GCC Tax Round-up

Q1 2023

BDO

Introduction

The first quarter of 2023 has brought many changes and reforms to tax in the region, suggesting that the year ahead will be a busy one. And with the introduction of corporate tax almost upon us, the UAE is all set for a momentous year.

In Qatar, important amendments to the Tax Law have been announced. The changes include the possibility of a global minimum tax rate being imposed, solutions for the digital economy, changes relating to foreign companies, and revised residency rules. Executive Regulations will be issued in due course to confirm how these changes will be implemented. The tax filing deadlines have also been extended.

New double tax treaties have been activated in Oman, and there are updates on excise tax and withholding tax.

In Bahrain, the transition period following the change in VAT rate has now come to an end. VAT on standard-rated supplies should now be charged at 10% in all cases. The VAT return format has been amended to reflect this change.

Tax in the UAE continues to move quickly with new guidance on a variety of topics and the continuing development of the EmaraTax portal. There is also an important change to the rules on voluntary declarations. Whilst these changes and updates are important, most activity in the Emirates continues to be around corporate tax where businesses are rushing to ensure they are ready before the start of their first tax year. At the time of this edition, the main Tax Decree-Law has been published but we are still awaiting the Cabinet Decisions that will provide the fine detail on how the tax will operate in practice.

In Kuwait, there are important new regulations – effective from 1 April 2023 - that require entities registered in the State of Kuwait to identify ultimate beneficial owners. In this edition, we also report on the initiative to reduce the cashflow impact of the Kuwait tax retention requirements.

We hope you enjoy reading this edition of the GCC Tax Round-up. Ramadan Kareem to all our readers!

Kingdom of Bahrain

Kingdom of Bahrain

Value Added Tax

End of VAT Transitional Period

As part of the announcement of the increase in VAT rate from 5% to 10%, effective from 1 January 2022, the National Bureau for Revenue ('NBR') published transitional rules for supplies made during the period from 1 January 2022 to 31 December 2022. During the transitional period, businesses could continue charging 5% VAT on their invoices subject to certain conditions. This allowed businesses to review their contracts and invoices, negotiate commercial terms, compute the financial impact, and make changes to the accounting systems.

The transitional period expired on 31 December 2022. Businesses are now required to revisit the VAT treatment previously applied, and to charge VAT at the standard rate of 10% from 1 January 2023, unless the supply is zero-rated or exempt.

NBR updates VAT return format

The NBR has updated the VAT return format to reflect the end of the transitional period. The new format does not include a field for reporting sales, procurements and adjustments subject to VAT at 5%. VAT payers who have to make disclosure will now be required to declare (at the time of VAT filing) that they have sales/procurements/adjustments subject to VAT at 5%.

Kingdom
of Bahrain

Excise Tax

Updated list of excise goods

The NBR has updated the list of excise goods.
The updated list can be accessed at https://www.nbr.gov.bh/publications/view/excise_goods_list

Expansion of Digital Stamp Scheme

The NBR has announced the expansion of the Digital Stamp Scheme in accordance with the NBR Chief Executive Decision No. (3) for the year 2023. This is regarding the implementation phases of the Digital Stamp Scheme for some excise goods of tobacco products including electronically heated tobacco products, jirak, chopped or pressed tobacco pipes, chopped or pressed tobacco for dokha, and chopped or pressed tobacco for cigarettes.

Kuwait

Ultimate Beneficial Ownership ('UBO') Regulations

During January 2023, the Ministry of Commerce and Industry of Kuwait ("the Ministry") issued Ministerial Resolution No. 4 of 2023 ("the Resolution") setting out an obligation for the identification of ultimate beneficial owners. The Resolution applies to all entities registered in the State of Kuwait, unless specifically exempted.

This development further helps Kuwait meet its obligations towards international standards of tax transparency, as well as anti-money laundering and terrorist financing measures. The Resolution requires entities registered in Kuwait (with certain exceptions) to collect and maintain certain information about their beneficial owners, shareholders, and nominee directors. The collected information will then need to be filed with the Ministry and/or any other regulatory authority.

Excluded Entities:

The Resolution excludes entities owned by the Kuwait government as well as entities subject to the Central Market Authority ("CMA") as per Law No.7 of 2010 as amended.

Effective Date & Reporting Deadlines:

The Resolution is effective from 1 April 2023 ("Effective Date"). In-scope entities are required to report the necessary beneficial owners', shareholders', and nominee directors' information within 60 days from the Effective Date, as well as upon incorporation or licence renewal.

The Ministry is expected to issue further guidance including the filing mechanism in the coming weeks.

