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TAX RECAP

GCC TAX AND REGULATORY OVERVIEW

Q4 2024

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CORPORATE INCOME TAX

Executive Regulations On DMTT Issued

NBR has published the Executive Regulations for Decree-Law No. (11) of 2024 Regarding the Implementation of Tax on Multinational Enterprises. As a general overview, the DMTT Law applies a 15% effective tax rate to Bahrain profits of MNEs with global consolidated revenues of at least EUR 750 million in at least two of the previous four fiscal years. This includes MNEs headquartered in Bahrain as well as foreign MNEs with operations in Bahrain. However, the DMTT Law will not apply to local businesses with operations limited to Bahrain or that do not meet the Revenue test. The DMTT Law will be effective on January 1, 2025.

NBR Issues Guide On DMTT

NBR has issued the DMTT Guide-scope of DMTT law and registration requirements. This document sets out general principles relating to the scope of Decree-Law No. 11 of 2024 regarding the implementation of tax on Multinational Enterprises (the "DMTT Law") and its Executive Regulations issued under Decision No. (172) of 2024 (the "Regulation") and to requirements relating to registration of entities that are within the scope of the DMTT Law.

The guide provides a high-level overview of the scope of the DMTT Law i.e. what entities fall within its scope and to outline the registration requirements and process relevant for such entities. High-level information is also provided on certain "safe harbors" and an exclusion which may reduce the tax liability of in-scope entities to zero.

The Guide also provides information on who is required to register for DMTT and on the registration process.

MMJS Comments:

It is pertinent to note that the filing CE must apply for registration with the NBR within 120 days of the transition Year's start, or 30 days following the effective date of the DMTT Law if the Revenue Test is met for two of the past four fiscal years. For some MNE Groups, this means businesses will need to register for DMTT by the end of January 2025. Penalties for non-compliance are up to BHD 100,000. The DMTT registration requires submission of details on the MNE, including ownership structure, fiscal year, financial data, and consent from relevant entities. The NBR will issue a registration certificate once accepted.

Should you need any assistance, please contact one of our professional tax advisors

Registration Manual On DMTT Issued

The DMTT registration manual was issued by NBR in December 2024. The purpose of this Manual is to provide the following

- An overview of the procedures in relation to the DMTT Registration process and system; and
- The support and guidance for taxpayers to navigate the NBR online portal and forms for DMTT registration application

As per the guide the filing Constituent Entity must complete both individual NBR registration and DMTT registration as appropriate on the NBR website to successfully register for DMTT. Where there are multiple Bahraini located Constituent Entities or a Bahrain located joint venture and joint venture subsidiaries in an in-scope Multinational Enterprise Group (MNE Group), each of them should have an NBR profile with NBR, but only one entity will be selected as the Filing Constituent Entity and, as such, will have to register for DMTT.

In-scope entities who are already registered for VAT/Excise do not have to create a new profile with NBR (i.e. NBR registration) to complete DMTT registration. All other in-scope entities that currently do not have NBR profiles will need to create a profile through the NBR registration process. The guide further provided information and instructions on the registration form such as financial information, bank information. DMTT relief, the registration amendment process etc.

MMJS Comments:

With the adoption of DMTT, Bahrain is the first GCC country to implement a legislation aligned with the GloBE Rules, ensuring the imposition of a minimum tax on large MNE groups operating within its jurisdiction. MNE groups operating in Bahrain should promptly assess their effective tax rate, eligibility for safe harbor reliefs, and engage with tax advisors to ensure compliance and preparedness for the evolving tax landscape.

Should you need any assistance, please contact one of our professional tax advisors.

FAQ's on DMTT Released On NBR Website

NBR has updated the FAQ section of the NBR website to include information on DMTT. The FAQ's covers topics such as definition of MNE, Pillar two etc.
The Organization for Economic Cooperation and Development's (OECD) Inclusive Framework two-pillar framework - introduces Global Anti-Base Erosion (GloBE) rules and global collaborative rules to prevent corporate profit shifting which are an integral part of the OECD's global tax reform.

These rules ensure that Multinational Enterprises (MNEs) are required to pay a global minimum tax of 15% on their profits in each jurisdiction where they operate, regardless of where their Ultimate Parent Entity (UPE) is based. Pillar Two is only applied on MNEs with global annual revenues equal to or exceeding EUR 750 million in two of last four years.

TAX TREATY

Bahrain and Guernsey sign tax treaty

Bahrain and Guernsey have signed a Double Tax Treaty (DTT). The treaty agreement between two countries will avoid or mitigate double taxation.

This leads to the need for both countries to bilaterally and mutually agree to specific terms and rules of how income or profits of international trade or cross-border transactions are to be treated by the two countries so that the final tax suffered will not be worse off than if the profits or gains are derived from similar non-cross-border transactions.

Bahrain and UAE approve Double Tax Treaty

On December 3, 2024, Bahrain's Council of Representatives approved the DTT with the UAE, which had been signed earlier on February 11, 2024. The treaty was subsequently forwarded to the Shura Council for further approval

Bahrain and Hong Kong approve Double Tax Treaty

On December 3, 2024, the Council of Representatives also approved the DTT with Hong Kong. This agreement was then sent to the Shura Council for further consideration.

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OMAN

CORPORATE INCOME TAX

- Oman Issues a Law to Introduce an IIR and Domestic Top-Up Tax from 2025

TAX TREATY

- Oman and Tanzania Sign Tax Agreement
- Oman and Luxembourg Sign Tax Agreement
- Oman and Cyprus Sign Double Tax Treaty (DTT)

CORPORATE INCOME TAX

Oman Issues a Law to Introduce an IIR and Domestic Top-Up Tax from 2025

Oman issued Royal Decree No. 70/2024 ('the Law') that implements the Pillar 2 15% domestic minimum top-up tax (DMTT) and an Income Inclusion Rule (IIR) from January 1, 2025.

The DMTT comes under the Organization for Economic Co-operation and Development's Two-Pillar Solution, which stipulates that large multinational enterprises must pay a minimum effective tax rate of 15% on profits in each country where they operate. It will apply to multinational companies with consolidated annual revenue of 300 million Omani rials (750 million euros), an official in Oman's Tax Authority told the state news agency.

