

Tax Updates

October **21'**



Tax updates

2021 October Edition

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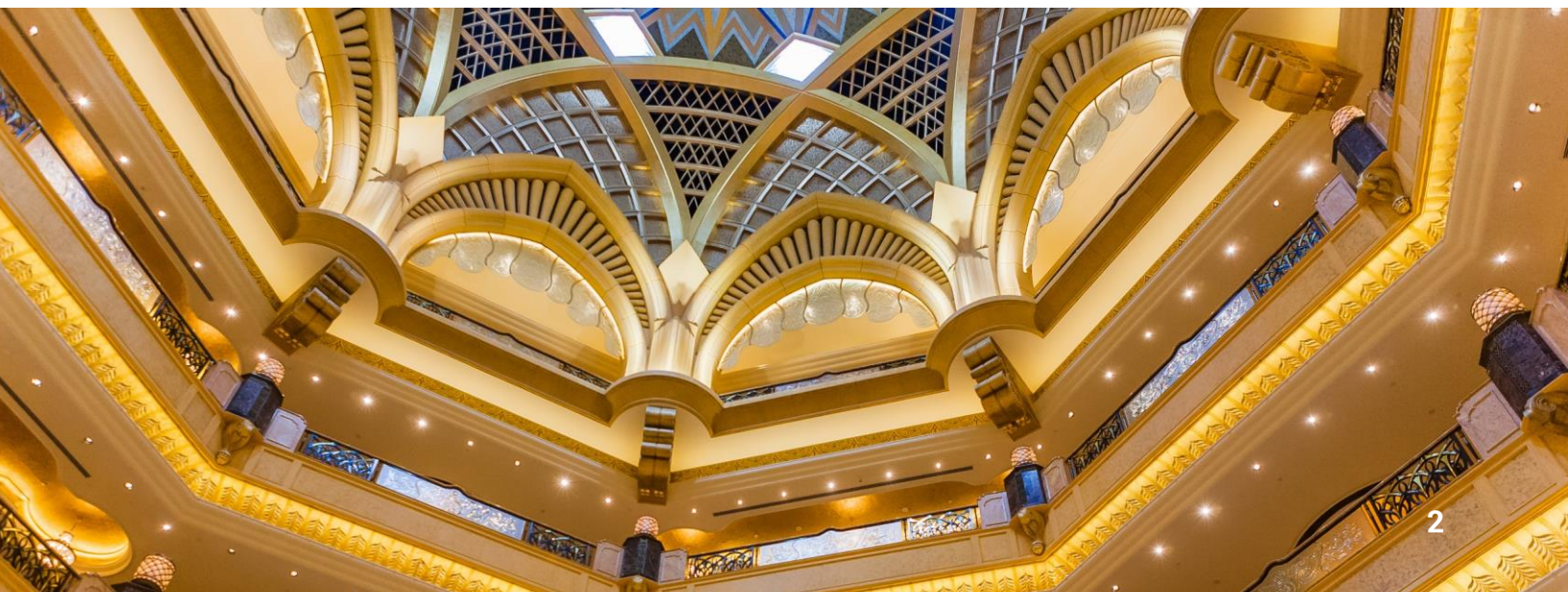
United Arab Emirates

UAE to set out new law regulating charity giving and fundraising

As reported by 'The National' on 11 October, 2021, a new law to tackle money laundering and terrorist financing is being developed by the UAE.

The legislation will govern how charitable donations are made and the way non-profit organizations operate, a senior official has said.

Nasser Ismail, assistant undersecretary at the Ministry of Community Development and a member of the National Committee for Countering Money Laundering, told state news agency Wam that non-profit organisations operating in the UAE "must exercise due diligence to avoid any wrongdoings related to money laundering." He further added, that the law will be part of the country's ongoing attempts to tackle money laundering and the financing of terrorism and that the law will set out conditions and regulations for licensed charitable and humanitarian authorities within the UAE, in order to "ensure the safety, security and stability of the community".