Kuwait

Kuwait Direct Investment Promotion Authority - Tax Retention Procedures

Under Kuwait tax regulations, contract owners are required to retain 5% of the total contract value, or from each payment made to parties with whom they enter into a contract or transaction ("the Contracting Party"). The tax retentions should not be released until the payee obtains a Tax Retention Release Letter ("RRL") from the Ministry of Finance ("MOF"), which is often a lengthy process. The RRL is often issued to the payee after the payees file their tax declarations and complete the tax inspection and assessment process.

The Kuwait Direct Investment Promotion Authority ("KDIPA") has been working with the MOF on an initiative to reduce the cashflow impact resulting from the tax retention requirements. In this respect, the Kuwait Ministry of Finance ("MOF") finalised an internal Circular No. 8 of 2023 ("the Circular") dated 23 January 2023 to allow certain foreign investors to recover their tax retentions in a timely manner. The Circular applies only to KDIPA-licensed entities in Kuwait that are currently enjoying a valid income tax exemption.

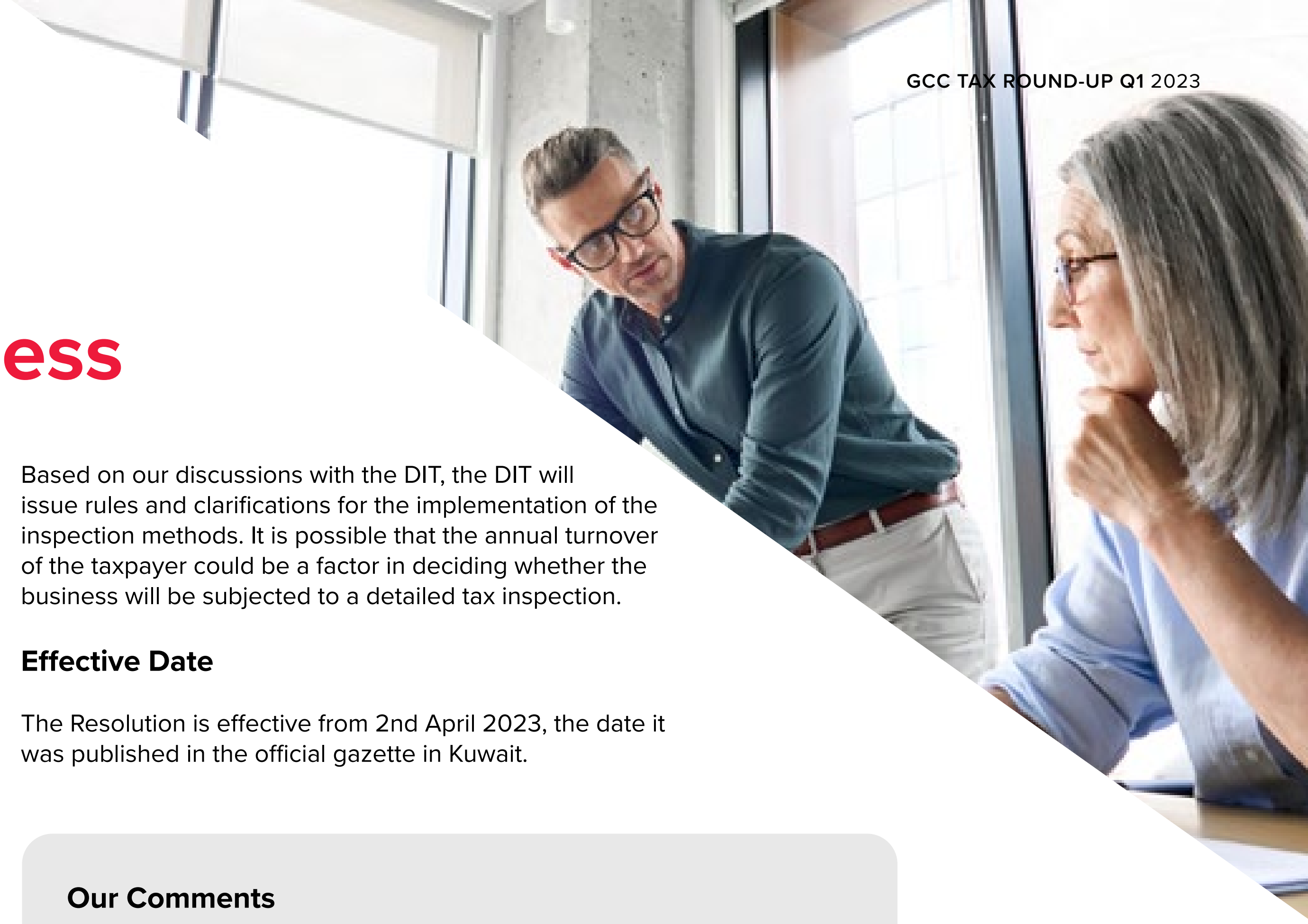
As per our discussion with MOF, the Circular permits certain licensed entities (as defined above) to recover 80% of tax retention suffered immediately following the filing of tax declaration, subject to meeting the following conditions:

- The entity must be licensed by KDIPA, and currently enjoy a valid income tax exemption.
- The entity must be registered with MOF.
- The entity must have filed its tax declaration before seeking release of tax retention.
- The entity must have no outstanding taxes.