The move comes after several Gulf countries, including the United Arab Emirates and Kuwait, imposed a similar tax on large multinational companies operating in the country from January.

TAX TREATY

Oman and Tanzania Sign Tax Agreement

The Sultanate of Oman and the United Republic of Tanzania signed an agreement on the "Elimination of Double Taxation on Income Taxes and the Prevention of Tax Evasion," as part of strengthening the strategic partnership between the two countries. The agreement aims to create an attractive investment environment, protect investors from double taxation and enhance transparency in financial transactions between the two countries.

It is expected that this agreement will boost economic and trade cooperation between Oman and Tanzania and open new possibilities for joint investment.

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Oman and Luxembourg Sign Tax Agreement

The Sultanate of Oman and Luxembourg signed an agreement on the avoidance of double taxation on income and the prevention of tax evasion. The agreement aims to provide legal protection for investors against double taxation and regulate taxation mechanisms, contributing to enhanced investments and trade exchanges between the two friendly countries.

Oman and Cyprus Sign Double Tax Treaty

The Sultanate of Oman and Cyprus signed an agreement on the avoidance of double taxation on income. The Treaty is based on the latest version of the OECD Model Convention for the avoidance of double taxation and incorporates all the minimum standards of the Base Erosion and Profit Shifting (BEPS) action plan, including exchange of information, mutual agreement procedure, and principal purpose test. The Treaty provides for withholding tax at 0% for dividends, interest, royalties.

EXCISE TAX

- Qatar Plans To Apply Excise Tax on Sweetened Beverages

CORPORATE INCOME TAX

- The Shura Council Approved Amendments to Select Provisions of the Income Tax Law Promulgated Under Law No. 24 of 2018

TAX TREATY

- Qatar Approves Protocol To Tax Treaty With Norway

EXCISE TAX

Qatar Plans to Apply Excise Tax on Sweetened Beverages

The General Tax Authority of the State of Qatar (GTA), in partnership with the Ministry of Commerce and Industry, organized a workshop on raising tax awareness and addressing the tax and legal aspects of sweetened beverage production and marketing.

During the workshop, Mr. Badar Mohammed Al-Dosari, Head of Medium and Small Taxpayers Section at the GTA delivered a comprehensive presentation on "Excise Tax for Producers of Sweetened Beverages". He explained the tax calculation process and outlined the legal obligations imposed on producers to ensure full compliance with tax regulations.

Excise Tax is intended to be imposed on products produced and imported in Qatar that contains added sugar or its substitutes. The tax may apply to various products, including beverages, concentrates, powders, extracts, or any other product that can be converted into a sweetened beverage.

The tax may apply at the rate of 50% on the Excise Price (i.e., the higher price between the standard price by GTA and the pre-tax retail selling price of Sweetened Beverage)

CORPORATE INCOME TAX

The Shura Council Approved Amendments to Select Provisions of the Income Tax Law Promulgated Under Law No. 24 of 2018

The Shura Council approved amendments to select provisions of the Income Tax Law promulgated under Law No. 24 of 2018. This measure aims to uphold tax parity and fairness between local and multinational companies operating in Qatar through the introduction of a 15% global minimum corporate tax rate.

GTA clarified that the new amendment applies to global multinational companies and enterprises with foreign branches that generate annual revenues exceeding QAR 3 billion. This includes both Qatari companies with branches abroad and international companies with branches in Qatar.

The GTA further specified that the amendment excludes individual taxpayers and local companies in Qatar, maintaining the existing 10% corporate income tax to maintain regulatory consistency and promote fairness and equity.

GTA highlighted that the amendment delivers substantial economic benefits, primarily by shielding multinational Qatari companies from the 15% tax abroad and ensuring that tax revenues remain within Qatar to support the national economy. It further added that, in the absence of local collection, this tax rate would be imposed by other countries on the targeted companies.

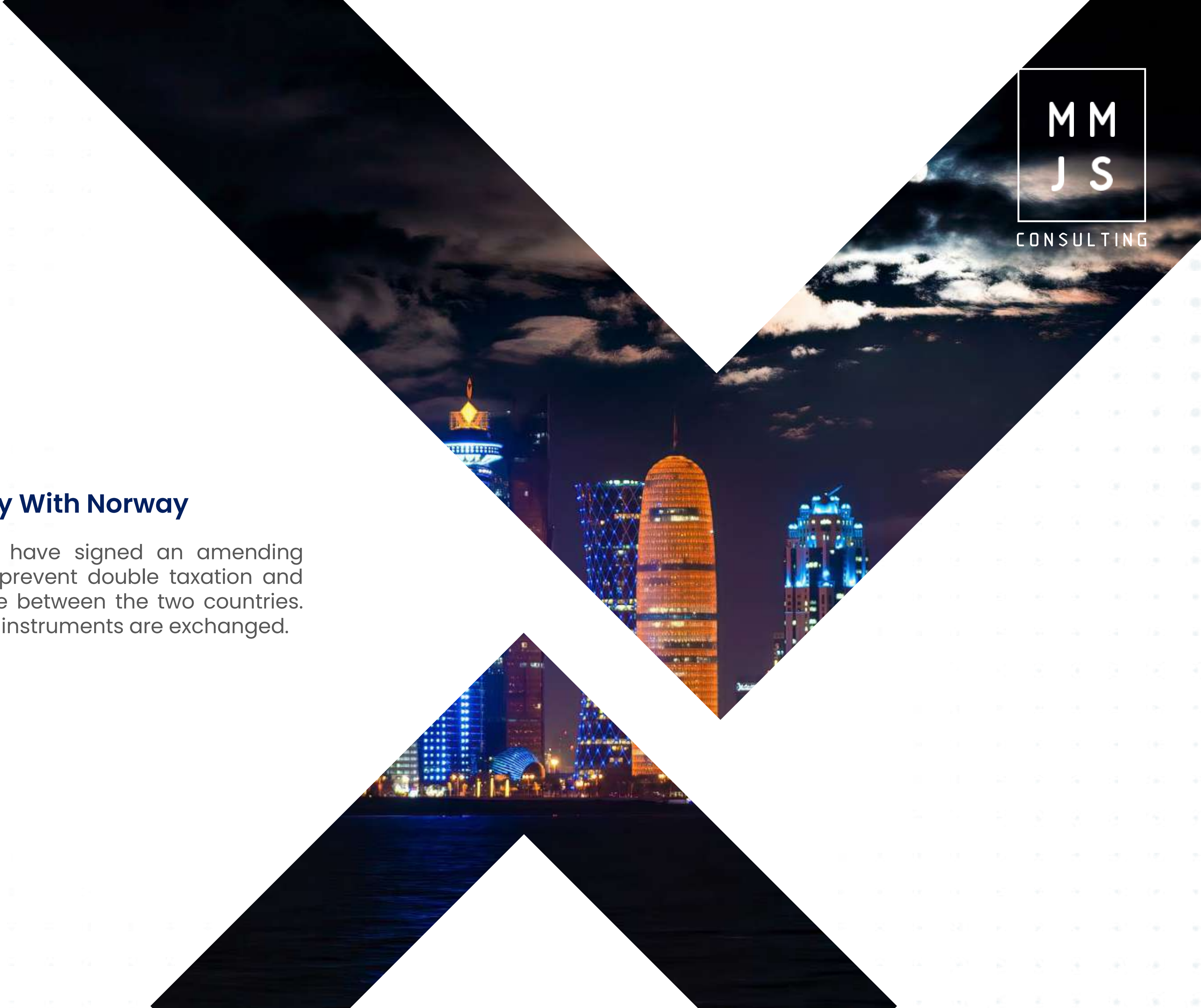
The GTA remains committed to supporting international efforts to combat tax base erosion and profit shifting, striving to enhance the economic environment both locally and globally. Aligned with the objectives of Qatar National Vision 2030, the GTA upholds a tax framework designed to foster sustainable national development while prioritizing efficiency and effectiveness within a legislative framework rooted in governance and transparency. The amendment to the law is designed to enable multinational companies to file their tax returns for the Domestic Minimum Top-up Tax (DMTT) in Qatar, ensuring compliance with the standards set by the Organization for Economic Co-operation and Development (OECD) and the G20.

