GCC TAX ROUND-UP
Q4 2023

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INTRODUCTION

2023 was a momentous year for tax in the GCC. There have been some fundamental changes to the tax systems in some areas and the announcement of future changes in others.

Most significant, of course has been the introduction of Corporate Tax in the UAE. Implementation of this new tax is now fully underway and most businesses in the UAE have started their first tax year. The transition to Corporate Tax has been helped by the volume of good quality guidance from the UAE's Federal Tax Authority. There are still some points to be clarified but the guidance so far has been clear, comprehensive, and helpful.

It's not just the UAE that is introducing new taxes. During 2023, Kuwait announced that it is making preparations for the introduction of a Business Profit Tax and Bahrain announced that it will be introducing corporate income tax.

One of the trends that has developed across the GCC during the year has been the influence of the OECD's BEPS initiative and in particular, the Pillar 2 proposals. The intention of the BEPS initiative is to create a fairer global tax environment, by combatting tax abuse and ensuring that multinational businesses pay a fair rate of tax, of at least 15%. The trend will likely continue in 2024. All of the GCC countries are now part of the OECD's inclusive framework and their respective tax systems will gradually be adapted and developed to accommodate the Pillar 2 principles and the minimum tax rate. The proposed new taxes in Kuwait and Bahrain are examples of this trend.

The influence of transfer pricing has also continued to grow across the region in 2023. This is also linked to the growing importance of the OECD initiatives and transfer pricing plays an integral part in the BEPS measures. This is another trend that will continue, and transfer pricing compliance will grow in importance for many businesses.

This edition of our GCC Tax Round-up includes a look back at some of the important events and changes of 2023, together with a summary of the new changes in quarter four. We hope you enjoy it.

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KINGDOM OF

BAHRAIN

EXCISE TAX

NATIONAL BUREAU FOR REVENUE (NBR) RELEASES DIGITAL STAMPS SCHEME MANUAL FOR IMPORTERS AND LOCAL MANUFACTURERS

The Digital Stamps Scheme is a supervisory system to track excise goods from the manufacturing stage to the point of consumption to limit smuggling and reduce the possibility of Excise evasion.

The manual aims to provide importers and local manufacturers with an overview of the Kingdom of Bahrain's excise rules and procedures for the Digital Stamps Scheme. It also guides the Digital Stamps Scheme online portal and the process of ordering and tracking digital stamps from the perspective of an importer of excise products.

TRADE OF EXCISE GOODS WITHOUT DIGITAL STAMPS IS NOT PERMITTED

The NBR has announced that starting from 24 December 2023, the final phase of implementing the Digital Stamps Scheme on some excise goods of tobacco products will be enforced. This means that all products available for possession, trade, supply, or sale in the local markets must have valid and activated digital stamps.

VALUE ADDED TAX

NBR VAT INVOICE COMPLIANCE WORKSHOP

NBR has held an interactive workshop on VAT invoice compliance, as part of its commitment to raise VAT payers' awareness of VAT-related topics. The workshop was attended by more than 80 VAT taxpayers.

NBR ON-SITE INSPECTIONS

The National Bureau for Revenue (NBR) conducted 329 inspection visits during the month of October and November 2023, in a purge on Value Added Tax (VAT) evaders. NBR has taken legal action against businesses that are proven to have committed tax evasion, which may be punishable with imprisonment and a fine for the tax evaded.

These inspections are launched as part of NBR's ongoing efforts for the protection of consumer rights, enhancing the level of business compliance and ensuring the effective implementation of VAT and excise.

ECONOMIC SUBSTANCE REQUIREMENTS

ECONOMIC SUBSTANCE REQUIREMENTS (ESR) FILING WINDOW

The MOIC issued a circular dated 9 November 2023 confirming that the filing window for entities carrying out any of the listed relevant entities in the ES guidelines for fiscal year 2022, will be open from 8 November 2023 to 23 November 2023. MOIC has also confirmed that entities that fail to submit the ESR returns within the filing deadline will be subject to penalties.

OTHER TAX MATTERS

TWO PERCENT TAX ON EXPAT REMITTANCES

Parliament has unanimously approved legislation to tax expatriate remittances. It will be now reviewed and voted on by the Shura Council. The proposed law stipulates that the tax shall be paid during the transfer process at authorised financial institutions, with the National Bureau of Revenue collecting this tax from those institutions.

KUWAIT

MAJOR HIGHLIGHTS FROM 2023

INTRODUCTION OF ULTIMATE BENEFICIAL OWNERSHIP ('UBO') REGULATIONS

In January 2023, the Ministry of Commerce and Industry of Kuwait ("MOCI") issued Ministerial Resolution No.4 of 2023 ("the resolution") setting out the obligation to identify and report the UBO for all entities registered in the State of Kuwait, unless specifically exempted.

