GCC Tax & Regulatory Communique May 2024

UAE Tax and Regulatory updates

FTA Issued Guide on Investment Funds and Investment Managers

On 3 May 2024, the Federal Tax Authority ('FTA') published a Corporate Tax (CIT) Guide on Investment Funds and Investment Managers (CTGIFM1). This guide addresses the tax treatment of Qualifying Investment Funds (QIFs) and Real Estate Investment Trusts (REITs), both potentially eligible for a CIT exemption under UAE law. The key highlights of the guide are outlined below:-

- **QIFs and REITs to qualify for a CIT exemption, they must meet several rigorous regulatory and asset management conditions.**
- An **investment fund business needs to register with the FTA** and obtain a **Tax Registration Number (TRN) for getting corporate tax exemption in the UAE.** The application can be made to the FTA upon meeting the relevant conditions for investment fund exemption.
- **Investment funds and managers** must comply with tax regulations, **maintain accurate records, and fulfill reporting requirements** to ensure they meet the conditions necessary for retaining their tax-exempt status.

FTA Issued Guide on Free Zone Persons

On 20 May 2024, the FTA has finally released the much-awaited CT guide for Free Zone entities. This guide offers comprehensive guidance and clarity on various technical aspects for entities conducting business in a Free Zone in the UAE. It is designed to be read alongside the relevant articles of the UAE Corporate Tax Law, implementing decisions, and other guidance published by the FTA. The key highlights of the Guide are outlined below: -

- In case of Qualifying Income derived from transactions between Free Zone Persons, the seller may obtain **a written statement or undertaking from the purchaser** affirming their role as a Beneficial Recipient and their intention to utilize the services or goods for their free zone business.
- **Losses related to Qualifying Income cannot be used to offset Taxable Income,** transferred, or carried forward. Further, QFZPs cannot transfer or receive Tax Losses from other Taxable Persons.
- If an **ancillary activity is conducted independently of the main Qualifying Activity, it will not be considered a Qualifying Activity.**
- A **QFZP is not required to prepare separate Financial Statements for any of its branches.**

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

FTA Issued VAT Public clarification(VATP037)

On 13 May 2024, the FTA published a new Public Clarification (VATP037) to replace the previous VAT Public Clarification (VATP031) on the Value Added Tax (VAT) treatment of directorship services provided by a Natural Person. The key highlights are outlined below:-

- It states that **exclusion of director services from the qualification of "supply of services for UAE VAT purposes" can extend to services performed as a member of a committee derived from the same board on which the director serves.**
- The new Public Clarification also uses an example to emphasize that only the services performed in the formal capacity as director can be outside the scope of UAE VAT. Services rendered by a **third-party natural person who is not a director during the meetings of a board of directors or any committee derived therefrom shall be considered as a supply of services for VAT purposes** and will be taxable subject to meeting other conditions.

FTA Issued VAT Public clarification(VATP038)

On 31 May , the FTA published VAT Public Clarification (VATP038) regarding the VAT treatment of manpower and visa facilitation services. The key highlights are outlined below:-

- **Manpower services** generally refer to the processes involved in identifying, recruiting, and providing employees to another entity. The employer (supplier) is responsible for fulfilling all employment obligations, including payment of salaries and benefits, as well as supervising and controlling the employees' work . **The consideration for the supply of manpower services, on which VAT should be accounted, includes the full amount received by the employer (supplier) from the other entity (customer).** As a result, the guidance clarifies that **the payment of salary directly to an employee does not, in itself, automatically exclude the services from being classified as a supply of manpower services.**
- **Visa facilitation services** refer to administrative assistance provided to facilitate the employment visa process for individuals hired by another entity. In this case, **the consideration for VAT purposes is the amount charged for the facilitation services.** This could include the recharge of expenses such as typing fees, medical tests, and the issuance of employee Emirates IDs. The value of the supply of visa facilitation services excludes the employees' salary, annual flight allowance, and any other monetary benefits, as these are the obligations of the other entity (customer).