We understand that the MOF will be issuing further instructions on the implementation aspect of the above circular.

Kuwait

Changes to the Tax Inspection Process



The MOF has issued Ministerial Resolution No. 24 of 2023 ("the Resolution") dated 27 March 2023, introducing rules for carrying out tax inspections (tax audits) on a sample basis. Currently, every tax declaration filed by a taxpayer is subject to a detailed tax inspection by the MOF. The Resolution essentially aims at speeding up the process of issuance of tax assessments and to reduce the backlog of unassessed tax years.

Scope

The Resolution applies to taxpayers subject to the following tax laws of Kuwait:

- Income Tax Decree No. 3 of 1955, as amended
- Income Tax Law for Divided Zone No. 23 of 1961
- National Labour Support Tax Law No. 19 of 2000
- Zakat Law No. 46 of 2006

Methodology

The Resolution lists the following four methods of inspection that can be followed by the Department of Inspection and Tax Claims ("DIT") to conclude an inspection and issue a tax assessment.

- Complete/detailed tax inspection
- Directed tax inspection
- Deemed profit tax inspection
- Acceptance of declarations (no inspection)

Based on our discussions with the DIT, the DIT will issue rules and clarifications for the implementation of the inspection methods. It is possible that the annual turnover of the taxpayer could be a factor in deciding whether the business will be subjected to a detailed tax inspection.

Effective Date

The Resolution is effective from 2nd April 2023, the date it was published in the official gazette in Kuwait.

Our Comments

The Resolution is expected for a much-needed uniformity in carrying out tax inspections on a systematic and timely basis. One of the biggest issues at present is the time lag between the filing of a tax declaration and the completion of the tax inspection and assessment process. This has often resulted in a delay in obtaining the Tax Retention Release Letters.

We expect the DIT to issue further instructions in the coming weeks including the procedures and criteria for implementing the tax inspection methods.

The Sultanate of Oman

The Sultanate of Oman

Tax Return Deadlines for Q1

The first quarter in Oman is a busy time on the tax front. Taxpayers in Oman with a December financial year-end are required to file a Corporate Income Tax return on or before 30 April 2023. This coincides with the due date to file the VAT return for Q1 2023. As the holy month of Ramadan also falls in the month of April 2023, taxpayers in Oman should plan their compliance timetable for the month of April 2023 well in advance.

Other Updates

- In November 2021, the Sultanate of Oman and The State of Qatar signed a Double Tax Treaty (DTT) that covers taxation on income and capital gains. It was the first-of-its-kind treaty signed by Oman with a GCC Member. This DTT was ratified by Oman officials in January 2022 by Royal Decree 4/2022. More recently, Qatar officials ratified a new DDT with Oman in November 2022 vide Emiri Decree No. 45 of 2022. This DTT came into effect from 1 January 2023.

- Oman has suspended withholding tax on interest paid outside Oman until further notice. This replaces an earlier suspension that was effective until December 2022.

- The Ministry of Tourism has reduced the Excise Tax rate on the import and manufacture of alcoholic beverages from 100 percent to 75 per cent. This change is effective from 1 January 2023.

- Manufacturers and importers of selective excisable products are now required to affix tax stamps from 1 February 2023 onwards, in a phased manner. The tax stamp is a digital stamp which is placed on selected products to monitor and track their movement from the factory to the point of consumption.

Qatar

Qatar

Amendment To The Qatar Tax Law

On 2 February 2023, Qatar published Law No. 11 of 2022 (the "Amendment") in the Official Gazette amending certain provisions of the Income Tax Law No. 24 of 2018 (the "Tax Law").

