Emirates Chartered Accountants - Tax Help Desk on matters of interest only, it does not constitute any professional advice. Emirates Chartered Accountants Group does not accept any responsibility or assume any liability for the consequences in reliance on the information in this publication or for making any decision based on it.