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# Tax Updates

November 21’

# Tax updates

2021 November Edition



## United Arab Emirates

### Goods supplied in a designated zone & connected shipping or delivery services in the UAE

The Federal Tax Authority ('FTA') has issued a Public Clarification (VATP027) - Goods Supplied in a Designated Zone and Connected Shipping or Delivery Services on 30 October 2021.

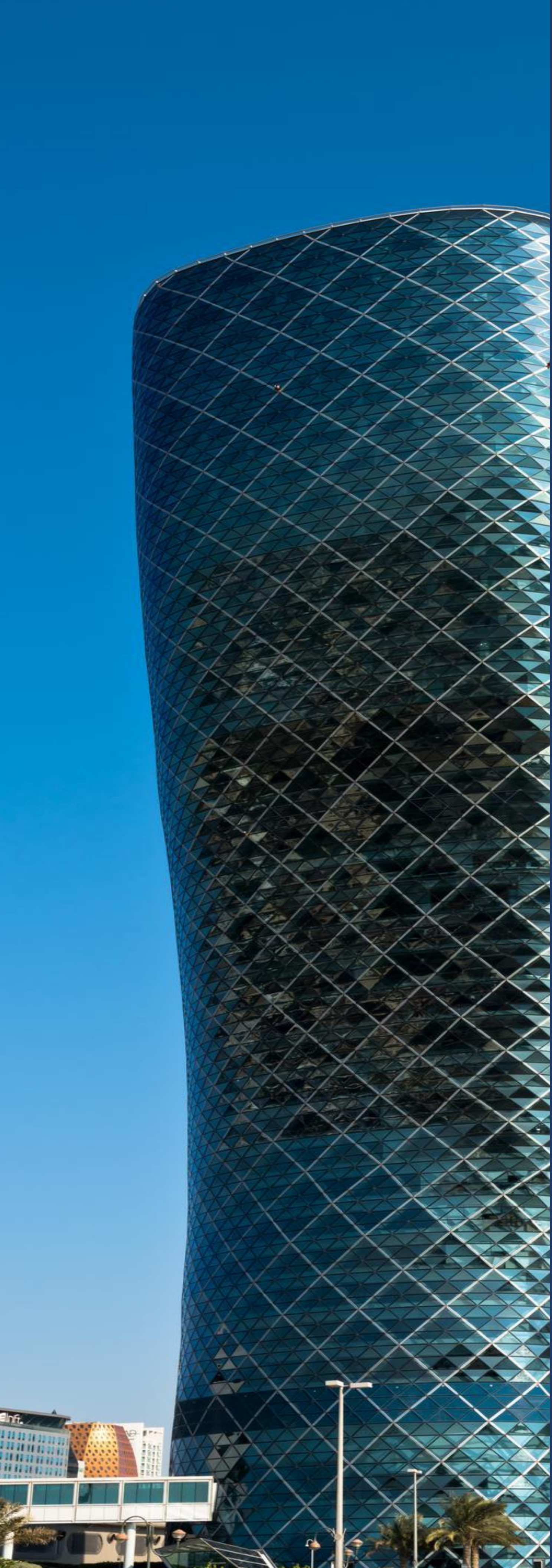
This latest Public Clarification aims to:

- Avoid potential double taxation on goods supplied from a designated zone to the UAE mainland; and
- provide registration relief to non-resident suppliers who also ship or deliver these goods.

### Amendment of Tax Procedures law.

The UAE Cabinet has issued Federal Decree-Law No. 28 of 2021 (16 September 2021), amending Federal Decree-Law on Tax Procedures No. 7 of 2017 (11 June 2017) (The Federal Decree-Law on Tax Procedures). The amendments are effective from 1 November 2021. Major points are as follows.

