



GCC Tax & Regulatory Communique **February 2024**



www.fame.ae

+971 52 6559480

hemang@fame.ae



UAE Tax and Regulatory updates

FTA publishes a VAT Public Clarification on use of SWIFT messages in the FS sector for input tax recovery

On 5 February 2024, the Federal Tax Authority (FTA) in the United Arab Emirates (UAE) published VAT Public Clarification-VATP036, regarding the acceptability of SWIFT messages for the purposes of the VAT documentation requirements and to support input tax recovery. The key highlights are as follows:-

- UAE Financial Institutions are not required to issue a tax invoice to themselves in respect of interbank services received from a non-resident bank and for which such SWIFT Communication has been received.
- Therefore, for the purposes of input tax recovery, a SWIFT message is accepted as sufficient documentary evidence, provided it contains information to establish the particulars of the supply.

UAE has been declared as non-harmful with respect to Corporate tax treatment of free zones

The UAE's Free Zone regime with 0% Corporate Tax rate has successfully passed OECD's "harmful tax practice" tests. The Forum on Harmful Tax Practices (FHTP) released new conclusions on preferential tax regimes, finding that the **UAE's Free Zone regime is not harmful**.

The UAE has been removed from FATF Grey list

In a decision announced on 23rd February 2024, **the Financial Action Task Force ("FATF") has removed the UAE from its "grey" watchlist**. The UAE has been on the grey list since its inclusion on 4 March 2022. This major accomplishment represents a crucial step for the UAE, solidifying its status as a prominent financial hub protecting financial integrity and providing a safe and open place to do business. This achievement is bigger than just regulatory adherence, as it also elevates the nation's global financial reputation. Its removal from the grey list signifies a significant triumph, paving the way for a more open and secure future.



FTA has released decision no.3 of 2024 stating the Timeline for Corporate Tax Registration

On 28 February 2024, FTA has released decision no.3 of 2024 stating the Timeline for Registration of Taxable Persons for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses and its amendments. The key highlights of the decisions are outlined below: -

- 1 For tax Registration of **Resident Juridical Persons that are incorporated or established or recognized before March 1, 2024**, the timeline has been prescribed based on the month of issue of license.
- 2 For **resident juridical persons that are incorporated, established or recognized on or after 1 March 2024, including Free Zone Persons** - 3 months from the date of incorporation, establishment or recognition.
- 3 A judicial person that is **incorporated, established or recognized under the applicable legislation of a foreign jurisdiction that is effectively managed and controlled in the UAE** - 3 months from the end of the Financial Year of the person.

Please refer to our separate communication in this regard for further details.





KSA Tax and Regulatory updates

ZATCA guidelines for taxation of software payments under the domestic Income Tax Law

On 4 February 2024, the Zakat, Tax and Customs Authority (ZATCA) released guidelines on the tax treatment of 29 types of software payments under the domestic Income Tax Law of the Kingdom of Saudi Arabia (KSA). These guidelines broadly confirm :-

- **Payments to non-residents for mere software usage or distribution rights, without the ability to modify or reproduce the software, are considered commercial profits rather than royalties.** However, caution is advised when businesses purchase rights to use software for multiple users, as payments facilitating software reproduction and installation are categorized as royalties and subject to WHT.

Tax Rules for Regional Headquarters

KSA reveals long-awaited rules for Income Tax Exemption, paving the way for attractive opportunities in setting up Regional Head Quarter (RHQ) in the Kingdom which states that RHQ meeting the qualification criteria shall be eligible to enjoy the following tax incentives:-

- **Zero percent (0%) income tax on the qualifying income.**
- **Zero percent (0%) Withholding Tax “WHT” on the payment made by the RHQ to non-residents on payments of dividends, payments to related parties and payments to third parties for services necessary for the RHQ’s activities.**
- RHQs shall fulfill all the Economic Substance requirements, a few of them are stated below:-
 - The RHQ must have a **valid license issued by the Ministry of Investment**, and not engage in activities other than those activities that are within the scope of this license.
 - The RHQ must have **appropriate assets, including a suitable building to carry out its activities in Saudi Arabia**, including managing the activities of the RHQ such as **holding Board of Directors meetings** .
 - The RHQ must also **meet operational expenses in KSA** needed for carrying out its activities.
 - The RHQ **must generate revenues from eligible activities in KSA** and **it must have at least one director residing in KSA.**
 - The RHQ must have a **sufficient number of full-time employees during the tax year**, commensurate with the activities of the RHQ and **must have requisite qualifications and skill necessary to perform their tasks and responsibilities.**

- RHQs needs to comply with below :-
 - The RHQ must **comply with the Transfer Pricing** by laws issued by the General Authority for Zakat and Tax Board and any amendments to it, and must **ensure that all transactions with its related persons are conducted at arm's length.**
 - RHQ is require to **file an annual report, using a prescribed form provided by ZATCA** for the purpose of **verifying compliance with the economic substance requirements** along with tax and zakat returns.
 - RHQ must **maintain separate accounts for the Non – eligible activities.** The allocation of income to eligible activities shall take place as if these are independent from the other activities of RHQ.