Tax Treaty between the Democratic Republic of the Congo and the UAE Signed

On 12 October 2021, officials from the Democratic Republic of the Congo and the United Arab Emirates signed an income tax treaty. The treaty is the first of its kind between the two countries and will enter into force after the ratification instruments are exchanged. Details of the treaty will be published once available.

Tax Treaty between Indonesia and the UAE has Entered into Force

The new income tax treaty between Indonesia and the United Arab Emirates reportedly entered into force on 19 August 2021. The treaty, signed 24 July 2019, replaces the 1995 tax treaty between the two countries.

Amongst other Articles (limited Force of Attraction, Service PE (services rendered for more than 6 months), income from hydrocarbons, principle purpose test, the withholding taxes rates on passive income prescribed by the Treaty are as under:

- Dividends - 10%
- Interest - 7%
- Royalties - 5%
- Fees for Technical Services (technical, managerial, or consultancy) - 5%

Note - Article 10 (Dividends) also includes the provision that the profits of a permanent establishment may be subject to additional tax, but the additional tax so charged shall not exceed 5% of the amount of such profits after deducting income tax and other taxes.

The treaty applies from 1 January 2022. The 1995 tax treaty between the two countries ceases to have effect once the new treaty is effective.

Kingdom of Bahrain

The National Bureau for Revenue (NBR) in Kingdom of Bahrain updates VAT Obsolete Stock Procedures

The National Bureau for Revenue (NBR) in Kingdom of Bahrain has simplified their obsolete stock procedures for VAT purposes. As a result, taxpayers will no longer be required to submit an advance notice to the NBR prior to disposing of obsolete stock in order to preserve their input tax deduction

Under existing guidance, where a taxpayer disposes of obsolete stock for no consideration, he will not be regarded as having made a supply of goods for VAT purposes and will not be obliged to account for output tax on the stock. He will also not be required to adjust any input tax claimed on such stock.

Previously, taxpayers were required to give at least 30 days advance notice to the NBR of their intention to dispose of obsolete stock in order for this treatment to apply. With effect from 3 October 2021, taxpayers will no longer be required to submit an advance notice to the NBR prior to the disposal of obsolete stock.

However, for new treatment to apply, taxpayers must maintain all relevant records evidencing the disposal of obsolete stock.

Kingdom of Bahrain Publishes Updated Mutual Agreement Procedure (MAP) Guidance

Kingdom of Bahrain's National Bureau for Revenue (NBR) has published Mutual Agreement Procedure (MAP) Guidance dated September 2021, which updates and replaces the prior guidance issued in April 2020.

The guidance overall is largely unchanged, although there are a few editorial adjustments and changes in contact information for the Bahrain competent authority, which has been changed to the Foreign Tax Relations Directorate.

Further, the list of Bahrain's in-force tax treaties (DTCs), which form the legal basis for MAP in Bahrain, has been updated to include the 2019 tax treaty with Switzerland that entered into force on 27 July 2021 and generally applies from 1 January 2022.



Kingdom of Saudi Arabia

Zakat, Tax and Customs Adjusts the Tax Due Date Procedure for Establishments Contracting With Government Entities that will be enforced Starting November 1st

On 8 October 2021, Kingdom of Saudi Arabia's Zakat, Tax and Customs Authority (ZATCA) announced amendments to Article 20 of the VAT Implementing Regulations with regard to certain date of supply provisions, which will be effective as from 1 November 2021. The adjustments on the regulation included tax supply and due date on all supplied goods or services done by Taxable Persons contracting with government entities under the government competitiveness and procurement law.

The two major amendments are as under:

- The rule has been modified to remove the reference to "goods" and apply only to the supply of services
- Second, the date of supply provisions for goods or services provided to government bodies in accordance with the new Government Tenders and Procurement Law have been amended

Accordingly, as from 1 November 2021, the date of supply, therefore, will be the earlier of:

- The date of receipt of the consideration (in full or in part) for the taxable supplies; or
- The date of issuance of the payment order for the claim with the government body related to the taxable supplies, in accordance with the procedures of the Government Tenders and Procurement Law.

