



Monthly Updates on Tax

UNITED ARAB EMIRATES

UAE provides criteria and conditions for reporting e-Commerce obligations.

Ministerial decision No. 26 of 2023 has been issued on the criteria and conditions for electronic commerce for purpose keeping records of supplies made along with the release of a public clarification document 'VATP033' by the FTA to clarify the amendment to Emirates wise reporting.

Article 72 of UAE VAT executive regulations was amended to clarify which taxable persons fall out the general rule to report and keep records of e-commerce transactions according to the Emirate in which these supplies are received.

FTA has provided the following clarifications in the amendments:

Qualifying registrant

- ▶ Qualifying registrants - Taxable persons making taxable supplies of goods and services through electronic commerce which exceed AED 100 million over a calendar year. These registrants are required to report supplies made through e-commerce in box 1 of the VAT return and keep the relevant supporting evidence.
- ▶ How and when can a taxable person notify FTA after exceeding the AED 100 million threshold.
- ▶ Revised Reporting Mechanism for Qualifying Registrants and timelines to be followed.

Reporting e-commerce supplies

- ▶ The criteria for the supply of goods or services which are to be considered as being supplied through Electronic Commerce Medium.
- ▶ The factors to be considered to determine the Emirate for reporting goods or services.

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**Reporting e-commerce unique supplies**

- ▶ Undisclosed Agent Agreement - When the name of the supplier of the relevant goods or services is not disclosed by the E-commerce medium.
- ▶ Incidental supplies - Activities that support online transactions, such as payment systems, logistics for the delivery of goods and other similar platform services.



UAE'S MOF ANNOUNCES DECISION ON DETERMINATION OF TAX RESIDENCY

On 1st of mar 2022, The UAE's Ministry of Finance issued Ministerial Decision No.27 of 2023 on implementation of certain provisions of Cabinet Decision No. 85 of 2022 on Determination of Tax residency. This decision gives more clarity for individuals or legal entities if they may be considered tax resident of UAE.

This Decision provides the following conditions in respect to the criteria of being determined a Tax resident:

- ▶ **Article 2** - Dealing with (i) Usual or Primary Place of Residence and (ii) Centre of Financial and Personal Interests in the State
- ▶ **Article 5** – Dealing with Permanent Place of residence
- ▶ **Article 6** - Dealing with Employment:

Other Articles:

- ▶ The Decision also clarifies manner of calculation of thresholds of 90 days / 180 days.
- ▶ The Decision also clarifies exclusion of days from the calculation of thresholds which arise due to exceptional circumstances.

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VAT HEALTH CHECK

VAT health check is a complete VAT compliance review of the company and are crucial in considering if any Voluntary Disclosures are required to correct errors and significantly decrease the potential liability which would have been greater if the error was not declared to FTA.



Effective 1st January 2023, an addition of Article 79bis Statute of limitation in UAE VAT Law gives Federal Tax Authority (FTA) another 4 years to conduct tax audit, if same has been informed by FTA before the expiration of the 5 years from the end of relevant tax period.

FTA PREPARES LAUNCH OF 'MUWAFQA PACKAGE' FOR SMES

The “Muwafaq” package is a project that offers a set of privileges to small and medium-sized enterprises (SMEs) in the UAE, The package provides Innovative solutions that help businesses comply with taxation, organize accounting records and financial statements, and register for corporate tax through service-providing offices in the country, such as “Tasheel” and “Amer.”

The package aims to improve SME's compliance regarding tax law, comply with tax procedures and prioritize them. FTA would be providing them innovative solutions to comply with taxation, access to tax accounting programs, and other advantages for SME's improve them as a company.

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UAE PASS FEATURE TO EMARATAX PLATFORM

The FTA has announced UAE pass feature to the Emaratax platform for registrants to use in all the procedures and services on the platform.

UAE pass feature was launched in collaboration with relevant authorities, and designed to meet the highest standards of security, confidentiality, and accuracy of information and procedures, giving user's quick access to the portal from their mobile phone's without setting up new username or password.

[Click here for detailed guide](#) – UAE pass feature.



This can include various information and documents such as transactions list in prescribed format of FTA, reconciliations of vat return with the financials, sample documents for transaction, proof of exports, etc. which the FTA gives 5 working days to provide for the Tax Audit.