- Any decisions issued before effective date shall follow old tax procedures law.
- The time limits for filing reconsideration applications, objections before the Federal Tax Authorities (FTA), Tax Dispute Resolution Committee (TDRC), and appeals before Competent Courts have been increased from 20 to 40 business days.
- An alternate mechanism for filing objections and appeals to be prescribed for federal and local government entities in tax disputes for which the Cabinet shall – according to a suggestion by the Minister – issue a respective decision.
- Increase in the time limits for filing tax applications/objections and softening the requirement to pre-deposit only tax amounts for filing objections before TDRC and 50% of penalties at the time of appeal before the Competent Courts



## Annual Economic Substance Regulation('ESR') Reporting

Entities conducting relevant activity & earning income from the relevant activity (provided not an exempted licensee) needs to submit the ESR Report by 31 Dec 2021 for FY ended 31 Dec 2020. For Entities conducting relevant activity for FY ended 30 June 2021 needs to be submit ESR notification by 31 Dec 2021.

## Annual Country by Country Reporting

Country by Country Reporting is required to be done by Ultimate Parent Entity of the MNE Group whose Tax residence is in the UAE. Reporting needs to be done by 31 Dec 2021 for the Fiscal year ended 31 Dec 2020. CbC Notification needs to be submitted by 31 Dec 2021 for Fiscal year ended 31 Dec 2020.
The CbC reports and CbC notifications should be submitted on the Ministry of Finance portal.

## New UAE Labour Law coming into force on 2 February 2022

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 will come 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 will replace Federal Law No. 8 of 1980, as amended ("Current Law") in its entirety, and it is the most significant amendment to UAE labour legislation since the Current Law's enactment.

## Kingdom of Bahrain

### Tax Treaty between Bahrain and Switzerland has Entered into Force

According to a recent update from the Bahrain National Bureau for Revenue, the income and capital tax treaty with Switzerland entered into force on 27 July 2021. The treaty, signed 23 November 2019, is the first of its kind between the two countries.

The treaty covers Swiss federal, cantonal, and communal taxes on income and on capital, and covers Bahrain income tax payable under Amiri Decree No. 22/1979.

Withholding Tax Rates as per the said Tax Treaty are:

- Dividends - 0% - 15%
- Interest - 0%
- Royalties - 0%

The treaty applies from 1 January 2022. The 2004 Shipping and Air Transport Agreement between Bahrain and Switzerland will be suspended as long as the treaty is effective.

## Kingdom of Saudi Arabia

### Kingdom of Saudi Arabia Approved amendments to the VAT Implementing Regulations

The Board of Directors of Zakat, Tax and Customs Authority ('ZATCA') approved the amendments/additions to the provisions of Articles 53, 54 and 66 of the VAT Implementing Regulations.

Following the draft amendments that were published on the Public Consultation Platform of the National Competitiveness Center on 27 September 2021 - for public consultation purposes, the Board of Directors of ZATCA on 04/04/1443 AH (corresponding to 09 November 2021) issued decision no. 21-2-7 approving certain amendments / additions to the provisions of the following Articles of the VAT Implementing Regulations:

- Article 53 “Tax Invoices”
- Article 54 “Credit and debit notes”
- Article 66 “Records”

The amendments/additions to the specific Articles of the VAT Implementing Regulations have been made with an intention to align on the content/requirements to issue an electronic invoice by taxpayers from 4 December 2021.

## Compliance and Enablement toolbox - SDK Toolkit

In order to facilitate E-invoicing compliance in KSA, the Zakat, Tax and Customs Authority ('ZATCA') has developed a Compliance and Enablement toolbox referred to as the 'SDK toolkit'.

The SDK toolkit will help taxpayers and developers in the:

- Verification of the compliance status of E-invoices generated as per the E-invoicing Regulations
- Assessment of requirements such as 'fulfillment of security protocol', 'specification documents', etc
- Assessment of the fulfillment of requirements of the integration phase of E-invoicing.

It has also been clarified by ZATCA that the SDK toolkit should be used by taxpayers for assessment purpose only and it does not imply certification of fulfillment of all obligations by taxpayers as mandated under the E-invoicing Regulations.

A user manual has been published by ZATCA providing details on how to use the SDK toolkit.

