

# Tax Updates

June 21'



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# Tax updates

## United Arab Emirates

### FTA clarification on New Administrative Penalty Resolution

The United Arab Emirates (UAE) has published Cabinet Decision No. (49) of 2021, which amends Cabinet Decision No. (40) of 2017 on Administrative Penalties for Violations of Tax Law in the UAE. The amendments came into effect from 28 June 2021.

The FTA now reserves the right to waive off the unpaid penalties by 70% subject to the following conditions:

- Administrative penalties stated in Cabinet Resolution No. (40) of 2017 were imposed on a taxpayer before 28 June 2021 and have not been paid in full by that date.
- The taxpayer, by 31 December 2021, pays all of the outstanding tax, along with 30% of the total administrative penalties due but has not paid as on 28 June 2021.

The Cabinet Resolution does not apply to taxpayers if they have already settled their penalties.

Further to this, there are revisions in other penalties like late registration, late de-registration, wrong invoice etc.

The FTA will link the redetermination process to the registered taxable person's e-Services account who will be able to access the information relating to the process as of 28 June 2021.



## Public Clarification on Automotive Sector

The Federal Tax Authority have issued a public clarification on Automotive Sector which primarily deals with the taxability of supplies of Automotive sector in the UAE.

This clarification sheds lights on to Profit Margin Scheme, Record keeping requirements, VAT Implications on Leased Cars among others. We expect that detailed reading of the Public Clarification sheds light on to several areas of Law that were not clarified earlier.

## Amendments to administrative penalties on Excise Tax

The administrative penalties for violation of tax laws have been revised vide the Cabinet Decision No. 49 of 2021. Apart from the common amendments for Excise Tax and VAT, the following amendments are specific to Excise Tax:

- Failure to display Tax Inclusive Prices – Reduced to AED 5000
- Failure to provide the Authority with the price lists of Excise Goods – Reduced to AED 5000 for the first time and AED 10,000 in case of repetition.

## Netherlands Publishes Synthesized Text of Tax Treaty with UAE as Impacted by the BEPS MLI

On 1 June 2021, the Dutch Ministry of Finance published the synthesized texts of the Netherlands tax treaties with the UAE, and few other countries as impacted by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI).

The synthesized texts were prepared on the basis of the reservations and notifications submitted to the Depository by the respective countries. The authentic legal texts of the treaties and the MLI take precedence and remain the legal texts applicable.

The MLI applies for the 2007 Netherlands-UAE 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 2020; and
- with respect to all other taxes levied by each Contracting State, for taxes levied with respect to taxable periods beginning on or after 1 March 2020.

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 September 2019, 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.

## Tax Treaty between Kuwait and the UAE to be Negotiated

Officials from Kuwait and the United Arab Emirates met on 15 June 2021 to discuss bilateral relations, including the negotiation of a 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.



## Tax Treaty between Costa Rica and the UAE has Entered into Force

The income and capital tax treaty between Costa Rica and the United Arab Emirates entered into force on 9 June 2021. The treaty, signed 3 October 2017, is the first of its kind between the two countries.

Withholding Tax Rates as per the Treaty are as under:

- **Dividends** - 5% if the beneficial owner is a company that has directly held at least 20% of the paying company's capital for a period of at least 365 days including the date of payment; otherwise, 15%
- **Interest** - 5% where the maturity of the loan is at least five years and 10% if the maturity of the loan is less than five years
- **Royalties** - 12%

Effective Date - The treaty applies from 1 January 2022.



## Environment, Social and Governance ('ESG') disclosures for Companies listed on UAE stock exchanges

Public joint stock companies listed on the UAE Stock Exchanges are now required to publish a sustainability report. Such disclosures should observe the Global Reporting Initiative ('GRI') standards as well as any sustainability standards and requirements that are issued by the Dubai Financial Markets and Abu Dhabi Stock Exchanges.

Additional guidelines have been set out by some free zone jurisdictions in the UAE, such as the Dubai International Financial Centre ('DIFC') and Abu Dhabi Global Markets ('ADGM').

## Kingdom of Bahrain

### Three months extension announced for Covid-19 support initiatives

In a meeting chaired by HRH the Crown Prince and Prime Minister, the Cabinet announced a three-month extension (June 2021 to August 2021) of support initiatives designed to mitigate the impact of Covid-19.

Support initiatives include:

- Support with salaries of insured Bahraini private sector employees for a period of three months, 100% for the first month and 50% for the second and third months.
- Exemption for companies impacted by Covid-19 from paying municipal fees.
- Exemption for tourist establishments and facilities from paying tourism fees.
- Extension of Tamkeen Labor Fund Business Continuity Support program for companies impacted by Covid-19.
- Exemption for tenants of government properties, including government owned companies from the payment of rent.
- Exemption for companies impacted by Covid-19 from paying the commercial registration renewal fees for the year 2021.