In October 2021, over 140 countries endorsed the G20 and OECD initiatives to implement the global regulations defined in Pillar I and Pillar II. These measures are designed to tackle tax challenges arising from the digitalization of the economy and to safeguard national tax bases by establishing a global minimum tax for multinational corporations.

TAX TREATY

Qatar Approves Protocol To Tax Treaty With Norway

The State of Qatar and Kingdom of Norway have signed an amending protocol to tax treaty. This tax treaty aims to prevent double taxation and avoid fiscal evasion regarding taxes on income between the two countries. The protocol will take effect once the ratification instruments are exchanged.



KUWAIT

COPORATE INCOME TAX

- Kuwait Issues a Draft Law to Introduce a Domestic Top-Up Tax from 2025

CORPORATE INCOME TAX

Kuwait Issues A Draft Law to Introduce a Domestic Top-Up Tax from 2025

The Kuwaiti Cabinet has approved a draft decree-law imposing a 15% tax on multinational entities operating across multiple jurisdictions, aligning with global tax regulations. This law, aimed at curbing tax evasion and ensuring tax revenue retention, will take effect in Kuwait on January 1, 2025. Notably, the DMTT will only apply to MNEs with global consolidated revenues (in at least two of the preceding four fiscal years) of at least EUR 750m, including MNEs headquartered in and outside Kuwait.

The Law will not apply to local businesses with no operations outside Kuwait. The key highlights of the law include but not limited to calculation of DMTT, safe harbors and exclusions, registration, tax filing and payment, transfer pricing.

MMJS Comments:

With the adoption of 'Domestic Top Up Tax', MNE groups operating in Kuwait should promptly assess whether they fall in scope of the law and undertake an impact assessment to determine the impact on their financials. It is important for businesses to be familiar with the law's requirement including registration, filing, payment deadlines and safe harbors. Its also important for business to engage with tax advisors to ensure compliance and preparedness for the evolving tax landscape and have ready systems in place to handle the information required for computing returns. If businesses are in scope of the DMTT, registration must be completed with the Kuwait tax administration within the prescribed deadline. Penalties may be imposed for failure to register in a timely manner.

Should you need any assistance, please contact one of our professional tax advisors

KINGDOM OF SAUDI ARABIA

VALUE ADDED TAX

- ZATCA Extends The Tax Amnesty Scheme
- Criteria For Selecting Taxpayers In 17th, 18th And 19th Wave Of E-invoicing Determined
- New guidelines for VAT refund process for Non-Profit sector and on VAT audit and litigations process
- Announcement of a VAT refund system for tourists

CUSTOMS

- Industry Ministry Upgrades Customs Items for Products Registered in Industrial Licenses
- Customs Declaration To Be Provided 72 Hours In Prior
- Removal of Customs broker requirement for importation of light vehicles
- Customs Duty exemption on materials for local goods intended for export

TRANSFER PRICING & RETT

- Advance Pricing Agreements Update
- RETT Law Approved

ZAKAT

- Issuance of Guidelines for clarifications on new Zakat Regulations under MR 1007

TAX TREATY

- Saudi Arabia Approves Double Tax Treaty With Qatar
- Saudi Arabia Signs Tax Treaty with Kuwait, Croatia and Iceland

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VAT

ZATCA Extends The Tax Amnesty Scheme

The Zakat, Tax, and Customs Authority (ZATCA) announced the extension of its initiative for cancellation of fines and exemption of financial penalties. Initially scheduled to expire on 31 December 2024, the initiative has now been extended until 30 June 2025. The highlights of the extension includes exemption from unpaid fines including exemption from

- Fines resulting from late registration in all tax laws and regulations
- Delayed fine payments and overdue tax return submission fines
- VAT return correction penalty (limited to returns that are due for submission on or before 31 December 2024)
- Fines for violation of VAT field detection and E invoicing based on Article 45 of the VAT law

The resolution shall remain in effect for 6 more months i.e. until June 2025. The types of taxes included in the initiative are VAT, Withholding Taxes (WHT), corporate income tax (CIT) Excise Tax, income tax and Real Estate Transaction Tax (RETT)

MMJS Comments:

It is important to note that the Initiative excludes penalties related to tax evasion violations and fines paid before the initiative's effective date. ZATCA has invited taxpayers to view the details of the initiative through the simplified guideline available on its website, which includes a detailed explanation of the most important aspects of the decision; such as the types of penalties that are included in the decision, the conditions for benefiting from the exempt fines and the steps for installment financial dues, and field control violations.