The resolution, effective from 1 April 2023, provides that entities that fall within its scope must collect and maintain certain information about to their beneficial owners, shareholders, and nominee directors. Entities owned by the Kuwait government as well as entities subject to the Central Market Authority as per Law No.7 of 2010 as amended are specifically excluded under the resolution. In-scope entities were required to report the required information within 60 days from the effective date mentioned above.

Kuwait Foundation for Advancement of Sciences ('KFAS')

As a background, Kuwaiti Shareholding Companies ("KSC") are required to contribute 1% of their annual net profit after certain tax adjustments to KFAS as per the provisions of the Amiri Decree issued in 1976. However, in recent years, there have been instances where some KSCs failed to make the required contributions to KFAS and the lack of penalties or codified sanctions against such defaulters resulted in the MOCI to putting measures in place to ensure KSCs comply with their KFAS obligations.

During August 2023, the following instructions were issued by the MOCI to KSCs:

- The Articles of Association of the KSC should be amended to include an article providing for the mandatory deduction of 1% of the net profit to be contributed towards the KFAS. Failure to do so could result in the MOCI rejecting any approval requests by a KSC to hold an extraordinary general assembly meeting.

- KSCs must submit an annual clearance certificate issued by the KFAS confirming the payment of the annual KFAS amount due.

QUARTER 4 NEWS

On 15 November 2023, the OECD announced that Kuwait has joined the OECD/G20 Inclusive Framework on BEPS, and has committed to participate in the Two-Pillar Solution as part of its international efforts against tax avoidance and to ensure that multinational enterprises pay a fair share of tax wherever they operate.

The above entails the implementation of the BEPS package of 15 measures to tackle tax avoidance, improve the coherence of international tax rules and ensuring a more transparent tax environment. In the short term, Kuwait is required to implement the minimum standards and be subject to peer reviews against each of the standards to ensure accurate and timely implementation:

- Countering harmful tax practices, taking into account transparency and substance (Action 5);
- Prevention of tax treaty abuse (Action 6);
- Country-by-country reporting (Action 13); and
- Improving the effectiveness of dispute resolution (Action 14).

The Two-Pillar Solution consists of Pillar One and Pillar Two. Broadly speaking, Pillar One is designed to ensure a fairer distribution of taxing rights among jurisdictions over the largest and most profitable multinational enterprises, whereas Pillar Two introduces a global minimum corporate tax rate set at 15% and applies to companies that exceed an annual revenue threshold of EUR 750 million.

During a recent parliamentary discussion, the Ministry of Finance confirmed that it is currently studying policy options for Kuwait to collect any taxes payable by Kuwait multinational enterprises in scope for Pillar Two. It is expected that several legislative changes will be introduced to help Kuwait meet the minimum standards set out above.

BUSINESS PROFIT TAX PROPOSAL

Based on recent media coverage, the Kuwait government is discussing a tax proposal ("the Proposal") to introduce a Business Profit Tax ("BPT") at a rate of 15% on all legal entities operating in Kuwait. The Proposal is largely driven by the impact that Kuwait is likely to face because of the Pillar Two framework of the OECD.

According to media reports, BPT is expected to be applied in the following two phases:

- Phase 1: Effective 1 January 2025, BPT is to apply to large multinational enterprises with annual turnover exceeding €750 million.
- Phase 2: Effective 1 January 2026, BPT is to apply to all other legal persons. At this stage, the Proposal suggests the elimination of all existing direct/corporate taxes in Kuwait. The Proposal also suggests exempting small businesses from BPT, but no threshold has been announced yet.

The Ministry of Finance has not yet made any formal announcement regarding BPT. More details about the Proposal may be released in the coming months either through parliamentary debates or directly by the Ministry of Finance. Meanwhile, a special governmental committee has been set up to discuss the Proposal. Companies doing business in Kuwait should monitor the tax development in Kuwait closely.

KUWAIT – QATAR DOUBLE TAXATION AVOIDANCE AGREEMENT

On 29 November 2023, the Qatari Cabinet approved the draft agreement between Qatar and Kuwait for the avoidance of double taxation.

The tax treaty, which still must be ratified by the two countries, aims to increase tax cooperation and create a more secure investment environment. Generally, tax treaties provide favourable tax treatment in substitution of domestic tax laws in each country.

For Kuwait, this is the second agreement of its kind with a GCC state with the first being the tax treaty with UAE which also is pending ratification in Kuwait.