ZATCA also has clarified that the following scenarios will not be covered by the amendments:

Supplies made between businesses;

- Supplies made between businesses and individuals; and
- Supplies made by subcontractors to a main contractor that, in turn, contracts with a government body.

Additionally, the VAT return form will have a new field added for standard-rated supplies to government bodies.



Kingdom of Saudi Arabia invites suggestions regarding amendments to the VAT Implementing Regulations

In order to harmonise the provisions and requirements related to the application of the e-invoicing regulation, the Zakat, Tax and Customs Authority (ZATCA) proposed amendments to the VAT Implementing Regulations.

The draft amendments were published on the Public Consultation on Platform of the National Competitiveness Center on 27 September 2021 - for public consultation. Interested parties, stakeholders, and taxpayers were encouraged to express their opinions and share feedback on the draft amendments by 23 October 2021.



Kingdom of Saudi Arabia Announces Merger of the Secretariats of the Tax and Customs Committees

The Kingdom of Saudi General Secretariat of Zakat, Tax, and Customs Committees (GSZTCC) has issued a release announcing the recent merger of the General Secretariat of Tax Committee (GSTC) and the General Secretariat of Customs Committee (GSCC), resulting in the GSZTCC.

The merger was provided for by a decision issued on 12 September 2021 by the Board of Directors of the Saudi Zakat, Tax, and Customs Authority (ZATCA) and follows the merger of tax and customs authorities earlier in the year.

According to the release, the merger is meant to increase the level of integration and efficiency and to standardize the organizational, administrative, and technical procedures to achieve the highest levels of quality in enabling the efficient settlement of Zakat, Tax, and Customs disputes.

CEOs, investors and policymakers to debate how to 'invest in humanity' at FII conference in Riyadh

Saudi Arabia's Future Investment Initiative kicked off in Riyadh on 26 October 2021, with the three-day forum themed "Invest in Humanity" which will include talks on artificial intelligence, robotics, education, healthcare and sustainability.

With more than 250 expert speakers from the economic, business, education and corporate worlds, discussions at the platform dubbed the Davos in the Desert will center on investments that aim to create the greatest benefits for humanity, as the global community charts a new course post-COVID-19 pandemic.



Qatar

GTA requests taxpayers to re-upload details of tax payments on Dhareeba portal

Qatar's General Tax Authority (GTA) on 30 September 2021 issued Circular No. 4 of 2021 confirming that the GTA continues to work on updating the financial information and obligations of taxpayers in connection with the Dhareeba portal.

The GTA has requested taxpayers to re-upload relevant tax payment information on the portal to help the GTA update their records and clear any unreconciled balances. This follows the issuance of notifications by the GTA to many taxpayers in Qatar requiring them to reconcile their account balance on the Dhareeba portal and is the latest in a series of steps taken by the GTA to help resolve a number of issues that have arisen in connection with the transition to the new portal.

Sultanate of Oman

Sultanate of Oman Publishes VAT Taxpayer Guide on Real Estate

The Oman Tax Authority (OTA) has published an English-language version of the VAT Taxpayer Guide on Real Estate, which was originally issued in Arabic in August 2021. The purpose of the guide is to provide guidance regarding the application of VAT to real estate in Oman, including the sale and rental of residential and commercial properties and services related to real estate.

The general VAT treatment of supplies of real estate property in Oman as per the provisions of the VAT Law and its executive regulations are summarized in the guide as follows:

- Sale and rent of commercial property (including hotel apartments, warehouses, stores, and car parking) - 5% VAT rate
- First Supply of residential property - 5% VAT rate
- Resale of residential property - VAT exempt
- Undeveloped land - VAT exempt
- Rental of residential property - VAT exempt
- A property located within a special zone - 0% VAT rate (zero-rated, with right to deduct input VAT)

However, the guide also provides that the sale of property as part of the full or partial transfer of activity from one taxable person to another taxable person will not be considered a taxable supply for VAT purposes, provided the following main conditions are met:

- The part of the activity that has been partially transferred is capable of operating by itself;
- The transferee uses the assets, including the properties to carry out the same type of activity that the transferor is engaged in; and
- There must not be a series of consecutive transfers of the assets.