## Kingdom of Saudi Arabia finance minister OKs amendments to unified GCC

As reported by Arab News (daily newspaper) Saudi Finance Minister Mohammed Al-Jadaan, who is also chairman of the Zakat, Tax and Customs Authority, has approved amendments to the executive regulations of the Uniform GCC Customs Law, Argaam reported citing the official gazette Umm Al Qura.

As per the amended rules, customs duties on foreign commodities re-exported outside the Gulf Cooperation Council should be refunded, in whole or in part, provided that the exporter (re-exporter) is the importer in whose name the foreign commodities are received, or any person who proves ownership to the Customs Department.

In addition, the re-exported foreign commodities whose customs duties are to be refunded should be from one dispatch, to identify and match them with the import documents, Argaam reported.

Value of the foreign commodities to be re-exported and on which the new rule is applicable should not be less then SR20,000 ($5,332) or its equivalent in other GCC currencies.

The report said: "The refund request should be for foreign commodities that were not used locally after importing from outside the GCC region, and in the same condition they were upon import.

"The foreign commodities should be re-exported within a calendar year from the date of paying the customs duties when importing them for the first time from outside the GCC."

# Qatar

## Preparation for VAT in Qatar

With reference to an interview with Al Sharq newspaper, published in Qatar on Sunday 7 November 2021, GTA President Mr. Ahmad Eissa Al Mohannadi confirmed Qatar's commitment towards the introduction of Value-Added Tax (VAT) in Qatar as per the GCC Unified Agreement for VAT which was signed by the GCC member states in June 2016, and has not expressed any reservation regarding the introduction of VAT.

Mr. Al Mohannadi mentioned that the Value-Added Tax is currently under legislation.

## Qatar and Brazil Reiterate Intention to Continue Tax Treaty Negotiations

The leaders of Brazil and Qatar met on 17 November 2021 to discuss bilateral relations. According to a joint statement released by Brazil's Ministry of Foreign Affairs, the two leaders reiterated during the meeting their intention to continue negotiations for an income tax treaty. Any resulting treaty would be the first of its kind between the two countries and must be finalized, signed, and ratified before entering into force.

## Qatar Establishes New Substance Requirements for Entities Benefiting from Preferential Tax Regimes

Qatar reportedly published Ministerial Decision No. 20 of 2021 in the Official Gazette on 4 November 2021, establishing new substance requirements for entities benefiting from preferential tax regimes.

The substance requirements are similar to those introduced for Qatar Financial Center (QFC) entities in December 2020. This includes that in order to benefit from preferential tax regimes, an entity must:

- Have in Qatar an adequate number of full-time employees with adequate qualifications to perform their professional responsibilities;
- Incur an adequate amount of operating expenditures to undertake its activities; and
- Ensure that its Core Income Generating Activities are carried out in Qatar.

The requirements are introduced in order to address harmful tax regime issues identified in Qatar as per BEPS Action 5 and apply in relation to tax benefits for taxpayers in Qatar Free Zones and the Qatar Science and Technology Park, in addition to the QFC.

# Sultanate of Oman

## Double Tax Avoidance Agreement (DTAA) between Oman & Qatar

On 22 November 2021, Oman and Qatar signed a DTAA, which remarks the first DTAA to be concluded by Oman with a GCC country, and the second DTAA to be concluded between two GCC member states, after the DTAA signed between United Arab Emirates (UAE) and the Kingdom of Saudi Arabia (KSA) back in 2018.

The contents of the agreement are not available in public domain, however, we understand that the agreement covers double taxation, tax evasion on income, and capital taxes.

# Certain Other Jurisdictions

## European Union

### European Union formally adopts public CbC Reporting

On 11 November 2021, the European Parliament issued a press release confirming that it had formally adopted the EU public country-by-country (CbC) reporting directive in plenary session. Businesses likely will need to comply with the directive by mid-2024.

The final text of the directive is not yet available but will require multinationals (either EU-parented groups and their subsidiaries or non-EU-parented groups with large EU subsidiaries or branches) with annual global consolidated revenue exceeding EUR 750 million that are active in more than one EU member state to publish certain tax information on a country-by-country and annual basis.