OMAN

TAX HIGHLIGHTS

Recent Updates from the Oman Tax Authority

A news flash on the Oman Tax Authority (OTA) on their official website, confirms that "Suspension of withholding tax on dividends and interest is effective from December 29, 2022." The suspension will remain effective until revoked. This is a much-awaited clarification provided by the OTA.

Country By Country Report (CBCR) filings are due by 31 December 2023 - Recently, the OTA has advised that the AEOI (Automatic Exchange of Information) system is currently unavailable due to the ongoing rebuilding of a new system. The timeline for filings is therefore extended until the AEOI portal becomes available. Entities will be required to re-register once the portal is available. No penalties will be imposed for a delay in submission in the current circumstances.

Amendments have been made to the Oman VAT Executive Regulation to specify three additional cases of VAT refunds as provided below:

- Tax paid by charities that do not aim for profit and fame.
- Tax paid when importing from a non-taxable person more than the tax due.
- The Re-export of imported goods on which the tax has been imposed.

VAT guides were also issued by the OTA in English on capital assets, commercial agencies and electronic commerce and imports & exports.

STATE OF QATAR

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DHAREEBA APPLICATION LAUNCHED

The General Tax Authority (GTA) has formally launched the Dhareeba application as part of its initiatives and plans for digital transformation, enhancing the calibre of its offerings, and delivering cutting-edge digital services that connect the GTA with taxpayers 24/7.

The Dhareeba application's launch, according to HE President of the GTA, Ahmed bin Eisa Al Mohannadi, is a significant milestone that translates the country's wise leadership's directives coming from Amir H H Sheikh Tamim bin Hamad Al Thani. Support for digital transformation in the State of Qatar is crucial in fostering a digital society where people actively participate in the development of a knowledge-based economy.

The new application integrates state-of-the-art digital services that expedite tax procedures with increased speed, precision, and transparency, thereby supporting the GTA's efforts to advance the tax system. HE President of the GTA added that the Dhareeba application enables users to easily monitor their requests, quickly connect with the appropriate GTA departments for questions and support and tracks their requests directly.

The new application intends to make a variety of services easily accessible to users of iOS and Android smartphones by facilitating public access to information made available through the Dhareeba Tax Portal. At its core, the application is user-centric and has a sophisticated interface. It prioritizes speed, ease of use, and procedural clarity to give users quick and simple access to its extensive portfolio of services. It provides a service that enables taxpayers to inform the GTA of their intention to export, re-export, or receive excisable goods is another way the application expands its capability. It also makes it easier to obtain instalment payments, reimburse unlawfully collected amounts, be exempt from financial penalties, and get tax residence certificates.

The system also provides a simplified tax return submission service for qualified businesses, a payment service, a refund request service for damaged or lost excise goods, and an intermediate excise goods refund service are among the noteworthy features.

A presentation at the inauguration which took place at the GTA Headquarters gave guests a thorough rundown of the Dhareeba application's features and essential services.

The Dhareeba Tax Portal (dhareeba.gov.qa), which links the General Tax Authority with its partners from the pertinent government agencies and taxpayers, is extended by this application.

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KINGDOM OF SAUDI ARABIA

CHANGES TO GSTC RULES

New working rules for the Zakat, Tax, and Customs Committees (GSTC) have been approved, through the Royal Order No. 25711 dated 23 October 2023. These rules are enforceable as of the order's publication in the Official Gazette (Umm Al Qura) on 27 October 2023, replacing the previous rules under Royal Decree No. 26040.

E-INVOICING PHASE II – WAVE 9

On 17 November 2023, the Zakat, Tax and Customs Authority (ZATCA) determined the criteria for selecting the targeted taxpayers in the ninth wave of the integration phase of E-invoicing. It clarified that this wave included all taxpayers whose revenues were subject to VAT exceeding SAR 30 million during 2021 or 2022. VAT-registered taxpayers meeting the criteria should integrate their e-invoicing solutions with ZATCA's platform (FATOORA) starting from 1 June 2024.

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

ZATCA has noted that the launch of Phase Two of e-invoicing is part of the economic development and digital transformation taking place in the Kingdom and is a continuation of the success story that began with Phase One of the implementation of e-invoicing, which achieved positive results, most notably raising the level of consumer protection in the Kingdom. ZATCA also praised the great awareness of taxpayers and the rapidity of the response in the implementation of Phase One (Generation phase) of the project.

Phase One of E-invoicing was introduced on 4 December 2021 and obliges taxpayers subject to the E-invoicing Regulation to stop generating handwritten invoices or computer-generated invoices through text editing software or spreadsheet software. Taxpayers were required to make sure that there was a technical solution for E-invoicing that was compatible with the requirements and capable of generating and storing e-invoices with the required fields, including the QR code and other requirements.