In addition to the general guidance on supplies of real estate, the guide also provides detailed guidance in relation to undeveloped land (bare lands), residential real estate, commercial real estate, mixed-use real estate, and other related matters.



Oman Publishes Guidance on Procedures for Applying VAT in Special Economic Zones

The Oman Tax Authority (OTA) has published guidance on Procedures for applying Value Added Tax (VAT) in Special Economic Zones, including special economic zones and free zones.

The statement overview provides as under:

“The provisions of Article (54) of the VAT Law (Royal Decree No. 121/2020) stipulates that supplies of goods or services to or from the Special Zones, or within them, may be zero-rated following the conditions laid down in Articles of (101) to (107) of the VAT Executive Regulations (Decision 53/2021). We would like to inform you that the Special Economic Zone in Duqm and the Free Zones in Salalah, Sohar, and Al Mazyunah have thereby been classified as Special Zones in accordance with the provisions of Article (102) of the VAT Executive Regulations.

Tax Authority will publish detailed procedures for the purposes of applying VAT at a rate of zero percent in the Special Zones, companies, enterprises, businesses and establishments operating in these areas must comply with the conditions stipulated in the VAT Executive Regulations.”

UK Publishes Synthesized Text of Tax Treaty with Sultanate of Oman as Impacted by the BEPS MLI

UK HMRC has published the synthesized text of the 1998 income and capital tax treaty with Sultanate of Oman as impacted by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI).

The synthesized text was prepared on the basis of the reservations and notifications submitted to the Depositary by the respective countries. The authentic legal texts of the treaty and the MLI take precedence and remain the legal texts applicable.

The provisions of the MLI are effective for the UK-Sultanate of Oman tax treaty:

- with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2021:
 - in the United Kingdom, from 1 April 2022 for corporation tax and from 6 April 2022 for income tax and capital gains tax; and
 - in Sultanate of Oman, for other taxes, for taxable periods beginning on or after 1 May 2021.
- Notwithstanding the above, Article 16 of the MLI (Mutual Agreement Procedure) has effect for a case presented to the competent authority of a Contracting State on or after 1 November 2020, except for cases that were not eligible to be presented as of that date under the treaty prior to its modification by the MLI, without regard to the taxable period to which the case relates.



Certain Other Jurisdictions

OECD

G20 Finance Ministers Endorse Final Political Agreement on OECD Two-Pillar Solution for International Tax Reform

The G20 Finance Ministers and Central Bank Governors have issued the official communiqué following their meeting held on 13 October 2021, including their endorsement of the political agreement on the OECD's two-pillar solution for international tax reform.

Regarding the endorsement, the communiqué includes the following:

“After the historic agreement reached in July on the key components of the two pillars on the reallocation of profits of multinational enterprises and an effective global minimum tax, we endorse the final political agreement as set out in the Statement on a two-pillar solution to address the tax challenges arising from the digitalisation of the economy and in the Detailed Implementation Plan, released by the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) on 8 October.

This agreement will establish a more stable and fairer international tax system. We call on the OECD/G20 Inclusive Framework on BEPS to swiftly develop the model rules and multilateral instruments as indicated in and according to the timetable provided in the Detailed Implementation Plan, with a view to ensure that the new rules will come into effect at global level in 2023.

We welcome the Organisation for Economic Co-operation and Development (OECD) report on Tax and Fiscal Policies after the COVID-19 Crisis. We note the OECD report on Developing Countries and the OECD/G20 Inclusive Framework on BEPS identifying developing countries' progress made through their participation in the OECD/G20 Inclusive Framework on BEPS and possible areas where domestic resource mobilisation efforts could be further supported. We look forward to further discussing, on a regular basis, the initiatives undertaken to follow up the recommendations included in the report.”