The directive will enter into force 20 days after publication in the EU Official Journal. EU member states then will have 18 months to transpose the directive into their national laws, although individual EU member states have the option to transpose the rules sooner.

## Mauritius

### Regulatory Relief (November 2021): Extension of due dates for filing of Financial Statements and Returns as a result of the Covid-19 Pandemic

Taking into consideration the current sanitary restrictions due to Covid-19, the Financial Services Commission ("FSC") is providing its stakeholders with an extension on the due dates for filing financial statements and returns.

In a communiqué issued on 24 November 2021, the FSC provided a list of submissions benefitting from the regulatory relief as well as a breakdown of new deadlines for the submission of financial statements, statutory returns and Risk Management Framework returns.

## India

### Belgian Parliament Approves Pending Protocols to Tax Treaties with India

On 18 November 2021, the Belgian parliament approved for ratification the pending protocols to the 1993 income tax treaty with India, alongwith the 1970 income and capital tax treaty with Luxembourg, and the 2015 income and capital tax treaty with Russia.

The protocol to the 1993 India tax treaty with India was signed on 9 March 2017 and includes new provisions on exchange of information and assistance in the collection of taxes. It will enter into force once the ratification instruments are exchanged.

## Netherlands

### Legislation on Beneficial Ownership Registration requirements for Trusts moves forward in Dutch Parliament

On 5 November 2021, the draft Bill on the Implementation Act on the registration of beneficial owners of trusts and similar legal arrangements was reportedly adopted in the Dutch House of Representatives (lower house of parliament).

The implementation of the beneficial ownership registration requirements for trusts and similar is required as part of the EU Anti-Money Laundering Directive (AMLD) as amended (5th AMLD). The bill now goes to the Senate (upper house) for final approval.

### Netherlands publishes Law for Conditional Withholding Tax on Dividends

The Netherlands has published the Law of 4 November 2021 in the Official Gazette, which provides for the introduction of a conditional withholding tax (25% - top corporate tax rate) on dividends paid to low tax jurisdictions.

The law amends the Withholding Tax Act 2021, which was approved in 2019 for the conditional withholding tax on interest and royalties that applies from 1 January 2021.

As per the latest amendments, benefits in the form of dividends are benefits arising from entitlement, directly or by means of depositary receipts, to proceeds from shares, profit-sharing certificates, and certain money loans. Specific benefits are listed, including direct or indirect distributions of profit, including distributions the repurchase of shares, benefits paid on shares in the event of liquidation, benefits paid on profit-sharing certificates, and several others.

The amendments include the necessary provisions to bring dividends within the scope of the conditional withholding tax for payments to related parties in specified jurisdictions with a corporate tax rate of less than 9% and jurisdictions listed by the EU as non-cooperative.

The Law of 4 November 2021 will enter into force on 1 January 2024.

# United Kingdom

## UK Publishes Finance Bill 2021-22

UK HM Treasury has announced the publication of the Finance Bill 2021-22 on 4 November 2021, which provides for the implementation of the measures announced as part of the UK Autumn Budget and Spending Review 2021.