PUBLIC CONSULTATION ON REAL ESTATE TRANSACTION TAX (RETT)

On 5 December 2023, ZATCA presented a draft amendment RETT for Public Consultation.
The consultation period runs from 5 December 2023 to 20 December 2023. Key points in the draft:

- Amending the exception regarding the disposal of real estate by a partner in a company to include a former partner.
- Amending the exemption of the disposal of real estate that is transferred as an in-kind share to investment funds to include investment funds established to rent and not limiting the exemption to the establishment date.
- Providing more tax reliefs to investment funds and companies that will be listed or re-listed in the capital market, by not considering changes to the ownership structure due to the listing or re-listing as a revocation of the conditions.
- Determine the tax due date of the disposal of real estate for the (Build-Own-Operate-Transfer) projects (BOOT).

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EXEMPTION OF FINES INITIATIVE

On 28 December 2023 ZATCA announced an extension of the tax amnesty until 30 June 2024.

By this announcement ZATCA extends the initiative of exempting or abolishing fines and financial penalties imposed on taxpayers on account of a lapse in fulfilling procedural aspects related to Saudi Arabian taxes.

Taxes covered:

- Excise Tax
- Value Added Tax (VAT), including E-Invoicing
- Real Estate Transaction Tax (RETT)
- Withholding Tax (WHT)
- Corporate Income Tax (CIT)

The exemption has been extended for an additional period of 6 months, starting from 1 January 2024 until 30 June 2024. This is an extension of the initiative introduced in June 2022 (with an original validity period until 30 November 2022). This was subsequently extended until 31 May 2023 and again from 1 June 2023 to 31 December 2023.

ZATCA confirmed that the fines included under this initiative are:

- Late registration
- Late payment
- Late filing
- Amendment of VAT declarations
- Other financial fines imposed under Article 45 of the VAT Law

To benefit from the initiative, the taxpayer must:

- Obtain registration and discharge their prescribed obligations as per the respective tax legislation
- Pay all outstanding tax dues or submit a request for an instalment plan, which needs to be approved by ZATCA.

The extension of this initiative applies to the tax returns that were to be submitted before 1 January 2024.

A simplified guide has also been issued by ZATCA explaining the types of fines/penalties that will be covered with illustrative examples. It can be accessed through the ZATCA website.

UAE

CORPORATE TAX

The big news in the UAE for 2023 has been the introduction of corporate tax. Most businesses have now started their first tax year, as the tax applies to all financial years starting on or after 1 June 2023.

There are still some matters to be clarified but the FTA is supporting taxpayers through webinars, events and the publication of detailed guidance material.

The final quarter of 2024 has seen the publication of a number of these guides and some of the most recent and important publications are listed below.

Transfer Pricing Guide

The Transfer Pricing Guide provides a comprehensive and detailed analysis of the transfer pricing requirements under the UAE CT Law. The Guide provides simple yet effective examples that address general queries that arise in the course of the interpretation and application of relevant transfer pricing Articles of the UAE CT Law. It also provides key insights in respect of certain special cases where specific transfer pricing will apply.

Taxation of Foreign Source Income and Non-Resident Persons

The FTA has released guides on ‘Taxation of Foreign Source Income’ and ‘Taxation of Non-Resident Persons’ in the UAE. These guides provide a detailed analysis of the taxability of foreign source incomes and non-residents under the UAE CT Law. The Guides also provide examples that enable taxpayers to understand the implications under various diverse scenarios. The key aspects covered in the guides include:

- Which Taxable Persons are subject to tax on foreign source income?
- When is foreign source income taxable?
- Determining Taxable Income and Exempt Income in respect of foreign source income
- What is a Foreign Tax Credit, and how is it computed?
- Who is a Non-Resident Person for the UAE CT Law?
- What are the tax obligations on Non-Residents in the UAE?

Accounting Standards and Interaction with Corporate Tax

The guide on Accounting Standards provides guidance on the interplay between the principles of accounting and the requirements of the corporate tax. The Guide also provides an analysis of a series of accounting aspects that hold significant relevance for tax purposes. This includes aspects such as transitional adjustments, elections for realization basis of accounting, adjustments for business restructuring, and non-arms length transactions with related parties.

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THE KEY ASPECTS COVERED IN THE GUIDE INCLUDE:

- Preparation of Financial Statements
- The Cash Basis of Accounting
- The realisation basis of accounting
- Other adjustments for the computation of taxable income
- Adjustments under the transitional rules

GUIDE ON EXEMPT INCOME-DIVIDENDS & PARTICIPATION EXEMPTION

This provides general guidance on the participation exemption criteria and the qualifying conditions. The Guide also deals with the interplay of the exemption with other relevant provisions of the UAE CT Law. The key aspects covered in the Guide include:

- How Dividends and other profit distributions are defined?
- Which income (and related expenditure) from a Participation are exempt?
- Who is eligible for the exemption?
- How does the Participation Exemption operate?
- What are the related implications for Tax Groups?