A company must follow a checklist to review their compliance with the VAT law, like asking themselves questions such:

- ▶ Are we keeping the record of all the transactions in such a way that can be used for prescribed format suggested by FTA?
- ▶ Are we updating all the changes on a regular basis in the registration documents provided to FTA?
- ▶ Are keeping records of missing stock, expired stock, normal loss, abnormal loss etc.?
- ▶ Are we applying correct VAT rates on the supplies made by the company?

A brief overview of the VAT health check process would include:

- ▶ Complete understanding of the business and legal structure of all the entities and review of same in line with the VAT registration records.
- ▶ Review of the stock movement details kept by the taxable person.
- ▶ Review of the vat returns filed and check if those match with the financial records of the company.
- ▶ Advise on the record keeping and vat workings requirements in the same format as suggested by FTA.

Premier Brains can assist businesses in getting ready for tax audit and we designed our 'VAT health check' services in such a way that it covers all the aspects of VAT compliance and helps in identifying non-compliances before FTA audit and take required corrective action to be fully compliant with the law.

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OECD AND OTHER INTERNATIONAL ORGANIZATIONS

The Forum on Tax Administration (FTA) of the Organization for Economic Cooperation and Development (OECD) has published its "Manual on the Handling of Multilateral Mutual Agreement Procedures and Advance pricing Agreements" (manual), which is a part of enhancing tax certainty of the FTA. [Read it here](#)

A report on the proposal relating to International Corporate Tax Reforms (Reforms) was issued by the International Monetary Fund (IMF). [Read it here](#)

TAX GROUPING UNDER UAE CORPORATE TAX ("CT") LAW

UAE Corporate tax (CT) law becomes effective from financial years commencing on or after 1 June 2023 allows the business groups having multiple companies to form 'tax group' and treat it as 'single taxpayer' with the most common advantage being the ease of the reporting, consolidated income statement which would merge the profitable and loss-making operations, coupled with reduction in compliance cost.

A set of key conditions need be considered by companies while forming a Tax group under the UAE Corporate Tax law with the important one's being that all group members need to be a Tax resident and there needs to be a parent-subsidary relationship.

Apart from the key conditions, Companies must also conduct a deliberation of certain rules about Tax groups as it will now be considered as a 'Single Taxpayer' post formation, the parent is held responsible for undertaking compliance obligation of the group, basically how the Tax Group will be treated.

Keeping the above in mind, Companies can carry a Cost-benefit analysis or provide a change in holding structure before electing to form a Tax group.

[click here for detailed guide](#)



The Organization for Economic Cooperation and Development (OECD) released a working paper on the design of presumptive tax regimes. This paper does not represent the official views of either the OECD or its member countries but tackles the construction of presumptive tax regimes also sometimes referred to as simplified tax regimes. [Read it here](#)

The Organization for Economic Cooperation and Development (OECD) has updates on Pillar Two: The organization released its 'Agreed Administrative Guidance on the Global Anti-Base Erosion Model Rules (Pillar Two)' (Guidance). [Read it here](#)

KINGDOM OF SAUDI ARABIA

KSA proposes amendments to KSA VAT Law

Kingdom of Saudi Arabia – Zakat, Tax and Customs authority (ZATCA) Public consultation on the proposed amendments to Valued added tax (VAT) law. for the timeline of 12th Feb 2023 to 12th March 2023

ZATCA aims to achieve the following by amending and adding new provisions to the VAT law:

- ▶ Amending the percentage of penalty relating to late submission of VAT Return and reducing the penalty for late payment currently imposed in the Law.
- ▶ Imposing a minimum and maximum limit to the failure of VAT return submission in case of a refundable or zero-rated VAT Return and the inclusion of a provision in case of repetition.
- ▶ Imposing a maximum limit on the calculation of the late payment penalty.
- ▶ Amending the late payment penalty for persons that unjustly recover VAT from persons eligible for recovery.
- ▶ Adding new provisions to authorize ZATCA to seize taxpayer funds in case final tax debts are not settled.

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ZATCA implements “Clearance within Two Hours” at Customs Ports

With the the aim of transforming the Kingdom into a global logistics hub and supporting trade facilities by 2030, The Zakat, Tax and Customs Authority (ZATCA) announced the start of the implementation of the 'Clearance within Two Hours' initiative in all its land, sea and air customs ports.