International Tax updates

Cyprus tax authorities issue revised thresholds for transfer pricing documentation

On 1 February 2024, the Tax Department issued revised thresholds relating to taxpayers' obligation to prepare a Cyprus Local File for transactions falling within the ambit of intercompany transactions. The key highlights are:-

- From €750k to €5m for connected transactions falling under the category "Financing"
- From €750k to €1m for all other categories of connected transactions (i.e., "Goods," "Services," "Royalties and Other Intangibles" and "Other").

The increase of the threshold is effective for the tax year 2022.

UAE-Kuwait agreement on avoiding double taxation enhances economic integration

On 11 February 2024, an agreement was signed by Kuwait and the UAE today to avoid double taxation on income and capital taxes and to prevent tax evasion and avoidance. This agreement is part of the process of economic and financial integration and free movement of capital between the UAE and Kuwait.

OECD Amount B Optional simplified and streamlined approach to baseline distribution activities

On 19 February 2024 the OECD Inclusive Framework (IF) published the Pillar One Amount B Report (Report). This Report provides guidance on an **optional application** of a simplified and streamlined approach (S&S Approach) to baseline marketing and distribution activities (BMDA). The key highlights are:-

- The S&S Approach – formerly known as Amount B – is aimed at approximating an arm's length outcome for in-scope BMDA to enhance compliance and efficiently resolve disputes.
- Amount B will apply to the following 'qualifying transactions':
 - **Buy-sell marketing and distribution transactions** where the distributor purchases goods from another group entity for wholesale distribution to third parties; and
 - **Sales agency and commissionaire transactions** where the entity contributes to the wholesale distribution of goods by another group entity to third parties.
- **No minimum revenue threshold** is applicable for the S&S Approach.
- Jurisdictions can choose to apply the Amount B approach for in-scope transactions of tested parties in their jurisdictions for **fiscal years starting on or after 1 January 2025**.

- The transactional net margin method (**TNMM**) – in principle – chosen as the most appropriate method and net profit indicator.
- The S&S Approach provides a pricing framework whereby a 3-step process determines a **Return on Sales (RoS)** for in-scope distributors. The arm's length remuneration for BMDA of a taxpayer under the S&S Approach can be determined through a **pricing matrix by assessing the (i) net operating asset intensity, (ii) operating expense intensity, and (iii) industry group.**
- The return provided in the pricing matrix will be considered acceptable with a range of plus or minus 0.5%. Tax administrations should use the RoS percentage derived from the pricing matrix to adjust the margin of the controlled transaction when the margin reported by a relevant taxpayer falls outside the range.
- The Report indicates that the analysis supporting the Amount B ranges and the operating expense cap-and-collar rates will be updated every five years (unless interim updates are considered necessary) and the financial data and other datapoints will be updated annually.

Belgium's is proposing to introduce mandatory e-invoicing from 1 January 2026

Belgium is proposing to introduce mandatory electronic invoicing for domestic business-to-business transactions. **The entry into force of the new rules is foreseen as 1 January 2026. The proposals await official approval from the European Union (EU) and may undergo modification before they come into effect.** This law does not address mandatory electronic reporting and it does not apply to business-to-government (B2G) or business to consumer (B2C) transactions.

Singapore Budget 2024–Introduction of Refundable Investment Credit and additional concessionary tax rate tier on various incentives

Singapore announced the introduction of the Refundable Investment Credit (RIC) to encourage sizeable investments that bring substantive economic activities to Singapore in key economic sectors and new growth areas, such as :-

- Investing in new productive capacity
- Expanding or establishing the scope of activities in digital services, professional services and supply chain management
- Expanding or establishing headquarter activities or Centers of Excellence
- Setting up or expanding commodity trading firms' activities
- Carrying out research and development (R&D) and innovation activities
- Implementing solutions with decarbonization objectives

Both the RIC and the additional concessionary tax-rate tier are expected to have significant impact on companies' existing and future investment in Singapore.





Contact Us

www.fame.ae

 +971 52 6559480

 hemang@fame.ae

Address

Office No. 405, Office Court Building, Opposite to Oud Metha Metro Station,
Dubai, P.O Box – 103904, UAE



CA Nirav Shah
Director - FAME Advisory DMCC

Disclaimer

Please note that our views mentioned above are based on current prevailing regulatory regime in UAE and refers specifically to Federal Decree Law No. 47 of 2022. Our views or advise does not cover implications under any other laws or regulations that may govern the situation and are limited to the taxability consequences in UAE alone. For any other implications, we would recommend to obtain specific advice in that connection.