TAXATION OF EXTRACTIVE AND NON-EXTRACTIVE NATURAL RESOURCE BUSINESSES

This guide provides guidance on the following aspects:

- Scope of the Corporate Tax exemption for Extractive Businesses and Non-Extractive Natural Resource Businesses.
- How the Corporate Tax rules apply to Extractive Businesses and Non-Extractive Natural Resource Businesses.
- How the Taxable Income of any other Business of an Extractive Business or Non-Extractive Natural Resource Business is determined.
- Compliance requirements for Extractive Businesses and Non-Extractive Natural Resource Businesses.

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TAXATION OF NATURAL PERSONS

This guide provides guidance on the following aspects:

- When does the Corporate Tax Law apply to natural persons?
- Calculation of Corporate Tax for natural persons.
- Interactions with other businesses.
- Corporate Tax compliance for natural persons.

NEW DECISIONS FOR FREEZONE RELIEF

The Ministry of Finance (MoF) issued Cabinet Decision no. 100 of 2023 and Ministerial Decision no 265 of 2023 for the purpose to administer the Free Zone Tax Relief. These decisions were issued as an outcome of the public consultation on freezone relief and have replaced the earlier decisions issued on this matter. The decisions outline the updated scope and list of the qualifying andexcluded activities along with enhanced substance-based requirements. The decisions includetwo additional activities within the realm of qualifying activities, eligible for freezone relief: 'Income derived from ownership or exploitation of Qualifying Intellectual Property' and 'Trading of Qualifying Commodities'.

OECD PILLAR TWO

The UAE recently published Federal Decree Law No. 60 of 2023 to incorporate enabling provisions for the implementation of the BEPS Pillar II recommendations, and the recovery of top-up tax within the existing UAE corporate tax framework. The regulation specifically states that a separate decision will be issued for the applicability, date of entry into force and the detailed mechanism for the computation & recovery of top-up taxes to ensure that multinational enterprises in UAE are subjected to a global minimum effective tax at 15%.

Whilst it appears that the UAE will not be implementing Pillar II recommendations until 2025, the MoF is committed to initiating a public consultation process in the first quarter of 2024 to seek industry inputs prior to finalizing its approach for implementation.

VALUE ADDED TAX

REVERSE CHARGE ON THE SALE OF ELECTRONIC DEVICES

On 25 August 2023, the Ministry of Finance announced the issuance of Cabinet Decision 91 of 2023 regarding the Application of the Reverse charge mechanism on Electronic Devices among Registered businesses in UAE. Subsequent to the issue of this Cabinet Decision, the Federal Tax Authority has issued VAT Public Clarification 'VATP034' to clarify the purpose of the updates in the legislation, the goods in scope and the practical implications of the compliance requirements introduced.

Registrants supplying Electronic Devices to other registrants who intend to use the Electronic Devices for resale or manufacturing, will not account for VAT on such supplies. The applicable Tax on such supplies will be accounted for under the reverse charge by the recipient of the goods.

If the requirements for the reverse charge mechanism are not met, the default rule of the supplier accounting for VAT will be followed. In such cases, where the recipient is registered, Input VAT recovery can be blocked.

The following terms have been defined in detail and along with examples in the VAT Public Clarification:

- Resell
- Producing or manufacturing
- Electronic devices
- Mobile phones and smartphones
- Tablets

Some of key transactions clarified in the VAT Public Clarification are summarized below:

If the supplier is registered for VAT and makes a direct or indirect export of Electronic Devices then the provision of Cabinet Decision No.91 will not apply. In other words, if the conditions for zero-rating are met, exports will not trigger any output tax to account for but will be reported as zero-rated supplies by the supplier.

A supply or movement of Electronic Devices from the UAE mainland to a Designated Zone will fall within the scope of Cabinet Decision No.91.

The scope of Cabinet Decision No. 91 is restricted to phones that operate through wireless transmission only and phones operating through physical means such as wire, or fibre optic cables fall outside the scope of Cabinet Decision No.91 of 2023 and the normal rules of VAT would apply.

Computer devices whether wireless or not will fall within the scope of Cabinet Decision No.91. Tablets are also included under the definition of Electronic Devices, whereas E-readers have been excluded.

