GCC Tax & Regulatory Communique August 2024

UAE Tax and Regulatory Updates

Fee Refunds for Private Clarification Requests

The UAE Federal Tax Authority (FTA) issued Decision No. 5 of 2024, establishing the conditions for refunding fees paid for private clarification requests. Effective from August 1, 2024, this decision aims to enhance transparency and fairness in the FTA's processes. The decision stipulates that the FTA will refund the fee for a private clarification request under the following circumstances:

- The request is **withdrawn by the applicant within two business days of submission.**
- The request is **submitted by a non-registered person** and does not pertain to tax registration.
- The applicant is **subject to a tax audit at the time of the request.**

- The request relates to procedures following an FTA decision.
- The request duplicates another submission by the same applicant on the same subject.
- The request concerns a subject under review for legislative amendment in coordination with the Ministry of Finance (MoF).

FTA Guide on Determination of Taxable Income

FTA has released a Guide (CTGDTIJ) to provide general guidance on determination to Taxable Persons for determining their Taxable Income and calculating their Corporate Tax Payable under the Corporate Tax Law. Following are the key highlights of the guidance:

- **Income recognized in the statement of comprehensive income -** If an **amount** of income is not recognised in the income statement, but is **reflected** in the **statement of comprehensive income** in the Financial Statements, then such income **may need to be taken into account in the determination of Taxable Income.**
- **Other marketing expenditure -** The **50% deduction rule does not apply to other marketing expenditure, such as advertising, online promotion, attending trade shows or direct marketing campaigns,** which is deductible in line with the general principles of the Corporate Tax Law, subject to being wholly and exclusively incurred for Business purposes.
- **Calculation of EBITDA for the purposes of General Interest Deduction Limitation Rule -** For calculating EBITDA, **accounting Income** shall be **adjusted** as per **Article 20 of the Corporate Tax Law, except General Interest Deduction Limitation Rule and Tax Loss provisions.**
- **Foreign Tax Credit: Foreign Tax Credit** is **allowed** even if **foreign tax is paid** in a **jurisdiction** with which the **UAE does not have a Double Taxation Agreement.**

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

KSA Tax and Regulatory Updates

KSA approved a new Investment Law

On 13 August 2024, The Kingdom of Saudi Arabia (KSA) has released Investment Law by replacing the earlier 2000 Foreign Investment Law. This Law aims to develop and enhance the competitiveness of the investment environment in the Kingdom, contribute to economic development, and create job opportunities by providing an attractive investment climate, in accordance with relevant laws. Following are the key highlights of the Law:

- Guaranteeing **equal treatment for local and foreign investors.**
- Protection of his intellectual property and trade secrets.
- Facilitation of administrative procedures and provision of necessary support and assistance by the competent authority.
- The competent authority shall issue and update the list of excluded activities.
- The **foreign investor shall, prior to engaging in any investment activity included in the list of excluded activities, apply to the Ministry for approval.**
- The Minister **shall issue the Regulations within 180 days from the date of publication** of this Law.

ZATCA releases third edition of TP Guidelines

The Zakat, Tax and Customs Authority (ZATCA) has recently released the third edition of its Transfer Pricing (TP) Guidelines. Following are the key highlights:

- **Advance Pricing Agreements (APAs) -** One of the most notable additions in the third edition is a dedicated section on Advance Pricing Agreements (APAs). APAs are preemptive agreements between taxpayers and tax authorities on the pricing of future transactions between related entities. The inclusion of detailed procedures and scope for APAs in the guidelines is a significant step.
- **Transaction Price Adjustments in Accounting Records -** The new guidelines also address the procedures for making transaction price adjustments directly in the accounting records.
- **Exceptions for Group Companies -** In an effort to streamline compliance requirements, the third edition of the TP Guidelines introduces specific exceptions for group companies. Under the new rules, group companies that file a single zakat return in accordance with the Zakat Collection Ordinance are exempt from the transfer pricing documentation requirements.