The details of these important changes will be issued by the General Tax Authority ("GTA") in Executive Regulations, yet to be issued. The main changes in the Amendment are as follows:

- The State of Qatar will impose a global minimum tax of 15% or more "based on excess profits" on affected Qatar-based companies in a manner consistent with international rules.
- The Global Base Erosion Rules – GloBE Rules have been developed as part of a solution to address the tax challenges of the digital economy. The Executive Regulations (to be issued) will provide details on the scope, conditions and procedures of the Global Minimum Tax.
- Certain types of income derived from abroad will now be subject to CIT. The amendment designates different types of income earned outside Qatar that is now subject to Qatari income tax. This includes income from immovable property located abroad, foreign dividends, royalties, interest and technical service fees, whereas these incomes are not attributable to a foreign permanent establishment ("PE") of a Qatari entity.
- Tax relief for foreign income: Under the new amendment, foreign tax related to income is taxable in Qatar, but only up to the corporate income tax limit payable in Qatar, and subject to certain conditions.
- A new criterion of Qatari nationality has been added. Every Qatari citizen is automatically considered to be a tax resident of Qatar. In addition, the tax residency criteria for natural persons, having "Centre of Vital interests" in Qatar has been abrogated.
- Private associations and institutions, private charitable organisations and institutions, and private foundations of public interest will now be required to comply with all tax obligations such as the preparation of audited financial statements and filing of income tax returns. However, these entities will be on a tax-exempt basis.
- New reporting requirements for Economic Substance Regulations (ESR), under which any "covered entity" that fulfils certain criteria, will be required to submit the report on the minimum indicators of its significant activity. Non-compliance will result in a significant penalty of 15% on the net income and other consequences. Details of the requirements are yet to be issued.
- Qatar-resident companies are required to report their beneficiaries to the GTA. The same obligations apply to trusts established under Qatari law, administered in Qatar, or trustees residing in Qatar.