Criteria to be followed in the Determination of Parts and Pieces of Electronic Devices

In the Cabinet Decision 91 of 2023 and VAT Public Clarification VATP034, Electronic Devices are defined as mobile phones, smartphones, computer devices, tablets and pieces and parts thereof.

To determine what will constitute 'pieces and parts of Electronic Devices', the Federal Tax Authority issued Ministerial Decision No.262 of 2023 and VAT Public Clarification 'VATP035' on the criteria to be followed in the determination of Parts and Pieces of Electronic Devices.

What will constitute pieces and parts of Electronic Devices?

- Pieces and parts that are normally used for the manufacturing or production of Electronic Devices and that are considered necessary for the normal operation of the Electronic Devices
- Pieces and Parts that are not normally used for the manufacturing or production of Electronic Devices, but are normally necessary for the operation of the Electronic Devices
- Pieces and Parts that are a replacement for the items in the first two categories.

What will not constitute pieces and parts of Electronic Devices?

- Pieces and Parts that enhance the functioning or enjoyment of Electronic Devices, but are not necessary for the Electronic Devices' operation or to activate their features.
- SIM cards or other external smart cards of the same nature or with the same purpose

Examples:

Pieces and parts of Electronic Devices	Not considered pieces and parts of Electronic Devices
Coils, capacitors, couplers, diodes, regulators, resistors, transistors, microchips and other such pieces and parts of smartphones, mobile phones and tablets	Smart Watch
Accelerometers, heart rate monitors, gyroscopes processors, etc. built into smart watches that are an extension of a smart phone or mobile phone or that can connect independently and directly to cellular networks	Computer mouse, monitor, printers, secondary storage devices/ external hard disks
CPU, RAM, hard drive, optical drive, network interface card of a computer	Crystals or gold leaves applied on certain smart phones or jewellery elements applied to Smart Watches
Chargers, battery packs, power cords	External speakers, phone covers, headphones and earphones, screen protectors, selfie sticks, device holders, power adapters, pencils for tablets, projectors, USB sticks, dongles

The Federal Tax Authority has issued a detailed clarification along with examples regarding what will constitute as pieces and parts of Electronic Devices.

TAX ASSESSMENT REVIEW REQUEST

On 30 September 2022, the Federal Tax Authority announced the Federal-Decree Law No.28 of 2022 on Tax Procedures ('New Law'). The New Law repealed the Federal Decree Law No.7 of 2017 on Tax Procedures with effect from 1 March 2023.

In the New Law, the Authority introduced Article 28 on Tax Assessment Review Request. Under this provision, taxpayers are allowed to make a tax assessment review request relating to tax assessments and administrative penalties.

The Federal Tax Authority announced through a post on social media that the new feature is now available for applicants to whom the FTA has issued a tax assessment decision.

Some of the key provisions in relation to tax assessment review are:

- The request for tax assessment review needs to be made within 40 business days from the date of receiving the tax assessment or penalty assessment.
- This request cannot be made if the taxpayer has already submitted a request for reconsideration.
- The taxpayer can submit their request 24 hours a day, seven days a week.
- The application should be emailed at assessmentreview@tax.gov.ae.
- The request must specify the reasons for submission.
- The Authority may take up to 45 business days to review the application and respond.
- Documents required to be submitted along with the application are:
    - Tax Assessment Notification
    - Administrative Penalty Assessment Notification
    - Audit Results Notification
    - Documentary proof to support the factual and legal grounds on which the request is based.

TAX AGENTS

The Federal Tax Authority has issued the following Decisions about eligibility conditions for a Tax Agent:

Decision No.14 of 2023 on Additional Conditions for a Juridical Person to be Eligible for Registration as a Tax Agent

A juridical person wishing to be registered as a Tax Agent and to be listed in the Register, must meet the following conditions:

- One of the partners or directors must be listed in the Tax Agents Register
- At least one natural person should be registered as a Tax Agent for every ten employees working in the tax field.

The above condition is in addition to the conditions provided in the Executive Regulation on Tax Procedures.
The Decision is effective from 1 December 2023.

DECISION NO. 15 OF 2023 PROFESSIONAL DEVELOPMENT REQUIREMENTS FOR NATURAL PERSON TAX AGENTS

A tax agent is required to complete the following number of hours of Structured Continuous Professional Development ('SCPD') related to technical tax programmes, per annum:

- 20 hours if registered either for Corporate Tax or Indirect Taxes.
- 30 hours if registered for both Corporate Tax or Indirect Taxes provided at least 15 hours of SCPD is related to each Corporate Tax or Indirect Taxes.

If this requirement is not met, the tax agent will be required to complete the uncompleted hours in the next year.