The announcement was made by in the presence of H.E. the Governor, Eng. Suhail bin Mohammed Abanmi, and representatives of the clearance organizations from the relevant authorities in conjunction of ZATCA's celebration of International Customs Day (ICD)

H.E. stated that ZATCA's goal in implementing this Initiative is to realize positive outcomes that go beyond facilitating and increasing the flexibility of customs operations a raising performance and productivity indicators across all customs ports. The emphasis was on launching initiatives and developing clearance procedures increasing the quality and performance of custom operations by collaborating with custom partner and enhancing cooperation with all local, national, and international public and private entities.

ZATCA aims to achieve an effective work mechanism in line with the best standards and practice and believes the key enabler for realizing ZATCA's strategy is human capital providing the basis for creativity, innovation, and excellence.

ZATCA's Academy is committed on enhancing and developing the skills and knowledge of its employees through specialized programs for all areas of customs activities.

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QATAR

Amendments to Income Tax law

On 2nd February 2023, Qatar published Law No. 11 of 2022 (Amendments) to Income Tax law No. 24 of 2018 in the Official Gazette.

According to the Amendment, Natural/Legal persons who were not subject to the Income tax law No. 24 of 2018, are now considered within the scope of the Income Tax Law on a tax-exempt basis.

Key Highlights of Law No. 11 of 2022 (Amendments) to Income Tax law No. 24 of 2018 :

Global minimum tax rate of 15%

- ▶ Considering the implementation of the Pillar 2 solution of the Global Anti Base Erosion Model Rules (Globe) of the OECD and G-20, the New Tax Law shall include Minimum Global Tax. The application of Global Minimum Tax shall be covered by the amended Executive Regulations to the New Tax Law. The amendments shall include measures to achieve a minimum effective tax rate of 15% for in-scope entities.

Income Tax Scope:

Change of certain types of foreign income as taxable

- ▶ These will include income generated from real estate, immovable property, dividends, royalties, interest, and technical service fees provided such categories of income are not related to a foreign permanent establishment of a Qatari Project.
- ▶ A new article specifies that dividends paid to a Qatari project for its businesses outside Qatar shall not be subject to tax in Qatar provided the same business results were taxed in the foreign country.

Tax exempt status for private associations and foundations, private charitable organizations, and private foundations of public interest

- ▶ The new Tax Law No. (11) of 2022 have brought private associations and foundations, private charitable organizations, and private foundations of public interest within the scope of the Tax Law as exempt entities which were previously excluded from scope of income tax. These entities are expected to comply with tax obligations such as tax registration, filing of tax returns, etc.

New Definitions Introduced

- ▶ The amendments have introduced new and amended definitions such as “person”, “project”, “Qatari project”, “foreign project”, “business”, “permanent establishment”, “immovable properties”, “dividends”, “interest”, “technical fees”, “perfect competition”, “foreign tax”, “actual place of administration”, etc. which helps in clarification on new provisions in amendments and old provisions in prior Tax law.

Reporting obligations

Economic Substance Requirement (ESR)

- ▶ A new article introduced a new requirement for entities meeting certain criteria to submit a report to the GTA requirement. Entities not meeting the criteria or failing to report the proper ESR files to the GTA will be considered as a non-performing core activities in the State of Qatar and be denied the issuance of the tax residency certificate.
- ▶ According to Article 24 of the Tax Law, the cases where the economic substance requirement is not complied with by the entities under obligation are penalized an amount equal to 15% of their net income.

Ultimate Beneficial Ownership (UBO)

- ▶ A new article introduced a requirement for companies and other taxpayers to submit upon request all the information about the direct and ultimate beneficial owners to the GTA.



Other changes

Changes to residency criteria

- ▶ Any individual holding Qatari Nationality is now considered as resident in the State of Qatar.
- ▶ Companies /other forms of taxpayers incorporated in the state of Qatar are considered resident as long as the actual and effective place of management and administration is in the state.

Changes to the Anti-Avoidance rules

- ▶ According to the new tax law, GTA has more rights to challenge any arrangements with an intention to avoid payment of tax and apply the necessary tax adjustment accordingly.

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