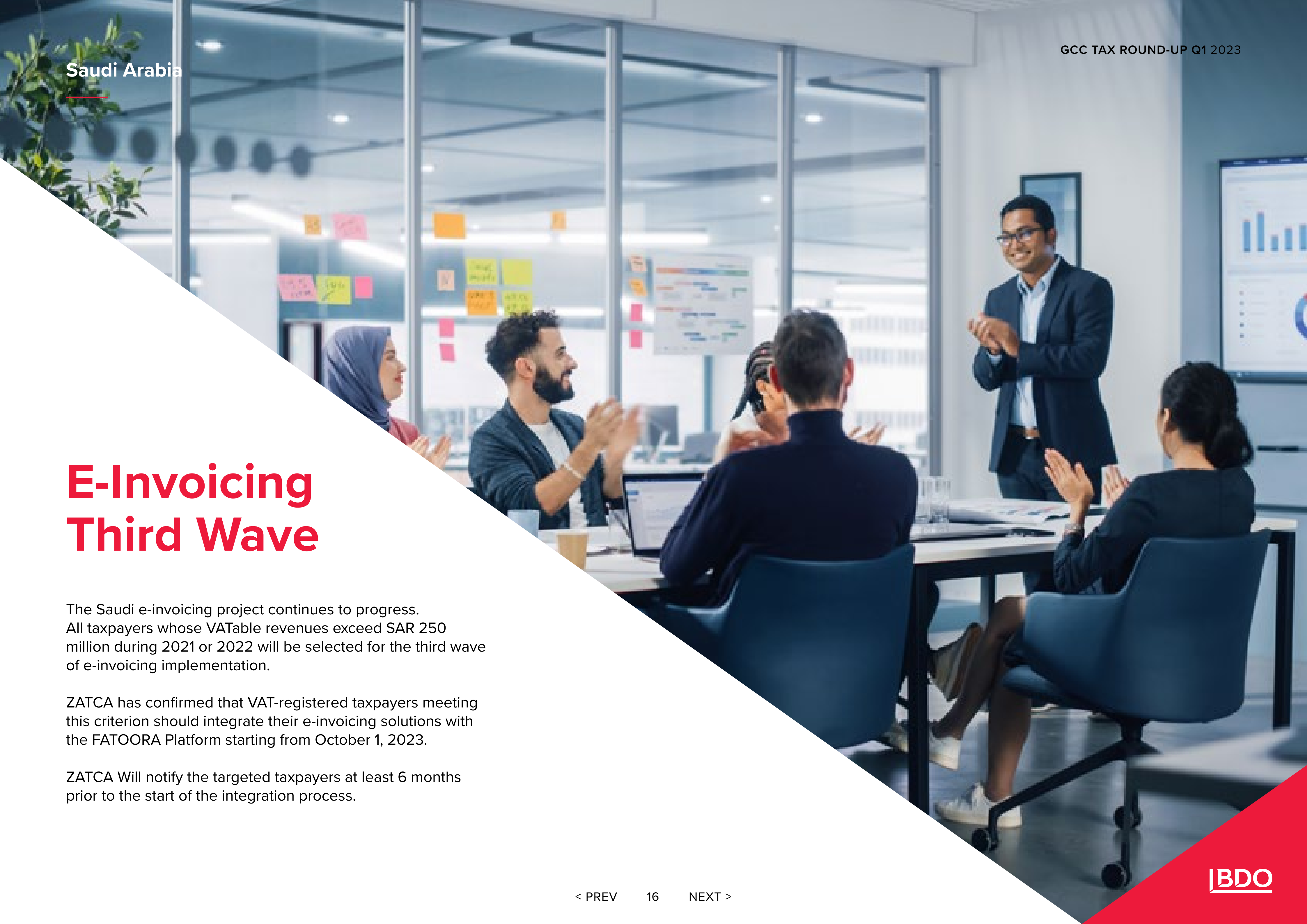
Tax Deadline Extended

The GTA has decided to extend the original filing deadline for tax returns for the taxable year 2022, for a period of one month. The deadline will now be May 31, 2023 instead of April 30, 2023.

The provisions of this circular do not apply to the following:

- Companies operating in the field of petroleum operations and petrochemical industries.
- Taxpayers that have different accounting periods for the taxable year defined in Article (1) of the Income Tax Law promulgated by Law (24) of 2018 and its amendments.

Kingdom of Saudi Arabia



E-Invoicing Third Wave

The Saudi e-invoicing project continues to progress. All taxpayers whose VATable revenues exceed SAR 250 million during 2021 or 2022 will be selected for the third wave of e-invoicing implementation.

ZATCA has confirmed that VAT-registered taxpayers meeting this criterion should integrate their e-invoicing solutions with the FATOORA Platform starting from October 1, 2023.

ZATCA Will notify the targeted taxpayers at least 6 months prior to the start of the integration process.

Saudi Arabia

Tax Governance

Both direct and indirect taxes are growing in most GCC countries. Saudi Arabia is no exception, with Corporate Income Tax, VAT, Excise Tax, Withholding Tax, Real Estate Transaction Tax, Zakat and Transfer Pricing. In addition, OECD BEPS and Pillar 1 & 2 measures are becoming increasingly important across the region.

Traditionally, CFOs in the region managed tax functions (historically considered low risk) through hybrid models i.e., the in-house Finance and Accounting Team supported by third party advisors when required. Going forward, faced with the changing tax landscape, many businesses are building on this, and are establishing 'Tax Governance' frameworks and building dedicated in-house Tax Functions, supported by various other in-house teams including Budgeting, Accounting, Business Finance, Business Controls and Internal Audit.

With substantial tax policy reforms and evolution all around, this is an inevitable step, and tax governance will be managed like any other financial and operational risk management function.

A quick snapshot of the changing landscape:

Themes	Past	Present & Future
Tax incidents	Nil or Minimal	Significant to substantial, going forward
Maturity of tax functions	Nil or minimal	Urgent need for expert-level knowledge to manage tax risks
Separate tax functions in organisations	Nil or minimal	Perhaps inevitable with the pace of tax reforms
Engagement with CXOs on tax matters	Nil or minimal	The pace of tax reforms needs to be apprised with CXOs and the audit committee, and tax governance will play an important role in overall risk management

Saudi Arabia

What is Tax Governance?

Like any other support team within the business, Tax Governance simply means having clearly defined and well-supported roles, policies and processes to aid and support decision-making as well as risk management. In essence, it is there to ensure the business is ‘getting the basics right’ in order to maximise compliance and minimise risk.