- The Authority will guide the types of programmes that may be considered as SCPD along with a list of accredited courses and course providers.
- The Authority will provide a form for keeping a record of hours spent on Structured and Unstructured Continuous Professional Development.
- Tax Agents will be required to complete the form and keep evidence of the hours spent on Structured and Unstructured Continuous Professional Development and provide them to the Authority as requested.

The Decision is effective from 1 January 2024.

STATUTE OF LIMITATION

The calendar year 2024 marks the fifth and final year for taxable persons to file voluntary disclosure applications in relation to any errors or omissions that took place in tax returns filed during the calendar year 2019.

Taxable persons are recommended to review their tax returns filed during 2019 and take appropriate action.

The statute of limitation will be extended by one year if the taxable person submits a voluntary disclosure in the fifth year.

EXCISE TAX

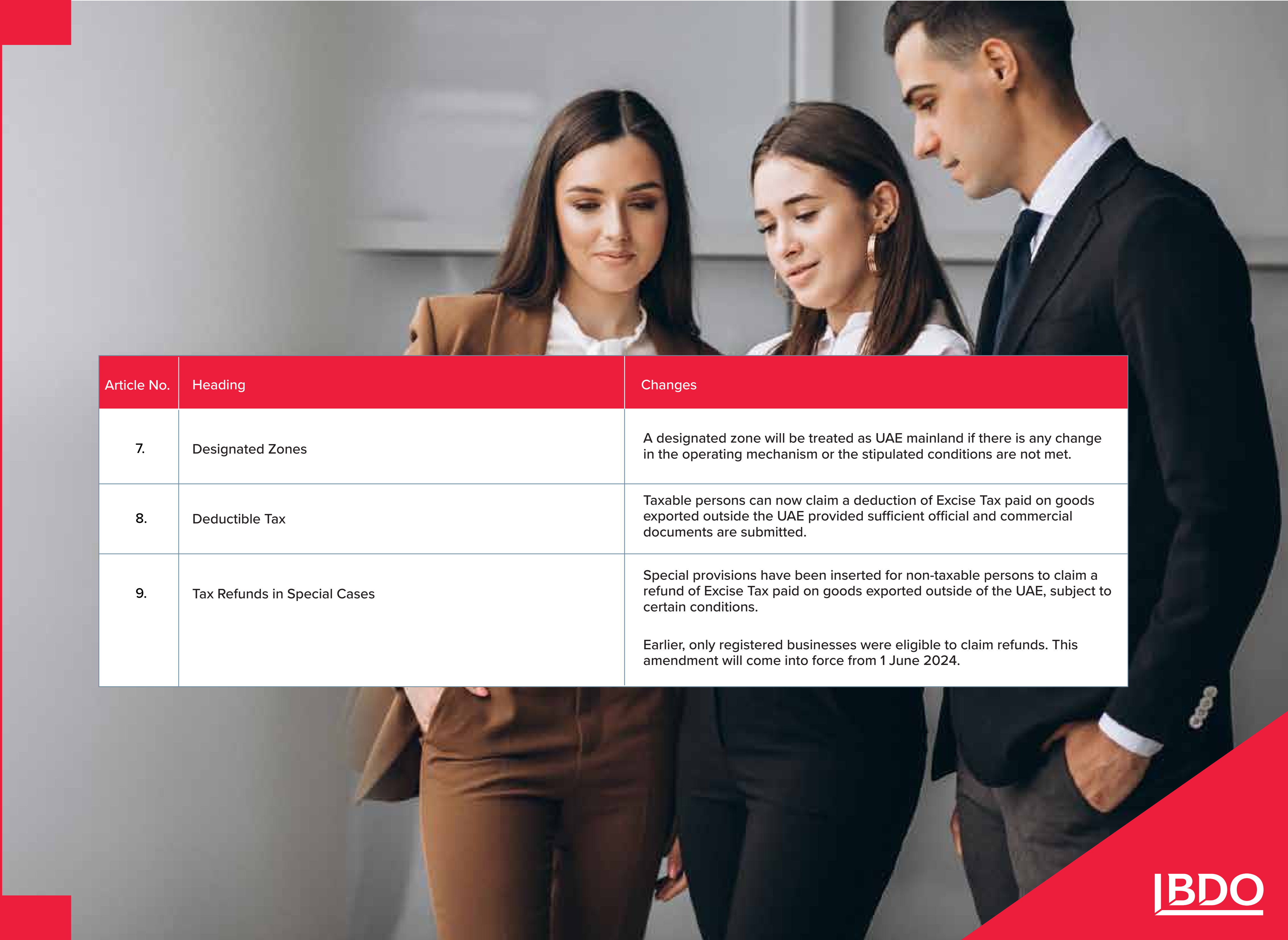
New Executive Regulations on Excise Tax

On 6 November 2023, the UAE Ministry of Finance announced the issue of Cabinet Decision No.108 of 2023 on the Executive Regulation ('New ER') of the Federal Decree-Law No.7 of 2017 on Excise Tax. The Cabinet Decision repeals and replaces the existing Executive Regulation with the Excise Tax with effect from 1 December 2023. Since the Excise Regulations went into force in 2017, this is the first significant modification to the regulations.