## Extension of Credit Instalments deferral by Central Bank of Bahrain

Central bank of Bahrain vide Circular No. OG/170/2021 dated 27 May 2021, announced that considering the current economic conditions existing deferral arrangement expiring on 30 June 2021 will be extended for another period of 6 months until 31 December 2021 for stage 1 & 2 resident retail, small and medium size enterprise and other customer subject to observing specified conditions.

## Kingdom of Saudi Arabia

### Kingdom of Saudi Arabia updated VAT Guide for Real Estate Sector

The Zakat, Tax and Customs Authority ('ZATCA', formerly known as GAZT) has issued a new version [version 2.0] of the real estate guide which superseded the first version of December 2017.

The guide clarifies the tax treatment and changes taken place in the Kingdom of Saudi Arabia ("KSA") in relation to changing of the standard VAT rate (from 5% to 15%, effective from 1 July 2020), exempting real estate supplies from VAT (effective 4 October 2020) and implementing a 5% real estate transaction tax ("RETT", effective from 4 October 2020).

The updated guide provides clarifications on the VAT and RETT treatment related to real estate activities and explains the application of transitional provisions on exemption of real estate supplies from VAT.

### VAT guideline for Insurance and Reinsurance Activities

On 14 June 2021, ZATCA issued a new VAT guideline (the "guide") on the application of VAT on the insurance and reinsurance activities undertaken by businesses in the Kingdom of Saudi Arabia ("KSA").

The guide first explains the types of services that can be recognized when it comes to insurance and reinsurance activities along with the related VAT treatment.

The guide highlights the services recognized under insurance/ reinsurance activities and provided the applicable VAT treatments in relation thereto.

ZATCA also clarified VAT implications of insurance claims, and principles relating to input VAT deductibility.

### Circular on the Reverse Charge Mechanism Application

On 14 June 2021, ZATCA issued a new VAT guideline (the "guide") on the application of VAT on the insurance and reinsurance activities undertaken by businesses in the Kingdom of Saudi Arabia ("KSA").

The guide first explains the types of services that can be recognized when it comes to insurance and reinsurance activities along with the related VAT treatment.

The guide highlights the services recognized under insurance/ reinsurance activities and provided the applicable VAT treatments in relation thereto.

ZATCA also clarified VAT implications of insurance claims, and principles relating to input VAT deductibility.

## Sultanate of Oman

### 'VAT Taxpayer Guide' issued by Oman Tax Authority

The Oman Tax Authority during June 2021 has issued 'VAT Taxpayer Guide' providing clarification regarding the process of filing VAT returns in the Sultanate.

Since the first VAT Returns of Oman is due by last day of July 2021, the guide discusses, in detail, about the procedure of return filing. The guide also discusses about the refund procedures and correction of VAT returns already filed. The guide comes in such a crucial time for the taxpayers in the Sultanate as the businesses are gearing up for the first VAT Returns since tax was implemented.

## VAT treatment of key transactions for oil and gas sector clarified

Following the introduction of VAT in Sultanate of Oman on 16 April 2021, the Ministry of Energy and Minerals (MEM) released letter number MEM/US/1161/2021/2830 on 31 May 2021 to clarify the VAT treatment of certain critical transactions for the oil and gas sector, including cash calls, quality bank adjustments, and pipeline tariff charges.

The clarification has come directly from the MEM in consultation with the Oman Tax Authority (OTA) and the two will continue to work together to provide further clarity on sector specific transactions/issues periodically



## Qatar

### Arabic Financial Statements (Updates)

The General Tax Authority (GTA) has reiterated, on 3 June 2021, that Arabic Financial Statements (attached along with the tax return) must be audited and duly signed by both the taxpayer and the auditor. This is as per Law No. 7 of 2019 related to Protection of the Arabic Language. Taxpayers are required to fully comply with this law.

### Qatar Extends Deadline for Submission of Master and Local File for 2020

On 17 June 2021, Qatar's General Tax Authority announced Decision No. 8 of 2021 regarding an extension of the deadline for the submission of the Master file and Local file. The decision provides that the deadline for submitting the Master file and Local file for the 2020 fiscal year is extended to no later than 30 September 2021, instead of 30 June 2021.