Should you need any assistance, please contact one of our professional tax advisors.

Criteria For Selecting Taxpayers In 17th, 18th And 19th Wave Of E-invoicing Determined

ZATCA has recently issued circulars outlining the criteria for selection of taxpayers included in the 17th, 18th and the 19th wave of implementation of the e-invoicing integration phase.

- **17th Wave**
  - Taxable Revenue Threshold: Exceeding SAR 2.5 million during 2022 or 2023.
  - Integration Deadline: No later than 31 July 2025.
- **18th Wave**
  - Taxable Revenue Threshold: Exceeding SAR 2 million during 2022 or 2023.
  - Integration Deadline: No later than 31 August 2025.
- **19th Wave**
  - Taxable Revenue Threshold: Exceeding SAR 1.75 million during 2022 or 2023.
  - Integration Deadline: No later than 30 September 2025

ZATCA has stated that Phase Two (Integration Phase) requires additional requirements, compared to the Phase One (the Generation Phase), the most prominent of which is to integrate taxpayers' E-invoicing solutions with ZATCA's platform, issue E-invoices based on a specific format and include additional fields in the invoice. Furthermore, Phase Two (Integration Phase) of E-invoicing would take place gradually in waves, and ZATCA would inform the following waves directly at least six months before their integration date.

VAT Refund Process for Non-Profit Sector Guide Issued

ZATCA has issued a guide on VAT refund for non-profit sector in KSA. The guide outlines the process for companies in the non-profit sector to claim VAT refunds. This is aimed at helping non-profit organizations understand and navigate the VAT refund process. The guide provides detailed information on eligibility criteria and required documentation for VAT refunds.

VAT Audit Process and Appeals Guide Issued

ZATCA has introduced new guidelines pertaining to the VAT procedures conducted during VAT return audits in KSA. The guidelines provides clear steps for audits, correction, assessments and appeals, with emphasis on the 20-days notice period provided to taxpayers before an audit, unless in cases where there is a suspected non-compliance.

Announcement of the implementation of a VAT refund system for tourists

Saudi Arabia has announced in its Saudi Budget 2025 its plan to implement a VAT refund system for tourists. The implementation of the system will be overseen by the Saudi Tax Authority (ZATCA), with the aim of streamlining tax compliance and promoting tourists' travel experience in KSA.

CUSTOMS

Industry Ministry Upgrades Customs Items for Products Registered In Industrial Licenses

The Ministry of Industry and Mineral Resources has announced the transition of customs items listed in industrial licenses from the 10-digit Harmonized System (HS) code to a 12-digit format. This initiative is designed to standardize the customs coding system, enhance data connectivity, and ensure alignment with relevant entities.

This upgrade marks a significant step toward harmonizing technical systems at the national level, improving the accuracy of data for both locally manufactured products and imports, and strengthening supply chain data coherence. The Ministry has reviewed over 13,000 items, successfully converting their HS codes from 10 digits to 12 digits. Industrial establishments are urged to review the proposed updates to the customs items listed in their industrial licenses by the deadline of January 31, 2025.

Updates can be accessed via the Senaee platform by selecting the HS code upgrade option on the factory homepage. The Ministry will implement the revised codes immediately after the specified deadline.

Removal of Customs Broker requirement for importing light vehicles into KSA

With effect from 19 December 2024, ZATCA has announced the removal of the requirement to appoint a Customs broker in importing light vehicles into KSA. This reform is aimed at simplifying the vehicle importation process and will be applicable to vehicles weighing not more than 3.5 tons owned or imported by Saudi citizens and residents. This initiative is part of KSA’s strategy to modernize Customs operations.

Customs Declaration To Be Provided 72 Hours In Prior

ZATCA has issued a circular emphasizing the importance of submitting customs declarations and related documents at least 72 hours before the shipment’s arrival at customs ports. This step is crucial to ensuring the swift arrival of goods, expediting clearance processes, and reducing import costs. The Authority urges all importers and customs partners to prioritize the timely submission of customs declarations, verify the accuracy of accompanying documents such as bills of lading and invoices, and fulfill all customs clearance requirements from relevant entities, especially for goods that require prior approval before importation.

Completing all import permits and securing necessary approvals from the concerned government authorities before initiating the import process significantly contributes to speeding up customs clearance, avoiding delays or additional costs, and enhancing the efficiency of customs operations and related logistics services

KSA launches Customs Duty “Exemption for Export” service for local goods

The Saudi Export Development Authority, in cooperation with the Ministry of Industry and Mineral Resources, has launched the service aimed at achieving sustainable growth in non-oil exports. Under this initiative, local factories will benefit from Customs duty exemption on inputs used for the production of goods to be exported.

This also aims to achieve an efficient process where an application takes no more than 5 working days through the Sina’ai platform of the Ministry of Industry and Mineral Resources.

TRANSFER PRICING

Advance Pricing Agreements ("APA") Update

ZATCA has published an updated version of the Transfer Pricing guidelines which now includes a separate chapter on APAs covering eligibility requirements and procedure. ZATCA also announced that it will now start accepting applications for unilateral APAs. APAs may be requested for transactions between related persons, with a value of transactions of not less than SAR 100,000,000 (approx. USD 27,000,000). In certain cases, ZATCA can grant an exemption from this threshold for some complex transactions. Below are also the key points of the APA procedure:

- If transactions meet the eligibility requirements, taxpayers must first contact ZATCA to assess and discuss the possibility of requesting an APA. If the request is deemed possible, the taxpayer must file a complete application along with the necessary supporting document with ZATCA at least 12 months before the start of the first fiscal year in question.
- ZATCA has outlined the required information and documents to be included in the application. This includes details typically covered in the KSA transfer pricing local file as well as certain financial information.
- If ZATCA reaches an agreement with the taxpayer, the taxpayer will be notified of this and will have the option to accept or reject the agreement.
- If the taxpayer accepts the APA conditions, the APA becomes binding for a period of three (financial) years, which means that during this period ZATCA will not object to the agreed pricing policy of the transaction covered by the APA.
- In the event that any of the critical facts relating to the APA change, the taxpayer would have to notify ZATCA. ZATCA may then assess whether the APA should be amended or terminated

MMJS Comments:

Although applications for Unilateral APAs have now opened, separate guidelines providing more detailed information on the implementation of APAs are not yet available. However, they are expected to be released soon and will likely cover not only Unilateral APAs but also Bilateral and Multilateral APAs.