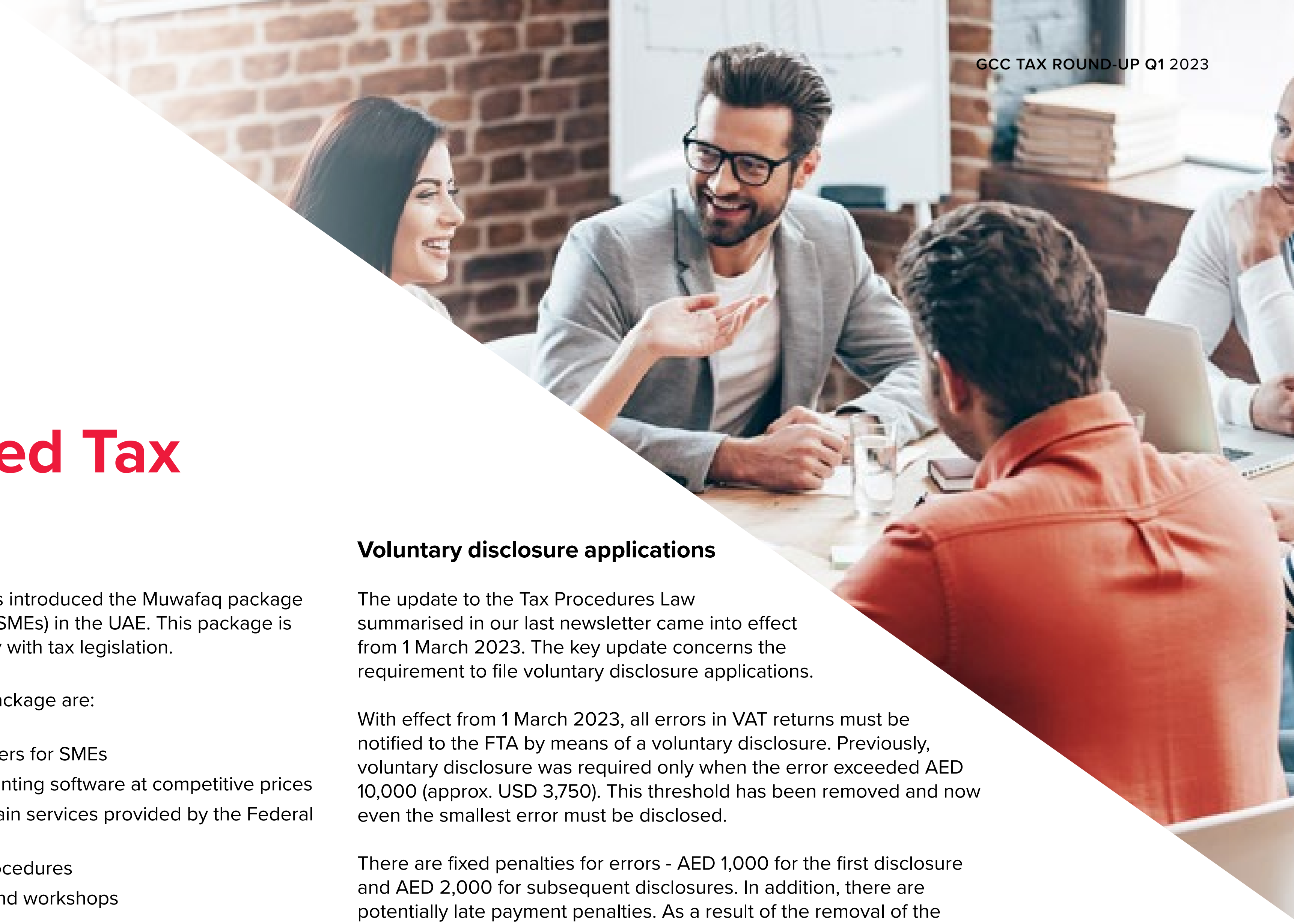
But what are the key elements of Tax Governance?

- Defining and formalising the business’s approach towards tax. In other words, defining the tax risk appetite of the business and creating an overall tax policy. This will ensure that decisions are made consistently and in a way that supports the overall business strategy and brand.
- Defining the roles and responsibilities for tax within the finance team and other support functions.
- Creating an operational tax framework, supported by best practice controls and processes, to actively identify and manage tax risks.

Proper tax governance benefits all stakeholders, providing comfort that tax risks are identified and managed. In the long run, it reduces the cost associated with errors or poor tax decisions and helps to support a good relationship with the tax authorities.

United Arab Emirates

BDO



Value Added Tax

Muwafaq package

The Federal Tax Authority (FTA) has introduced the Muwafaq package for small and medium enterprises (SMEs) in the UAE. This package is now available to help SMEs comply with tax legislation.

The benefits included under this package are:

- Appointing relationship managers for SMEs
- Supplying SMEs with tax accounting software at competitive prices
- Giving priority to SMEs for certain services provided by the Federal Tax Authority
- Educational material for tax procedures
- Tailored awareness sessions and workshops

SMEs can access the Muwafaq package through their existing EmaraTax portal login.

SMEs play a pivotal role in the growth of UAE and Muwafaq is designed to ensure taxation support is available to those businesses.