## Certain Other Jurisdictions

### OECD

#### OECD/G20 Inclusive Framework Agreement on BEPS 2.0

On 1 July 2021, in an historic agreement, 130 countries approved a statement providing a framework for reform of the international tax rules. These countries are members of the OECD/G20 Inclusive Framework on BEPS ("IF"), comprising 139 countries.

The statement sets forth the key terms for an agreement of a two-pillar approach to reforms and calls for a comprehensive agreement by the October 2021 G20 Finance Ministers and Central Bank Governors meeting, with changes coming into effect in 2023.

**Pillar One** of the agreement is a significant departure from the standard international tax rules of the last 100 years, which largely require a physical presence in a country before that country has a right to tax.

**Pillar Two** secures an unprecedented agreement on a global minimum level of taxation which has the effect of stipulating a floor for tax competition amongst jurisdictions.

## **OECD amends model digital platform reporting rules to offer option for extended scope**

On 22 June 2021, the OECD published Model Reporting Rules for Digital Platforms: International Exchange Framework and Optional Module for Sale of Goods.

This new document follows on from the Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy (original model rules) approved by the OECD/G20 Inclusive Framework on BEPS in June 2020.

The original model rules provide for a new global tax reporting framework under which digital platforms would be required to collect information on the income realized by sellers offering accommodation, transport, and other personal services through their platforms and report the information to tax authorities.

The new document comprises two parts: a new module containing amendments to the original model rules and interpretive guidance, and a new multilateral agreement to support the international exchange of information collected.

The amendments contained with the module reflect the interest of a number of countries to permit an extension of the scope also to cover income realized by sellers from the sale of goods and from the renting out of vehicles. Countries interested in adopting reporting rules based on an OECD model will now be able to choose between the original model rules or the amended rules with extended scope.



## European Union

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### Update on status of “public” country-by-country reporting

On 14 June 2021, two committees of the European Parliament approved the compromise text on the introduction of EU public country-by-country reporting. This was agreed upon by the Council of the EU and the European Parliament, following the final trilogue meeting on June 1.

The compromise text includes the agreed-upon versions of several elements on which the Council and Parliament negotiation positions diverged prior to the start of the trilogue. Among others, the parties agreed to an amended “safeguard clause”, under which companies might defer the disclosure of commercially sensitive information for a maximum of five years.

This represents a reduction from the six-year time frame initially proposed by the Council. It does not include the Parliament’s request that local authorities should pre-approve the deferral and that Member States should transmit the omitted information, confidentially, to the Commission.



## Jordan

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### Jordan introduces Transfer Pricing Regulations

On June 7, 2021, the Hashemite Kingdom of Jordan (“Jordan”) published the Regulation No. 40 for the year 2021 in its Official Gazette (“the regulation”). The regulation introduces formal transfer pricing (“TP”) requirements in accordance with the provisions of the Article 77/A of the Income Tax Law No. 34 of 2014 (“the Income Tax Law”) and comes into force 30 days after the date of publication in the Official Gazette.

The Transfer Pricing (TP) Regulations require Multinational Enterprises (MNEs) operating in Jordan to transact with cross-border related parties in accordance with arm’s length principles.

In addition, taxpayers are required to comply with annual TP documentation requirements as TP disclosure Form, TP Master File and Local File, Country by Country Report (“CbCR”) and notifications. Requirements are applicable to both Jordan headquartered and non-Jordan headquartered multinational Groups with consolidated revenue more than JOD 600 million (approx. EUR 695 million / USD 845 million).

## Egypt

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### Importers must apply Advance Cargo Information system as from 1 July 2021

Egypt’s Minister of Finance issued a decree on 1 February 2021 mandating the application of the Advance Cargo Information system (ACI) to all imported shipments into Egypt as from 1 July 2021 (decree no. 38 of 2021). This was followed by instructions from the Customs Authority on 23 March 2021, elaborating how the ACI should be applied (instructions no. 14 of 2021).

Under the ACI, Egyptian importers are required to declare all information about goods shipped to Egypt at least 48 hours before their actual shipment from the exporting country. A unique ACID number will be issued for each shipment, which should be included on all documents that the Customs Authority must review to clear the shipment.

A pilot phase started on 1 April 2021, with a limited set of importers using the ACI system under the close supervision of the Ministry of Finance and the Customs Authority. Full implementation will go live on 1 July 2021, at which time all Egyptian importers will be expected to comply with the ACI requirements.



## Germany

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### **MOF publishes draft decree on tax treatment of virtual currencies and tokens**

The German Ministry of Finance (MOF) published a draft decree on 17 June 2021, in which the tax authorities provide a detailed description of various virtual currencies and guidance on the income tax treatment of transactions using virtual currencies and tokens.