Should you plan to apply for APA or have any questions regarding it, please contact one of our professional tax advisors.

RETT

RETT Law Approved

The Real Estate Transaction Tax (RETT) Law in the KSA has been enacted under Royal Decree No. M/84, issued on 22 September 2024, and Council of Ministers Decision No. 239, dated 17 September 2024. This marks a significant regulatory development. The legislation published in the official Saudi Gazette on 11 October 2024 will become effective 180 days after its publication.

Furthermore, the Regulations under the RETT Law shall also be issued within 180 days and are expected to supersede the existing RETT Implementing Regulations. In this alert, key highlights of the law are:

- Definitions
- Tax Rate and Applicability
- Tax Liability and Payment
- Tax Administration
- Penalties for Non-Compliance

MMJS Comments:

The updated Regulations will offer a more detailed breakdown of various aspects. Individuals and entities involved in real estate transactions should closely evaluate the implications of the revised Regulations when planning their activities. It is essential to conduct a comprehensive review of both current and future real estate transactions to ensure compliance with the updated tax requirements. Notably, the penalties for non-compliance have been revised, with fines for general violations increasing to SAR 50,000, up from the previous penalty of SAR 10,000.

Should you need any assistance, please contact one of our professional tax advisors.

ZAKAT

The ZATCA issued three Guidelines in connection with the New Zakat Regulation issued under Ministerial Resolution 1007:

- **General Zakat Guideline**

This guideline provides an overarching explanation of the application of the new Zakat regulations, including the calculation methods. It clarifies the treatment of balance sheet items for zakat purposes, categorizing them as current or non-current, supported by illustrative examples and detailed explanations.

- **Guideline on the Adjustment of Profits**

This guideline outlines the ZATCA's stance on the treatment of undeclared revenues and deductible expenses for zakat purposes. It covers the general deductibility criteria, specific conditions, and the treatment of particular expenses such as bad debts, provisions, taxes, and discrepancies between salaries recorded in GOSI and company books, among others.

- **Submitting Zakat Returns under the New Zakat Regulations**

Covers a basic overview of the new regulations' applicability and zakat percentages. It highlights significant changes in calculation methods, such as reliance on year-end balances and revised treatments of provisions (e.g., classification into equity or liabilities). Other updates include adjustments for non-current liabilities, establishing maximum and minimum zakat bases, and an overview of the new version of the zakat return.

MMJS Comments:

The newly issued Zakat Regulations is applicable to zakatpayers from financial years beginning on 1 January 2024 onwards.

With the introduction of a new approach/methodology for calculating Zakat liability under the new regulation, it is advisable for Zakat payers to assess its impact on their Zakat obligations.

Should you need any assistance, please contact one of our professional tax advisors.

TAX TREATY

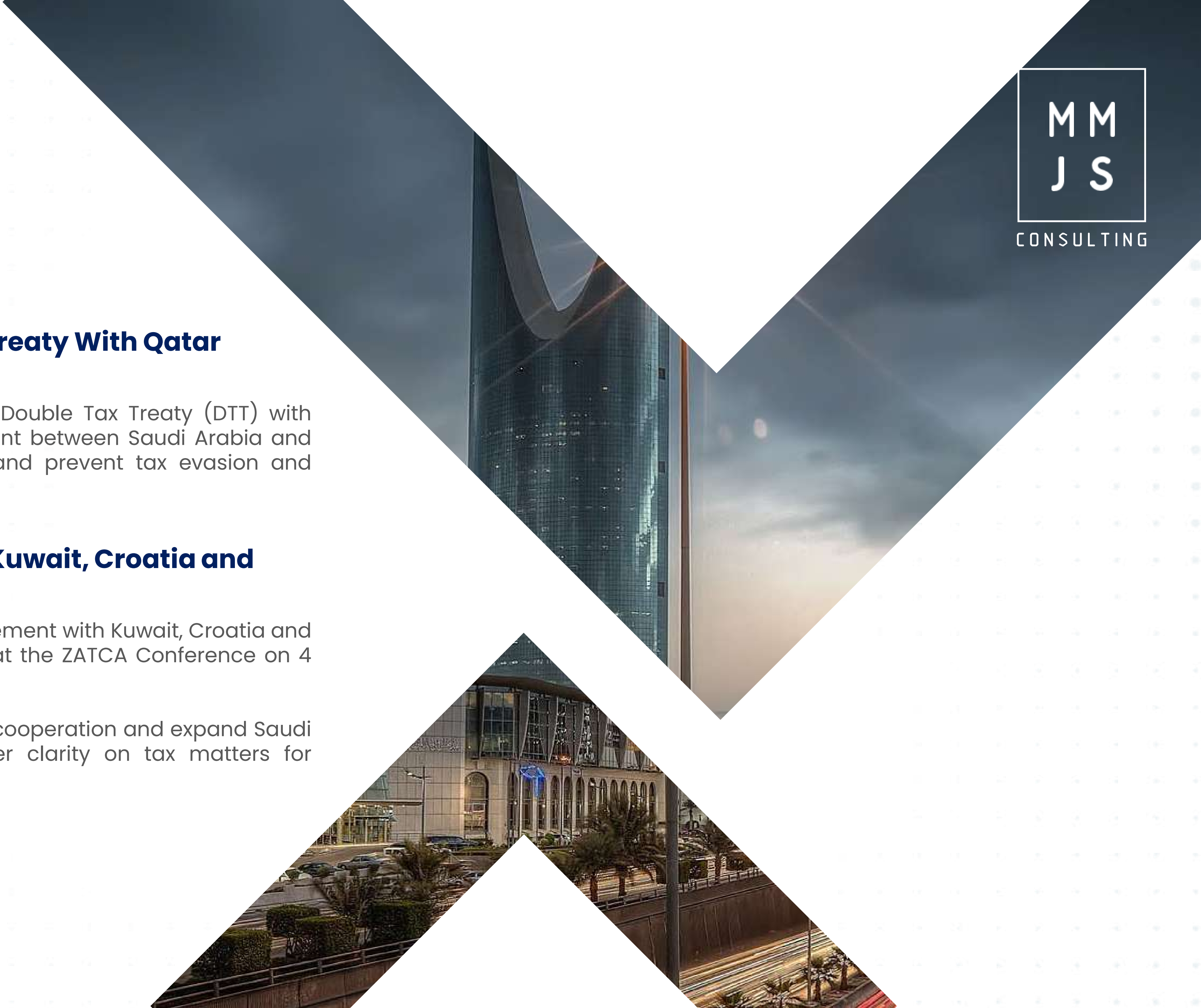
Saudi Arabia Approves Double Tax Treaty With Qatar