VAT refund for foreign businesses in the UAE

The Reclaim window for qualifying non-United Arab Emirates (UAE) established businesses to submit a refund claim for VAT in the United Arab Emirates (UAE) under the Business Visitor Refund scheme opened as of 1 March 2024 for the calendar year 2023. **During the period of 1 March 2024 until 31 August 2024, the FTA will accept refund applications for the UAE VAT refund for the Foreign Business scheme.**

KSA Tax and Regulatory updates

Saudi Arabia announces Integration Phase Wave 11 of e-invoicing

The Zakat, Tax and Customs Authority (ZATCA) announced the criteria for the Electronic invoicing (E-invoicing) Integration Phase Wave 11 participants.The key highlights are outlined below:-

- As per the announcement, **VAT-registered taxpayers that have an annual taxable revenue (taxable supplies) exceeding SAR 15 Million during the calendar year 2022 or 2023 are required to integrate their E-invoicing solutions with the FATOORA platform starting from 1 November 2024.**
- It is expected that ZATCA will send an official email to all taxpayers who have been selected as part of Wave 11 of the Integration phase of E-invoicing.

KSA Approved Amendments to the RETT Implementing Regulations

ZATCA has approved amendments to certain provisions of the Real Estate Transaction Tax (RETT) Implementing Regulations. These modifications, initially open for public consultation on 5 December 2023, have now been officially enacted. The key highlights are outlined below:-

Expanded Exemption for Real Estate Investment Funds-

- Extending the exemption to funds for income generation/leasing, not just those for development and sale.
- Removal of the restriction on real estate transfer timing, allowing transfers at any point for eligibility.

New Provision regarding Ownership Percentage Change -

- Change in ownership due to public offering of company shares or fund units no longer violates ownership percentage conditions post-exemption application.

Amendments have been made regarding Transaction Date and Tax Due Date Determination for Build-Own-Operate-Transfer (BOOT) Contracts-

- The transaction date is now defined as the date of actual ownership or possession transfer to the transferee (Article 4).
- RETT is due within 30 days of the actual ownership or possession transfer to the transferee (Article 4B).

KSA introduction of Unilateral Advance Pricing Agreements

On 19 May 2024, ZATCA publicized the launch of the Unilateral Advance Pricing Agreements (APA) process. This development stems from the recent amendments to the Transfer Pricing Bylaws. The key highlights are outlined below:-

- **Related party transaction value threshold:** The transaction value with the related party must be at least SAR 100 million.
- **Application timing:** A complete application must be submitted a **minimum of 12 months before the start of the first fiscal year** covered by the agreement.

International Tax updates

Guidance on the Implementation of Country-by-Country Reporting

The OECD/G20 Inclusive Framework on BEPS has agreed additional guidance clarifying how to report in Table 1 of a Country-by-Country (CbC) report payments received from other constituent entities. The guidance ensures a consistent treatment of payments in the payer and recipient jurisdictions, and ensures consistency between the published guidance on CbC reporting and the Pillar Two guidance published in December 2023.

FAME ADVISORY

Fiji and Moldova join the Inclusive Framework on BEPS

Fiji and Moldova join international efforts against tax evasion and avoidance by becoming new members of the OECD/G20 Inclusive Framework on BEPS. Through their membership, the two countries have also committed to addressing the tax challenges arising from the digitalization of the economy by participating in the Two-Pillar Solution to reform the international taxation rules and ensure that multinational enterprises pay a fair share of tax wherever they operate.

UAE and Qatar to avoid Double Taxation

The UAE and Qatar have signed an agreement to avoid double taxation and prevent fiscal evasion of income taxes. This agreement contributes to strengthening the economic and trade relations between the two countries and provides full protection for companies and individuals from direct and indirect double taxation.

Belgium further aligns Pillar Two legislation with OECD's Agreed Administrative Guida

On 2 May 2024, Belgian Parliament approved a bill containing various tax measures including specific amendments to the Belgian Pillar Two legislation, Belgium's Pillar Two legislation included a Qualified Domestic Minimum Top-up Tax (QDMTT), an Income Inclusion Rule (IIR) and an Undertaxed Profits Rule (UTPR). Mainly, these amendments aim to correct certain unintended implementation errors, transpose certain of the OECD's Agreed Administrative Guidelines published in the course of 2023 and establish a legal framework for a system of Pillar Two advance tax prepayments as well as certain (additional) reporting obligations to facilitate the collection of IIR and/or UTPR taxes.

Contact Us

Suite 405, Office Court Building,
Oud Metha Road Bur Dubai,
P.O. Box 103904, Dubai, UAE

CA Nirav Shah
Director - FAME Advisory DMCC