The **first part of the draft decree** provides an overview and explanation of certain key elements of the virtual currency environment, e.g., tokens, blockchains, wallets, initial coin offerings, staking, forks, lending, and airdrops.

The **second part of the draft decree** provides guidance on the treatment of virtual currency and related transactions for income tax purposes.

The draft decree provides some initial insights on how the tax authorities consider transactions involving virtual currencies and tokens.

## United States of America

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### **U.S. House of Representatives Passes Disclosure of Tax Havens and Offshoring Act as Part of Broader Legislation**

On 16 June 2021, the U.S. House of Representatives passed the Disclosure of Tax Havens and Offshoring Act as part of a broader package of legislation.

The legislation introduces requirements for companies to publicly disclose basic information on their subsidiaries, as well as country-by-country financial information (i.e., the information of CbC reports already required by the IRS for groups with consolidated revenue of USD 850 million).

## India

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### **CBDT issues guidelines for compulsory selection of returns for audit for FY 2021-22**

India's Central Board of Direct Taxes (CBDT) on 10 June 2021 issued guidelines setting out the parameters for the compulsory selection of income tax returns for complete audit (scrutiny) for the financial year (FY) 2021-22 and for the conduct of assessment proceedings in such cases.

The guidelines will help taxpayers to identify if their situation would be subject to mandatory audit and collate the relevant information.

Cases selected for compulsory audit that are dealt with by the International Taxation and Central Circle departments of the CBDT will continue to be handled by those departments.

The deadline for the selection of cases for compulsory audit based on the specified parameters and service of notice on the taxpayer under section 143(2) of the Income-tax Act, 1961 is 30 June 2021. Finance Act, 2021 reduced the time limit to serve notice on the taxpayer from six months to three months after the end of the FY in which the return is submitted.



## **Increase in limit on foreign direct investment in insurance sector announced**

On 14 June 2021, India's Department for Promotion of Industry and Internal Trade within the Ministry of Commerce & Industry issued Press Note No. 2 (2021 series) amending the Consolidated Foreign Direct Investment Policy of 2020 (FDI policy) to reflect the increase in the limit of foreign direct investment (FDI) under the automatic route in the insurance sector from 49% to 74%.

The change will apply once notified in the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 by the Reserve Bank of India (RBI).

The rules provide that, amongst other aspects, the control of the board of such insurance companies must lie with resident Indian citizens.

## **India further extends for several Compliance Deadlines Due to COVID-19**

India's Central Board of Direct Taxes has issued Circular No 12/2021 of 25 June 2021 on the extension of several compliance deadlines in view of the COVID-19 pandemic.

Pursuant to extending the timelines vide Circular No. 9 of 2021 issued in May 2021, the Government of India has granted further extension of timelines for compliances under Income Tax Act.

The extension of time limit includes date for furnishing annual tax return, tax audit report, transfer pricing report, issue of TDS Certificates etc

It has also announced tax exemption for expenditure on COVID-19 treatment and ex-gratia received on death due to COVID-19.

## **India Providing GST Relief for COVID-19 Until September 2021**

India's Press Information Bureau has published a release announcing GST relief for goods being used in COVID-19 relief and management until 30 September 2021.

The relief was approved by the GST Council during its 44th meeting on 12 June 2021 and includes exemptions and reduced rates for certain medicines, oxygen and related equipment, testing kits and machines, and other related goods.



## **India Provides Compliance Check Functionality for Tax Deducted and Collected at Source for Non-Filers**

India's Central Board of Indirect Taxes and Customs has issued Notification No. 1 of 2021: Compliance Check Functionality for Section 206AB & 206CCA of Income-tax Act 1961.

The notification concerns the new penal provisions regarding tax deducted and collected at source (TDS/TCS) that apply from 1 July 2021.

The new provisions generally provide that where the recipient of income has not filed their income tax returns in the prior two years (specified persons), the withholding agent paying income subject to TDS/TCS is required to withhold tax at double the specified rate or 5%, whichever is higher.

For this purpose, Notification No. 1 of 2021 announces the introduction of a new compliance check functionality that income payers can use to check whether the recipient of income is a specified person and, therefore, the increased withholding applies.

## Relaxation on levy of additional fees in filing of certain Forms under the Companies Act, 2013 and LLP Act, 2008

The Ministry of Corporate Affairs vide General Circular No. 11/2021 dated 30.06.2021, in continuation to its General Circular No. 11/2021 dated 30.06.2021, has granted additional time up to 31 August, 2021 to Companies & LLP to file those forms which are due for filing during 1 April, 2021 to 31 July, 2021, without any additional fees.

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