The Saudi Council of Ministers approved the Double Tax Treaty (DTT) with Qatar. The Council has approved an agreement between Saudi Arabia and Qatar to avoid double taxation on income and prevent tax evasion and avoidance

Saudi Arabia Signs Tax Treaty With Kuwait, Croatia and Iceland

The Saudi Council of Ministers has signed agreement with Kuwait, Croatia and Iceland for the avoidance of double taxation at the ZATCA Conference on 4 December 2024.

These agreements aim to enhance economic cooperation and expand Saudi Arabia's tax treaty network, providing greater clarity on tax matters for investors operating among these countries.



UNITED ARAB EMIRATES

VALUE ADDED TAX

- Key Amendments to The UAE VAT Executive Regulations
- FTA Launches World’s First Tax Refund System
- FTA Issues VAT Invoicing Framework
- Key Amendments to The UAE VAT Decree Law Announced
- Grace Period for Updating Tax Records

CORPORATE TAX

- Tax Procedures Guide On Tax Residency Certificate Issued
- MOF Issued Ministerial Decision No. (261) of 2024
- Tax Procedure Guide on Private Clarifications Updated
- Domestic Top Up tax Implementation
- FTA Issues Return Filing Guide
- FTA Issues Guide on Real Estate Investment For Natural Persons

ECONOMIC SUBSTANCE RETURN

- MOF Announces Cabinet Decision No.98

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Key Amendments to The UAE VAT Executive Regulations

The Federal Tax Authority has issued Cabinet Resolution No. (100) of 2024 (Amended Executive Regulations of Federal Decree-Law No. (8) of 2017 on Value Added Tax) in Arabic, which replaces Cabinet Resolution No. (52) of 2017 and its amendments. Most of these amendments took effect from 15 November 2024, while some are effective retrospectively. Some of the key highlights of the amendments are Article 30 - Export of goods, Article 31 - Export of services, Article 42 - Tax treatment of financial services. Article 53 – Non-recoverable Input Tax.

MMJS Comments:

Taxable persons should familiarize themselves with updated Executive Regulations and prepare for compliance accordingly. The updated Regulations will offer a more detailed breakdown of various aspects.

Should you need any assistance, please contact one of our professional tax advisors.

FTA Launches World's First Tax Refund System

FTA announced the launch of a new VAT refund system for E-Commerce Retail Purchases for tourists during their stay in the UAE, which is considered the world's first of its kind. FTA explained that the launch of this new system, in collaboration with Planet, the authorized operator of the VAT refund system for tourists, aligns with the FTA's plans to adopt proactive solutions within the framework of innovation and digital transformation. These plans are driven by creativity to meet future demands, enhancing the UAE's competitiveness in providing services and achieving its vision of being the best government in the world. This significant achievement contributes to improving the country's digital competitiveness and innovation performance indicators globally, supporting the UAE's leadership in all sectors, including tourism and e-commerce. Post the launch of the new system, overseas tourists will be able to request a refund of the VAT on all their purchases, whether made at traditional stores or through e-commerce platforms registered with the FTA subject to meeting the conditions prescribed in the 'Tax Refunds for Tourists Scheme' as set forth in the FTA's Decision No. 2 of 2018 and its amendments.

As a next step, the E-commerce platforms would be required to integrate their systems with the new refund system launched by the FTA. For this purpose, E-commerce operators would collaborate with the Planet team to initiate the process of system integration and ensure the seamless implementation.

Once fully integrated tourists in the UAE can apply for VAT refunds directly through e-commerce platforms registered with the Authority before their purchases are shipped. They can do so by providing their travel document details and relevant personal information to verify their eligibility at the time of purchase. The VAT refund registration is completed once the tourist's identity is verified during delivery or online order fulfillment.

FTA Issues VAT Invoicing Framework

The E-invoicing framework in UAE, which was highly anticipated, has been released by Ministry of Finance (MOF), UAE. It outlines the objectives, mechanism and proposed timelines for implementation of e-invoicing in the UAE.

E-invoice is a structured form of invoice data that is issued and exchanged electronically between a supplier and a buyer and reported electronically to the FTA in the UAE. According to MoF, invoices in XML format are considered as e-invoices. In other words, invoices formatted as PDFs, Word documents, images, scanned copies, or emails do not qualify as e-invoices.

The UAE has adopted the decentralized 5-corner model for e-invoicing introduced by PEPPOL (Pan-European Public Procurement Online) which is a standardized international network that allows companies around the world to exchange electronic documents securely. This model facilitates exchange of E-invoices between suppliers and customers using the PEPPOL network via an accredited service provider without the requirement of pre-clearance from the MOF or the FTA.

As per the clarification by MoF, the e-invoicing model is required to be followed for all business-to-business (B2B) and business-to-government (B2G) transactions, regardless of whether the entities involved are VAT registered. The e-invoicing system will be implemented in a phased manner. The proposed timelines are provided below.