Egypt

Executive regulations governing Social Insurance and Pension Law issued

On 28 September 2021, the Egyptian prime minister issued decree no. 2437 of 2021 approving the executive regulations governing Social Insurance and Pension Law no. 148 of 2019. The regulations apply as from 29 September 2021.

According to the regulations, foreign nationals are liable to social security and the regime mandatorily applies to all local and foreign nationals, removing the need for a reciprocal social security agreement with a foreign national's home country.

The applicable contribution rate is 29.75%, with employees contributing 11% and employers 18.75%. The minimum and maximum monthly salary caps are EGP 1,200 and EGP 8,100, respectively, through 31 December 2021, after which they will be increased.

The executive regulations also provide that certain allowances, including those payable for transportation, travel, meals, and accommodation, may be excluded from the contribution salary amount subject to social insurance, provided that the total allowances do not exceed 30% of the contribution salary and that the contribution salary is not less than EGP 1,200.

European Union

European Parliament Approves Resolution Calling for U.S. to Join Common Reporting Standard

The European Parliament has issued a release on the adoption of a new resolution in light of the Pandora Papers, including calls for investigations, clampdowns, and new laws.

As part of the resolution, which was adopted on 21 October 2021, the parliament calls for action on the global stage, including for the U.S. to join the Common Reporting Standard (CRS) considering the use of certain U.S. states for financial and corporate secrecy.

The parliament stressed that the US does not currently participate in the CRS, an information standard for the automatic exchange of information between tax authorities regarding financial accounts on a global level developed by the OECD in 2014. It noted, therefore, that the US is far behind the rest of the world in common standards for exchange of information. It recognized that the US played a leading role in fostering transparency in having enacted the Foreign Account Tax Compliance Act.

However, the act's limitations in terms of reciprocity and its side effects on so-called 'accidental Americans'; regrets the fact that a lasting solution has yet to been found at European level. The Parliament recalled that the CRS, by comparison, requires the fully reciprocal exchange of data on financial accounts between the jurisdictions that take part in the CRS agreement. And therefore raised a concern that US is becoming a significant enabler of financial secrecy for non-US citizens through two main loopholes: only information on US assets is shared, and no information is shared on beneficial ownership.





Certain nonresidents to be exempt from filing income tax returns as from AY 2021-22

India's Central Board of Direct Taxes (CBDT) on 11 October 2021 issued Notification No. 119/2021, providing an exemption to certain nonresidents from filing income tax returns in India as from assessment year (AY) 2021-22, subject to the fulfillment of specified conditions.

The notification is effective as from the date of issuance and has been issued by the CBDT in accordance with powers granted under section 139(1C) of the Income-tax Act, 1961 (ITA).

The notification exempts certain classes of **nonresident investors** from the requirement to file a return of income in India for AY 2021-22 and subsequent years:

It also has been clarified that the nonresident exemption will not be available where a notice under section 142 (notice of inquiry before assessment), 148 (notice where income has escaped assessment), 153A (notice of assessment in case of search or requisition), or 153C (notice of assessment of income of any other person) of the ITA has been issued to the nonresident in relation to filing their return of income for the specified AY.

India

India Publishes Notification Containing New Rules for Indirect Transfers

India's Central Board of Direct Taxes has announced the publication of Notification No. 118/2021, which contains the Income Tax (31st Amendment) Rules 2021.

The amendment rules provide for the introduction of a new Rule 11UE in the Income Tax Rules 1962 for the application of the amendments introduced by the Taxation Laws (Amendment) Act 2021.

The Act made important amendments to the Income Tax Act 1961 and the Finance Act 2012 in regard to the taxation of indirect transfers of Indian assets, including the nullification of the retroactive taxation of indirect transfers made before 28 May 2012. This includes that any tax demands that have been issued in relation to indirect transfers before 28 May 2012 are to be treated as if they were never issued if specified conditions are met and that amounts of tax paid on indirect transfers before 28 May 2012 are to be refunded, without interest.