Voluntary disclosure applications

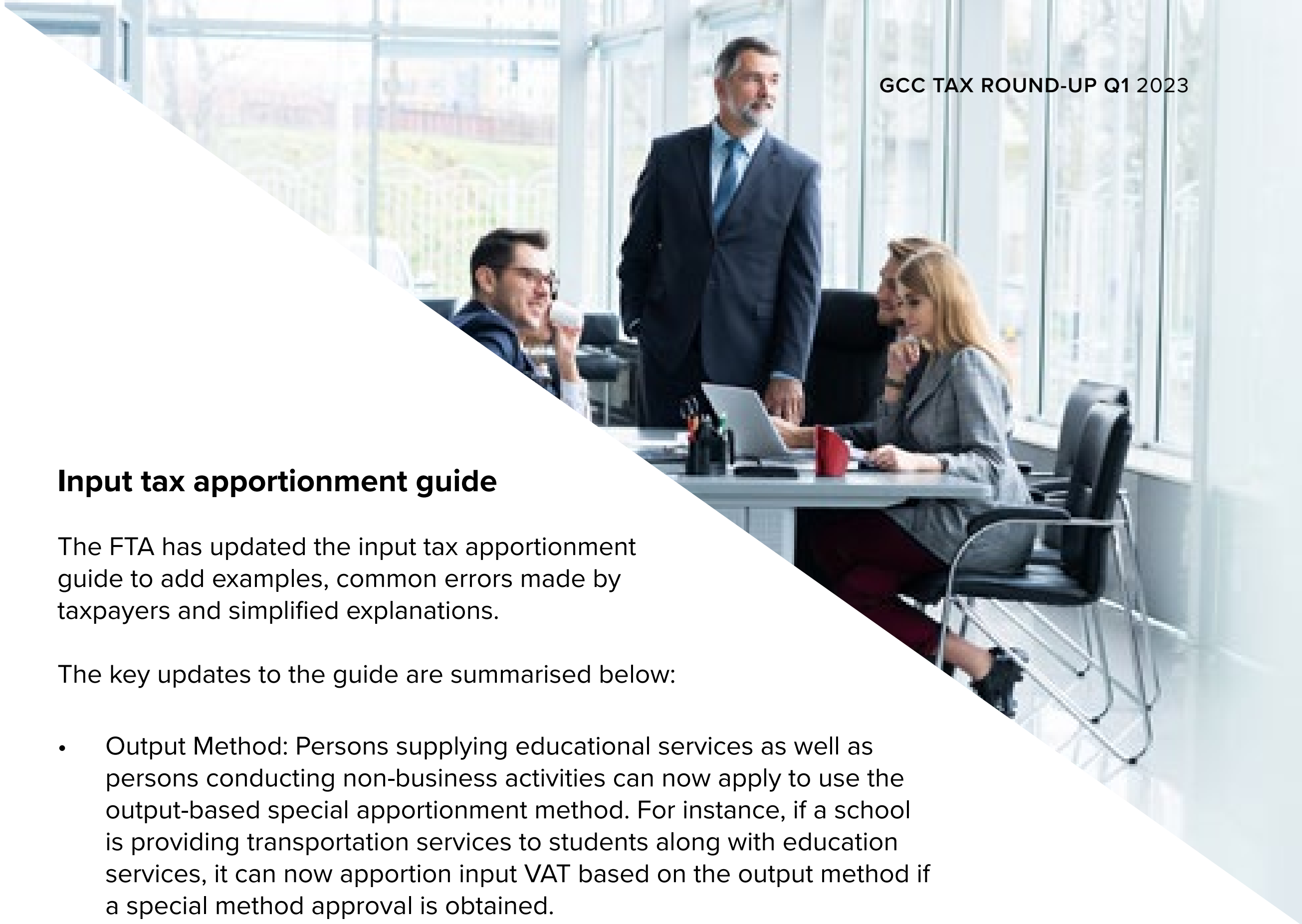
The update to the Tax Procedures Law summarised in our last newsletter came into effect from 1 March 2023. The key update concerns the requirement to file voluntary disclosure applications.

With effect from 1 March 2023, all errors in VAT returns must be notified to the FTA by means of a voluntary disclosure. Previously, voluntary disclosure was required only when the error exceeded AED 10,000 (approx. USD 3,750). This threshold has been removed and now even the smallest error must be disclosed.

There are fixed penalties for errors - AED 1,000 for the first disclosure and AED 2,000 for subsequent disclosures. In addition, there are potentially late payment penalties. As a result of the removal of the threshold for voluntary disclosures, the penalties for small errors may be many times larger than the tax involved.

Businesses should look at the return filing procedures and information in greater detail with this amendment.

United Arab Emirates



E-Commerce

A new reporting requirement has been introduced for resident taxpayers whose e-commerce taxable supplies exceed AED 100 million (approx. USD 37.5 million) in a 12-month period.

Businesses that exceed the threshold will be required to determine in which emirate their services were received, and report their sales (in the VAT return) on an emirate-by-emirate basis. The UAE comprises of seven emirates: Abu Dhabi, Ajman, Dubai, Fujairah, Ras Al Khaimah, Sharjah, and Umm Al Quwain.

The requirement commences in July 2023 for businesses that exceeded the threshold in the calendar year to 31 December 2022. Taxpayers who expect to fall within the scope of the requirement are obliged to inform the Federal Tax Authority (FTA) by 15 March 2023. Going forward, other businesses will fall in scope if they exceed the threshold for any year after 2022.

Taxpayers may need to update controls, processes and systems to en-sure the location and address details of the customer are captured.