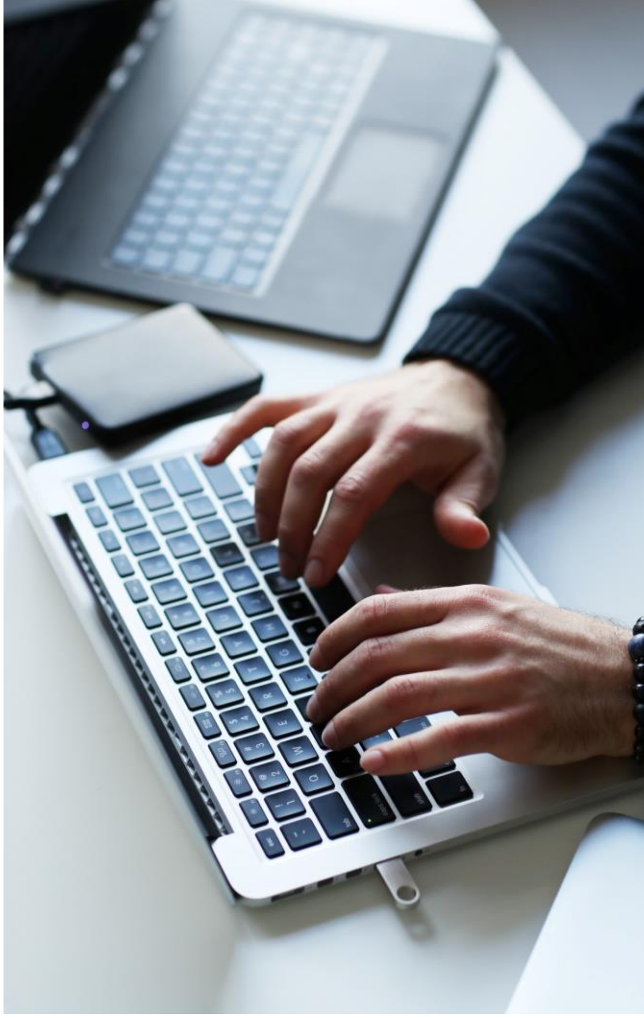
The Finance Bill 2021-22 brings forward a number of tax measures to support a stronger economy for the British people by helping to deliver stronger public finances, tackling tax avoidance and evasion, and contributing towards a simpler and more sustainable tax system.

It does this through:

- Reforming the UK's Tonnage Tax regime to bring more shipping firms to the UK
- Extending tax reliefs for museums, galleries, theatres and orchestras to 31 March 2024
- Extending the £1 million Annual Investment Allowance cap by a further 15 months to 31 March 2023, to bring forward investment
- Implementing the 4% Residential Property Developer Tax on the largest most-profitable residential developers to support building safety remediation
- Simplifying Basis Period Rules to make it easier for the self-employed and small businesses to claim tax reliefs they are entitled to but often do not take advantage of due to confusing current rules. This, as the OBR concludes, has no effect on the amount of profits taxed.
- Clamping down on promoters of tax avoidance by reducing the scope for promoters to market tax avoidance schemes, disrupting their activities and supporting people more to steer clear of and leave tax avoidance arrangements
- Increasing the Normal Minimum Pension Age from 55 to 57, effective from 6 April 2028

The Overview of Tax Legislation and Rates (OOTLAR) document, published at Autumn Budget 2021, confirmed the measures going forward in the Bill.

# United States of America



### United States of America and Turkey Reach Compromise on Digital Services Tax

The U.S. Department of the Treasury has issued a joint statement with Turkey regarding a compromise agreement on a transition from Turkey's existing Digital Services Tax (DST) to the new multilateral solution agreed to under Pillar 1 of the OECD's two-pillar solution for reforms to the international tax framework.

The two sides have agreed that the same terms agreed to earlier by the U.S. with Austria, France, Italy, Spain, and the UK will apply with respect to Turkey's DST.

The terms of the agreement essentially provide that any DST liability that U.S. companies accrue during an interim period will be creditable against future income taxes accrued under Pillar 1, to the extent the DST liability exceeds the amount that would be due under Pillar 1.

In return, the U.S. will terminate the additional tariffs on imports from Turkey that were imposed following the conclusion of a Section 301 investigation into their DSTs and subsequently suspended.

### North Carolina Phasing Out Corporate Tax Starting in 2025

Governor Roy Cooper of the U.S. State of North Carolina has announced the signing of the 2021 Appropriations Act into law on 18 November 2021, including measures to phase out the state's corporate income tax. The tax is imposed on C Corporations at the rate of 2.5% and will be phased out as follows for taxable years beginning:

- in 2025 - 2.25%
- in 2026 - 2.0%
- in 2028 - 1.0%
- after 2029 - 0.0%.

The act also includes various other tax measures, including measures to simplify the state's franchise tax.

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