One of the key conditions is that a taxpayer withdraws or submits an undertaking to withdraw any appeal, petition, etc. in relation to an assessment, which is detailed by the new Rule 11UE. The amendment rules also introduce a new Rule 11UF, which provides the form and manner of furnishing the undertaking for withdrawal of pending litigation, claiming no cost, damages, etc.

India Extends Transfer Pricing Safe Harbor Rules

India's Central Board of Direct Taxes has issued Notification No. 117/2021, which contains the Income Tax (30th Amendment) Rules 2021. The amendment rules extend the transfer pricing safe harbor rules contained in Rule 10TD (relating to software, IT enabled service etc.) of the Income Tax Rules 1962.

Previously extended for the assessment year 2020-21, the amendment rules provided that the extension applies for assessment years 2020-21 and 2021-22.



Philippines

Philippines Publishes Act for New Offshore Gaming Tax

The Philippines published an Act Taxing Philippine Offshore Gaming Operations (Republic Act No. 11590) in the Official Gazette on 23 September 2021.

The Act provides new rules for the taxation of offshore gaming licensees, which are defined as offshore gaming operators, whether organized abroad or in the Philippines, that are duly licensed and authorized through a gaming license to conduct offshore gaming operations.

Some of the key aspects include:

- A 5% gaming tax, in lieu of all other direct and indirect taxes, on the higher of gross gaming revenue or receipts or the agreed predetermined minimum monthly revenue or receipts from gaming, as well as the possibility of further regulatory fees of up to 2% on gaming revenue imposed by relevant authorities;
- A 25% income tax rate on non-gaming revenue of offshore gaming licensees that are domestic corporations or resident foreign corporations;
- A 0% VAT rate on sales of goods or property to offshore gaming licensees subject to gaming tax and on services rendered to offshore gaming licensees subject to gaming tax; and
- A final withholding tax of 25% on the gross income of alien individuals employed and assigned to work in the Philippines by an offshore gaming licensee or its service provider, with a minimum final withholding tax of PHP 12,500 per month.

The Act also provides rules on the use of revenue generated from the gaming tax, with 60% allocated for the implementation of the Universal Health Care Act, 20% for the Health Facilities Enhancement Program, and 20% for Sustainable Development Goals.

Republic Act No. 11590 enters into force 15 days after its publication, i.e., 8 October 2021, with all necessary rules and regulations to be issued within 90 days. All laws, decrees, orders, etc. contrary to or inconsistent with this Act are repealed, amended, or modified accordingly.

Turkey

Turkey Increases Allowed Time Spent Outside Technology Development Zones and R&D and Design Centers for R&D Personnel Incentives

Turkey published Presidential Decision No. 4625 in the Official Gazette on 17 October 2021, which provides for a temporary increase in the time that personnel are allowed to spend outside technology development zones (TDZs) and R&D and design centers, while still qualifying for related tax incentives.

As provided in Law No. 7263 of 28 January 2021, the incentives were amended, including that the incentives for personnel engaged in R&D were extended to include time spent outside of TDZs and R&D and design centers, provided that the time spent outside does not exceed 20% of total working hours, which may be increased to 50% by presidential decision.

Presidential Decision No. 4625 provides for such an increase to 50%, which applies from 17 October 2021 to 31 December 2022.



United Kingdom

UK Publishes Health and Social Care Levy Act 2021

The UK has published the Health and Social Care Levy Act 2021, which received royal assent (was enacted) on 20 October 2021. The legislation provides for the introduction of a new Health and Social Care Levy equal to 1.25% on the amount of earnings or profits in respect of which national insurance contributions (NICs) are payable. The 1.25% levy also applies on the amount of earnings or profits in respect of which NICs would be payable if pension age restriction provisions are ignored.

Proceeds from the new levy are ringfenced for the purpose of funding the costs of the UK Government's health and social care plans.

The new Health and Social Care Levy will be effective from 6 April 2023, although a transitional provision is also included that applies for the tax year 2022-23 (6 April 2022 to 5 April 2023). The transitional provision effectively imposes the 1.25% levy by temporarily increasing current NIC rates by 1.25%. For example, the Primary Class 1 main rate is increased from 12.0% to 13.25% for 2022-23 and the Primary Class 1 additional rate is increased from 2.0% to 3.25%.