KSA Launches Public Consultation on Proposed Amendments to VAT Regulations

On August 28th, 2024, **KSA ZATCA initiated a public consultation on proposed amendments to the Value Added Tax (VAT) regulations.** The proposed amendments cover several key areas, including tax groupings, deregistration processes, taxable supplies, reverse charges, and input taxes. Notably, the amendments address related parties' transactions and the fair value of such transactions, along with adjustments to deemed supplies and e-commerce provisions. A significant focus of the proposed changes is on tax group regulations. New restrictions are proposed for VAT group members, especially those licensed in special zones, free zones, or customs zones, preventing them from joining another VAT group simultaneously. Additionally, the process for forming a tax group now requires a more r igorous documentation process, including a formal agreement between group members and a declaration of compliance with registration conditions. **The consultation document, available in Arabic, is open to the public until 17 September 2024.**

Oman Tax and Regulatory Updates

Oman announced Capital Market Incentives Program

On August 11, 2024, the Oman Financial Services Authority has announced a new Capital Market Incentives Program (CMIP) aimed at "enhancing financing options for companies in Oman". Following are the key highlights:

- Formation of new Public Joint Stock Companies and the conversion of private and family-owned businesses with a market value exceeding 10 million Omani Rial (OMR10m) into Public Joint Stock Companies.
- Incentives for the SMEs listed on a new MSX submarket "Promising Companies Market" targeting private and family-owned companies, SMEs, and emerging companies (start-ups) with a market value exceeding OMR 500,000.
- Incentives for conversion of LLCs to Closed Joint Stock Companies

International Tax Updates

Mauritius and UAE signed a CEPA

Mauritius and the United Arab Emirates (UAE) signed a Comprehensive Economic Partnership Agreement (CEPA). Once in force and effective, the agreement will increase investment in sectors such as manufacturing and tourism, foster the exchange of goods and services between both countries, and enhance communication between the respective business communities. It is also the first agreement of its kind signed by the UAE with an African country.

Chile and UAE signed a CEPA

On 1 August 2024, Chile and the United Arab Emirates (UAE) signed a Comprehensive Economic Partnership Agreement (CEPA) between them. Once in force, the agreement will lift and reduce tariffs, thereby liberalizing market access. This CEPA is the first of its kind that Chile has signed with a Middle Eastern country, specifically a Gulf state. Additionally, the agreement will pave the way for future investment negotiations between the two countries.

Kuwait plans to apply Business Profit Tax to all companies and signs UAE treaty

Kuwait, which has developed a reputation as an economic laggard among wealthy Gulf states, is undertaking an overhaul of its tax regime to meet global standards and reduce reliance on oil revenues. **Kuwait plans to introduce a 15 percent business profits tax on all companies.** Presently, **the tax is applied only on non-Gulf foreign companies and on non-Gulf foreign corporate shareholders in a GCC company doing business in Kuwait.**

Simultaneously, **Kuwait has signed a double taxation treaty with the UAE** – its first such treaty with another Gulf state – in preparation for the anticipated impact of these changes.

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Argentina implements withholding-tax exemption for electronic payments

on 20 August 2024 ,the Argentine Tax Authorities,, implemented General Resolution No. 5554 to eliminate the value-added tax (VAT) and income tax withholding regimes applicable to payments made to sellers through various electronic systems (e.g., debit and credit cards, purchase cards, electronic wallets and similar payment processors). General Resolution No. 5554 nullifies the resolutions that established the VAT and income tax withholding regimes and will apply to payments made from 1 September 2024.

Bahrain introduces new tax for Multinational Enterprises

On 02 September 2024, **Bahrain announced the introduction of a Domestic Minimum Top-up Tax (DMTT) for multinational enterprises (MNEs) which will come into effect from January 1, 2025.** Under the domestic minimum top-up tax (DMTT), multinational companies will pay a minimum 15 per cent tax on the profits generated in each country where they operate. The new tax, which is in line with the Organization for Economic Co-operation and Development (OECD) guidelines, is aimed at promoting global economic fairness and transparency.

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