One of the key changes is that the benefit of claiming a refund of Excise Tax has now been extended to non-taxable persons on goods exported outside of the UAE.

The changes are listed below in the order in which they appear in the New ER. Please note we have not included minor changes to the wording that will not affect most taxpayers.

Article No.	Heading	Changes
1.	Definitions	The definitions for “official evidence”, “commercial evidence” and “shipping certificate” have been added. These definitions are similar to those set out in the UAE VAT Law and Regulations.
2.	Rejection of the Tax Registration Application	The definitions for “official evidence”, “commercial evidence” and “shipping certificate” have been added. These definitions are similar to those set out in the UAE VAT Law and Regulations.
3.	Tax Deregistration	The Authority may deregister a Registrant if he ceases to carry out the activities that trigger the registration liability. The deregistration will be effective from the day following the expiry of six months from the date he ceased to carry out the activities unless it is proven that the intent to carry out the activities persists. The Person may apply for registration even after deregistration when the Tax Registration conditions are met. Tax deregistration will not prevent the person from complying with the provision of the Excise Decree Law and Regulations.
4.	Stockpiling	In case of failure to maintain audited records, the Authority may consider the Person’s entire stock of Excise Goods as “excess” Excise Goods and leviable to tax.
5.	Release of Excise Goods for Consumption	Excise Goods will not be treated as released for consumption if there is a natural shortage in the quantity. For a shortage to be treated as “natural”, certain conditions need to be met. Excise Goods may be permanently destroyed after obtaining the Authority’s approval in addition to paragraph (a) of Clause 5 of Article 12.
6.	Exemption for Exported Excise Goods	The documents required for claiming an exemption have now been explicitly mentioned. The type and quantity of exported goods should match those mentioned on the export documents.



Article No.	Heading	Changes
7.	Designated Zones	A designated zone will be treated as UAE mainland if there is any change in the operating mechanism or the stipulated conditions are not met.
8.	Deductible Tax	Taxable persons can now claim a deduction of Excise Tax paid on goods exported outside the UAE provided sufficient official and commercial documents are submitted.
9.	Tax Refunds in Special Cases	Special provisions have been inserted for non-taxable persons to claim a refund of Excise Tax paid on goods exported outside of the UAE, subject to certain conditions. Earlier, only registered businesses were eligible to claim refunds. This amendment will come into force from 1 June 2024.

KEY CONTACT INFORMATION

BDO IN BAHRAIN

ALI JAWAD

17th Floor, Diplomat Commercial Office Tower, Manama, Kingdom of Bahrain

Email: **ali@bdo.bh**

Telephone: **+973 17 530 077**

www.bdo.bh

BDO IN KUWAIT

QAIS AL NISF

6th Floor, Al-Shaheed Tower, KhledBen Al Waleed Street, Kuwait City, Kuwait

Email: **qais.alnisf@bdo.com.kw**

Telephone: **+965 22 42 6999**

www.bdo.com.kw

BDO IN OMAN

BIPIN KAPUR

Suite No. 601 & 602, Penthouse, Beach One Building Way 2601, Shatti Al Qurum, Sultanate of Oman

Email: **bipin.kapur@bdo.com.om**

Telephone: **+968 2 495 5100**

www.bdo.com.om

BDO IN QATAR

GAVIN BROWN

38th Floor, Palm Tower (B), West Bay, Doha,State of Qatar

Email: **gavin.brown@bdo.com.qa**

Telephone: **+974 4434 9770**

www.bdo.com.qa

BDO IN SAUDI ARABIA

GIHAD AL AMRI

7th & 8th floor, Moon Tower, King Fahd Branch Road, Riyadh 21421, Kingdom of Saudi Arabia

Email: **g.alamri@bdoalamri.com**

Telephone: **+966 11 278 0608**

www.bdoalamri.com

BDO IN UNITED ARAB EMIRATES

SHIVENDRA JHA

23rd Floor, Burjuman Office Tower, Sheikh Khalifa Bin Zayed Road, Dubai, United Arab Emirates

Email: **shivendra.jha@bdo.ae**

Telephone: **+971 4 518 6666**

www.bdo.ae