Mauritius

Mauritius Removed From FATF Grey List After Implementing Enhanced AML / CFT Framework

Following its plenary session which was held between the 19 – 21 October 2021, FATF announced that Mauritius had effectively implemented sustainable AML/CFT reforms. The outcome demonstrates that it has a suitably robust AML/CFT framework, with 39 compliant and largely compliant indicators out of 40 recommendations from the FAFT. Mauritius remains partially compliant on only one recommendation which is linked to the handling of virtual assets, for which the authorities have already launched the required regulatory actions to address the matter.

The FATF recognised the enhanced actions and measures taken by the Mauritian authorities to remediate existing deficiencies, highlighting that they were sufficiently robust and had demonstrated a strong commitment of the jurisdiction to combat money laundering and terrorism financing.

Commenting on the announcement, Robert Hovenier, Managing Director and Country Head of the Ocorian's Mauritius office, said: "I commend the collaboration between the Mauritius Government, regulatory bodies and industry figures to implement the FATF action plan in a very rigorous and consistent manner."

It is now expected that Mauritius will be taken off the EU's 'blacklist' of countries with AML / CFT deficiencies in the coming weeks. This will provide the required comfort to institutional investors from the EU to continue to invest into Mauritius corporate and fund structures with a view to making positive socio-economic impacts in the region.

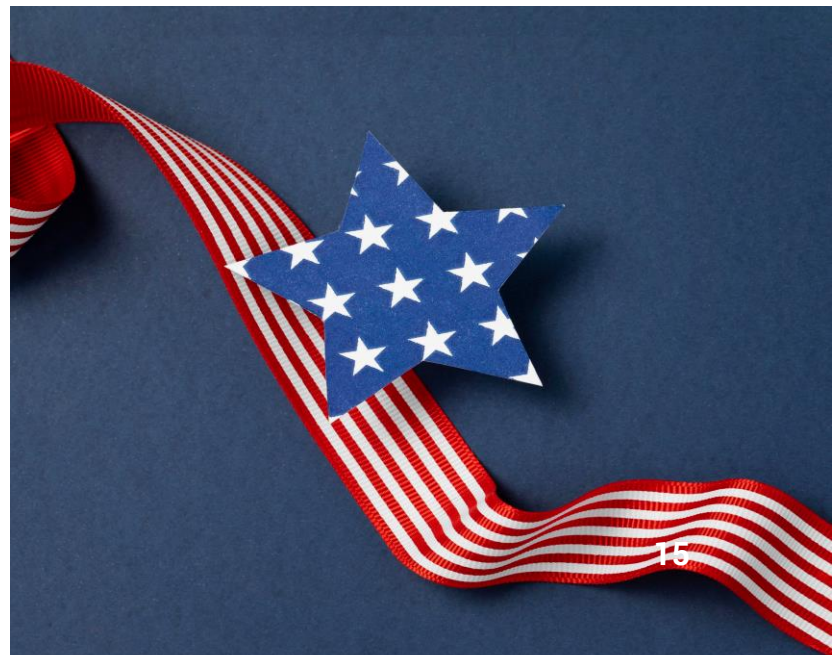
United States of America

U.S. Treasury Announces Agreement with Austria, France, Italy, Spain, and the UK on Existing Digital Service Taxes before Pillar 1 is in Effect

The U.S. Department of the Treasury has announced that a compromise agreement has been reached with Austria, France, Italy, Spain, and the UK on a transition from existing Digital Services Taxes (DSTs) in these countries 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 agreement, which is included in a joint statement by the countries concerned, essentially provides 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.

For the purpose of the agreement, the "interim period" is the period beginning on 1 January 2022 and ending on the earlier of the date the Pillar 1 multilateral convention comes into force or 31 December 2023. In return, the U.S. will terminate the additional tariffs on imports from these five countries that were imposed following the conclusion of a Section 301 investigation into their DSTs and subsequently suspended.



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