Time Period	Particulars
Q4 2024	• UAE Service Provider accreditation procedures • Accreditation of Service Providers
Q2 2025	• E-Invoicing related Legislation updates
Q2 2026	• Phase 1 go-live of E-Invoicing reporting

Some of the benefits of E-invoicing are

- E-Invoicing mandates the reporting of invoice tax data to the FTA through UAE accredited service providers, it will facilitate the automatic pre-population of certain fields in VAT returns and expedite refund processing.
- By standardizing and automating the invoice creation and exchange, there are validations and controls built in the entire E-Invoicing process that significantly reduce errors and deliver invoices to the buyers in near real-time. Thus, creating an opportunity for faster payment and better working capital management.
- By adopting a proven standard such as Open PEPPOL, the business community has access to wider network where E-Invoices can be seamlessly exchanged with businesses outside the UAE.
- Creates an environment for automation and simplification.
- E-Invoicing can significantly reduce invoice processing costs for businesses and governments and creates opportunities for faster decision making.

Key Amendments to The UAE VAT Decree Law Announced

Pursuant to the announcement of the e-invoicing mandate by the MoF, amendments have been made to the Federal Decree-Law No. (8) of 2017 on Value Added Tax ('Decree Law') vide Federal Decree-Law No. 16 of 2024 and Federal Decree-Law No. 28 of 2022 concerning tax procedures ('Tax Procedures Law') vide Federal Decree-Law No. 17 of 2024 to support the E-invoicing system.

Articles 1, 55, 65, 70 & 76 of the Decree Law have been amended. Further, the Tax Procedures Law has been amended to include the definition for the ‘E-Invoicing system’. Additionally, authority is granted to the MoF to issue the necessary decisions to implement the system, determine its effective dates, and specify the requirements and entities subject to it.

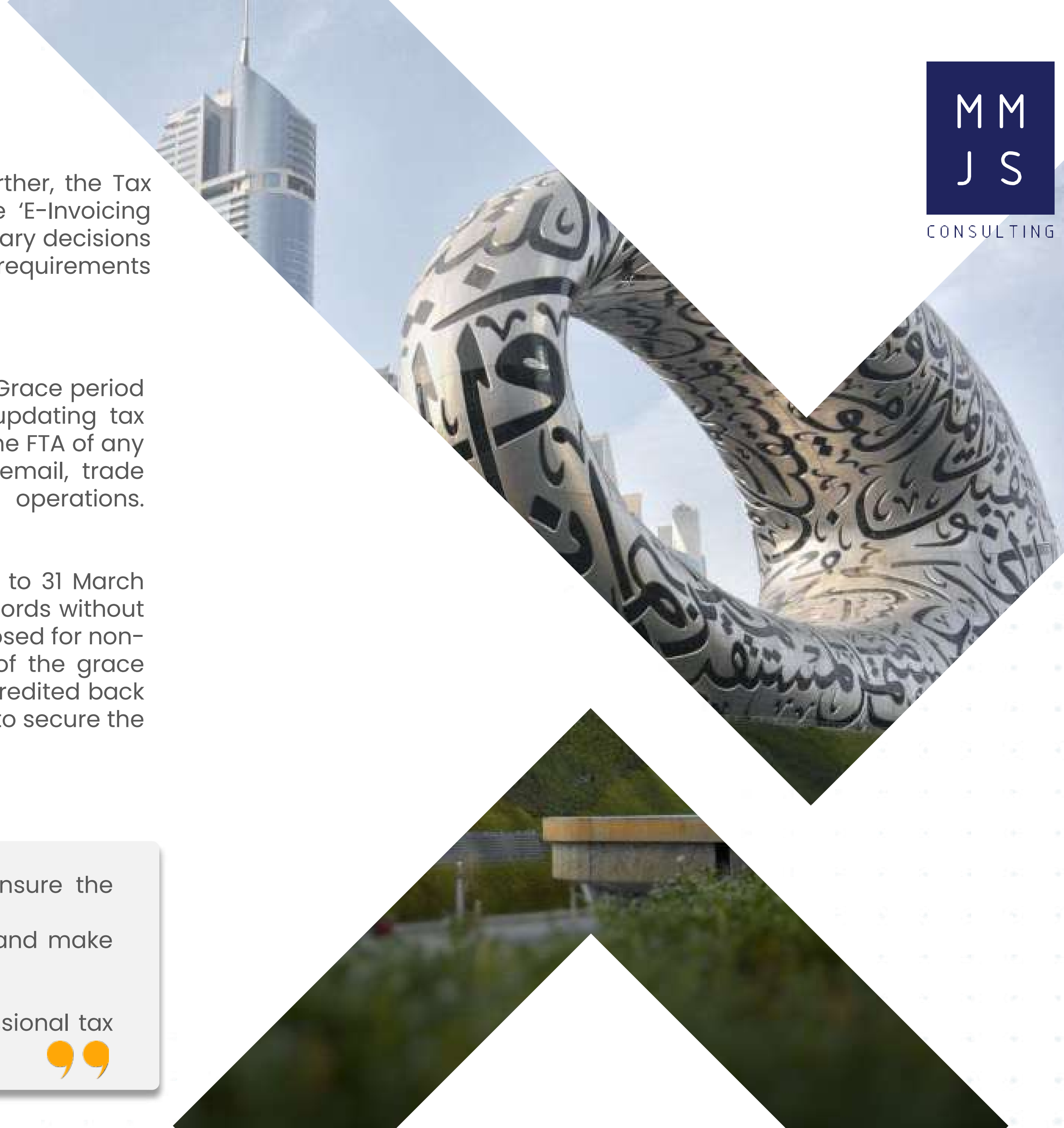
Grace Period for Updating Tax Records

The FTA has published Tax Procedures Public Clarification TAXP007 on “Grace period to update information in tax records” granting a grace period for updating tax records without incurring penalties. Tax payers are required to inform the FTA of any changes in their tax records, including updates to name, address, email, trade license activities, legal entity type, business nature, or address of operations. Typically, registrants have 20 business days to report such updates.

To facilitate compliance, a grace period starting from 1 January 2024 to 31 March 2025 has been granted by the FTA. Businesses can update their tax records without incurring penalties during this timeframe. If penalties were already imposed for non-compliance between 1 January 2024 until the implementation date of the grace period, these will be automatically reversed by the FTA, with amounts credited back to your tax account, if paid. No action is needed on the registrant’s part to secure the reversal as this would be automatic.