In the UAE, the place where e-services are received is normally:

- For individuals, the residential address of the consumer (this takes preference over Internet Protocol address or bank account details)
- For business customers, the place of the establishment most closely connected to the supply

There is no change to the rules for non-resident taxpayers, who were already required to report on an emirate-by-emirate basis.

The FTA has issued a very detailed guidance note on this topic and affected taxpayers should ensure they are familiar with the guidance.

Input tax apportionment guide

The FTA has updated the input tax apportionment guide to add examples, common errors made by taxpayers and simplified explanations.

The key updates to the guide are summarised below:

- Output Method: Persons supplying educational services as well as persons conducting non-business activities can now apply to use the output-based special apportionment method. For instance, if a school is providing transportation services to students along with education services, it can now apportion input VAT based on the output method if a special method approval is obtained.
- The approval for a special method has to be re-applied for after 4 years. The guide provides steps on how and when a registrant can re-apply to continue using a special method after the expiration of the approval to use a specific special apportionment method.

EmaraTax portal

Taxpayers are getting used to the new EmaraTax portal. There have been some technical glitches on the new portal and the FTA has a dedicated team to support businesses with any issues faced on EmaraTax.

Further, there have been updates to the procedures on EmaraTax. These include reconsideration requests, Foreign Missions and Diplomats Dashboard, and UAE Pass login.

Corporate Tax

Determination of tax residency

The Ministry of Finance (MoF) has issued additional guidance under Ministerial Decision No. 27 of 2023 on determination of tax residency for individuals. Cabinet Resolution No. 85 of 2022 provides for the tax residency in UAE. Both Cabinet Resolution No. 85 of 2022 and Ministerial Decision No. 27 of 2023 are applicable from 1 March 2023.

A natural person is considered to be tax resident in UAE if one of the following conditions is met:

- The usual or primary place of residence and the centre of his financial and personal interests are in UAE or he meets the conditions and criteria determined by a decision from the Minister;
- The person has been physically present in UAE for a period of 183 days or more, within the relevant 12 consecutive months;
- If he has been physically present in UAE for a period of 90 days or more, within the relevant 12 consecutive months, and he is a UAE national, holds a valid Residence Permit in UAE or holds the nationality of any member state of the Gulf Cooperation Council, and meets any of the following:

    a. He has a permanent place of residence in the UAE.
    b. He carries on an employment or business in the UAE.

The Ministerial Decision No. 27 of 2023 provides additional clarifications on each of the conditions mentioned above.

A juridical person shall be considered a Tax Resident in UAE in any of the following cases:

1. It was incorporated, formed or recognised in accordance with the legislation in force in the UAE, and that does not include the branch that is registered by a foreign juridical person in the UAE.
2. It is considered a Tax Resident in accordance with the Tax Law in force in the UAE. Reference is made to the Federal Decree-Law No. 47 of 2022 on Taxation of Corporations and Businesses.

United Arab Emirates

Corporate Tax: Small Business Relief

The Ministry of Finance ("MoF") has issued Ministerial Decision No. 73 of 2023 on Small Business Relief in accordance with Article 21 of the Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses ("Corporate Tax Law"). The relief is available only to UAE resident juridical persons or individuals below the specified threshold.

Small businesses with a revenue of less than AED 3 million (approx. USD 817,000) in the current and previous tax periods shall be treated as having no taxable income during the relevant tax period. The tax period refers to any financial year for the business starting on or after 1 June 2023. To claim Small Business Relief, the businesses will have to make an election to the Federal Tax Authority.

The highlights of the Small Business Relief provision are:

- Resident taxable persons should have a revenue of less than AED 3 million in the relevant tax period and previous tax periods. If the threshold exceeds AED 3 million in any tax period, the relief will not be available. The revenue will be determined based on accounting standards accepted in the UAE.
- The revenue threshold will apply to tax periods starting on or after 01 June 2023 and will only continue to apply to subsequent tax periods that end before or on 31 December 2026.
- The Relief will not be available to the following businesses:
  1. Qualifying Free Zone Persons
  2. Members of Multinational Enterprises Groups (MNE Groups) defined in Cabinet Decision No. 44 of 2020 (Country-by-Country Reporting Regulation)
- Taxable persons will be able to carry forward and set off business losses in financial years where the business does not elect to apply for the Small Business Relief
- If persons with a total revenue of more than AED 3 million artificially separate their business to claim benefit under the Small Business Relief, it will be considered an arrangement to obtain a Corporate Tax advantage under the General Anti-Abuse Rules (GAAR) set out in Article 50 of the Corporate Tax Law.

The Small Business Relief is intended to provide support to start-ups and small- or micro-businesses in UAE by reducing the Corporate Tax burden.

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