MMJS Comments:

> It is important to note that this is an excellent opportunity to ensure the records are accurate and up to date with the FTA.
> Taxable persons should take this time to review their tax records and make necessary updates.
>
> Should you need any assistance, please contact one of our professional tax advisors.



CORPORATE INCOME TAX

Tax Procedures Guide On Tax Residency Certificate Issued

The FTA has recently published a comprehensive Tax Procedures Guide on Tax Resident and Tax Residency Certificate. This Guide is important for both natural persons and juridical persons operating in UAE, as it provides a thorough overview of the criteria(s) that establishes Tax Residency in UAE, as well as Residency in UAE as per Federal Decree Law No. 47 of 2022 (UAE CT Law), alongside broad insights into the implications of Double Taxation Agreements (DTAs).

The Guide also provides information on obtaining a Tax Residency Certificate (TRC) along with key administrative aspects in relation to process of issuance of TRCs. Importantly, the Guide also sheds light on the determinative factors on 'place of effective management and control' (EMC) as per UAE CT Law. The Guide also provides various illustrations for the purpose of explaining various concepts which are discussed therein. Some of the key concepts included of guide are

- Concept of Tax Residence
- Types of companies that are considered as resident juridical person
- Detailed breakdown on factors for determining place of EMC in UAE
- Guidance regarding treatment of natural person as a tax resident
- Conditions for issuing a 'Tax Residence Certificate'

MMJS Comments:

Issuance of this Guide is a welcome step from the FTA in issuing further clarity on the concepts of tax residency and procedural aspects for obtaining TRC. The Guide provides useful guidance along with certain practical illustration on various concepts such as place of EMC under UAE CT Law, interplay of 'tax residency under UAE domestic laws' and 'residency under UAE CT Law', etc. The Guide also lays thrust on detailed factual evaluation on a case-by-case basis along with importance of documentation requirements to substantiate the facts. It would still be pertinent to track developments on certain critical aspects such as implications (and related procedural aspects) of change in place of EMC in subsequent year, applicability of mutual agreement process (if required), alignment of guidance on issuance of TRC with practical implementation of the same on the portal, etc.

Should you need any assistance, please contact one of our professional tax advisors.

MOF Issued Ministerial Decision No. (261) of 2024

The MOF issued Ministerial Decision No. (261) of 2024, repealing the earlier Ministerial Decision No. (127) and outlining the amended provisions regarding unincorporated partnerships, foreign partnerships, and family foundations. The revised Ministerial decision shall apply for tax periods commencing on or after 1 June 2023 and introduces a series of administrative and tax relief measures for domestic businesses, foreign partnerships, and family foundations.

The updated Ministerial Decision primarily reduces compliance requirements for unincorporated partnerships by eliminating the obligation to notify the FTA within 20 business days of any changes to partnership composition, such as new partners joining or existing partners departing.

CORPORATE INCOME TAX

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CONSULTING

Tax Procedure Guide on Private Clarifications Updated

The FTA has recently updated the Tax Procedure Guide on Private Clarifications - TPGPC1 (the Guide) to now include specific aspects relating to private clarifications for Corporate Tax (CT) purposes as well. The Guide outlines the nature of clarifications which can be filed via EmaraTax portal for direct and indirect taxes, eligible persons who can file private clarifications, the process of filing and typical information required to be submitted with the application. It provides timelines on the taxpayer correspondence and issuance of clarifications by FTA. Clarifications on fees and refund criteria have also been covered under the Guide. Importantly, the Guide specifies certain common errors noticed by FTA which would result in rejection of the clarification request or request for additional information. Some of the key highlights of the guide include

- Eligibility criteria for filing private clarification request
- Clarification process and timeline
- Refund
- Other common errors which may also lead to rejection or additional
- information requests

Domestic Top Up tax Implementation

In a recent announcement, The MOF has confirmed that a DMTT will be effective in UAE for financial years beginning on or after 1 January 2025. However, detailed executive regulations for implementation of the same are yet to be published.

In line with its commitment to the BEPS 2.0 initiative, Federal Decree Law No. 60 of 2023 was issued by the Government of UAE amending certain provisions of Federal Decree Law No. 47 of 2022 (UAE CT Law), to include the concepts of 'Top-up Tax' and 'MNE' under the scope of UAE CT Law.

FTA Issues Return Filing Guide

The FTA published a guide which provides general guidance on completing and filing CT returns The guide is designed to provide general guidance on filing and completing a Corporate Tax Return.

It provides an overview of the information to provide in response to each field in the Tax Return in the order in which they normally appear. This guide is intended to be read in conjunction with the Corporate Tax Law, the Implementing Decisions and other relevant guidance published by the FTA.

FTA Issues Guide on Real Estate Investment For Natural Persons

The FTA published a CT Guide on real estate investment for natural persons. This guide is designed to provide general guidance to natural persons that derive Real Estate Investment income. It focuses specifically on the application of Cabinet Decision No. 49 of 2023 which excludes from Corporate Tax the Real Estate Investment income derived by a natural person where the specified conditions are met.

Cabinet Decision No. 49 of 2023 defines Real Estate Investment as any investment activity conducted by a natural person related directly or indirectly to the sale, leasing, sub-leasing, and renting of land or real estate property in the UAE that is not conducted, or does not require to be conducted, through a licence from a Licensing Authority. The guide features a range of illustrations and provides detailed breakdowns of the conditions/ criteria for exclusion of investment.

ECONOMIC SUBSTANCE RETURN

MOF Announces Cabinet Decision No.98

The Ministry of Finance (MOF) has recently announced that as per Cabinet Decision No. 98 of 2024 (Decision), Economic Substance Regulations (ESR) under the provisions of earlier Cabinet Decision No. 57 of 2020 shall not be applicable for financial years ended after 31 December 2022.

The Decision specifies that:

- ESR is applicable to Licensees and Exempted Licensees for financial years beginning from 1 January 2019 and ending on or before 31 December 2022.
- Any administrative penalties levied on entities for financial years ending after 31 December 2022 shall be cancelled. In the event of any payments made by entities with respect to such penalties, the same shall be refunded

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