GCC TAX ROUND-UP

Q3 - 2021

CONTENT

INTRODUCTION

Although things have been relatively quiet on the tax front over the summer period, there have been some interesting developments in the GCC region.

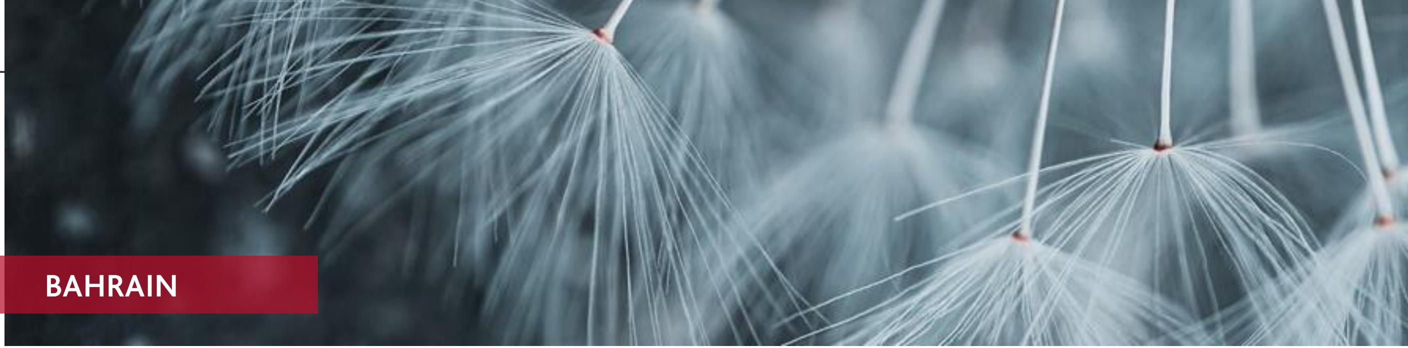
Oman continues to be very active, and the phased introduction of VAT in the Sultanate is now approaching its final stages. Businesses with annual supplies between OMR 250,000 and OMR 499,999 are reminded that they must register by 1 October 2021. The final round of registrations will require businesses with annual supplies exceeding OMR 38,500 to register by 1 April 2022.

In Kuwait, there has been a new discussion about the potential introduction of both VAT and excise tax, following the publication of the country's financial results for the year ended 31 March 2021. There has been no official indication that these taxes will be introduced, but as we have seen elsewhere in the region, taxes of this type are effective, and they may come to Kuwait in due course.

There is great excitement in Dubai with the impending start of EXPO 2020. Many businesses and individuals will be coming to the UAE to visit EXPO, and it's worth a reminder that there are some special VAT rules for EXPO exhibitors and that the UAE offers some refund schemes for business visitors and tourists.

Finally, on the wider international stage, 136 countries have agreed to the OECD's two-pillar approach to reform the international tax system. All of the GCC countries, apart from Kuwait, have joined the agreement. More On this in our Tax Alert here.

There is no update from Qatar in this edition as there have been no significant tax changes or announcements in Qatar during the past quarter.



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PROPOSAL TO INCREASE VAT RATE W.E.F. 1 JANUARY 2022

The parliamentary officials of the Kingdom of Bahrain are evaluating options to reduce the fiscal deficit. Amongst other initiatives, an increase in the VAT rate from 5% to 10% is currently under discussion.

If the proposal is accepted by the parliament, the Kingdom of Bahrain would be the second GCC member state to increase its VAT rate. Last year, the Kingdom of Saudi Arabia increased its VAT rate from 5% to 15% as a result of the impact of COVID-19.

An official announcement, notification and guidance is awaited from National Bureau of Revenue (NBR) on the proposed increase in VAT rate.

UPDATE TO EXCISE GOODS LIST

The NBR has recently updated the list of goods subject to excise tax in Bahrain. The updated list can be accessed on the NBR website.

JOINT COOPERATION BETWEEN CIVIL SERVICE BUREAU AND NBR TO ENHANCE QUALITY MANAGEMENT

The Civil Service Bureau (CSB) and the NBR announced their joint cooperation on the implementation and modernization of the quality management systems at NBR. This cooperation aims to prepare the NBR for implementing the quality management system and provide technical support, training, and administrative support to ensure that all the requirements of ISO certification are met.

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NBR SUCCESSFULLY MIGRATES ITS CORE SYSTEMS

In a press release dated 6 July 2021, the NBR announced the successful migration of its core systems from AWS Ireland to the Bahrain region. This migration is in line with the instructions of the Information & eGovernment Authority.

APPOINTMENT OF A NEW DIRECTOR AT NBR

HH Prince Salman bin Hamad Al Khalifa, the Crown Prince and Prime Minister, issued an edict (No.42 of 2021) on 25 August 2021 to appoint a new director of the Human and Financial Resources directorate at the NBR.

VIOLATION NOTICE FOR NON-SUBMISSION OF ECONOMIC SUBSTANCE REQUIREMENT (ESR) RETURN

The Ministry of Industry Commerce and Tourism (MoICT) has issued violation notices to Bahraini entities for not complying with the ESR reporting deadline of 18 September 2021.Certain entities which filed the ESR return have received clarification requests on their submissions.

All entities subject to ESR were required to file their ESR return for the fiscal year end of 2020 electronically using the new **International Tax Information Exchange System (ITIES)** portal launched by the NBR. The launch of ITIES portal was a paradigm shift for Bahraini entities, which were previously familiar with email submission of ESR returns.

Key takeaways relating to the online submission of the ESR return:

- All entities subject to ESR must register on the ITIES portal; and
- There are increased substance requirements for all entities, including entities having operations only in Bahrain, pure equity holding entities, etc.
- Provide justification and supporting documents for close to all sections of ESR template.

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PROPOSED LAW RELATING TO EXCHANGE OF INFORMATION FOR TAX PURPOSES

The Kuwait Ministry of Finance (MOF) recently circulated a draft law on the exchange of information for tax purposes (Draft Law). The Draft Law covers any international agreements signed by Kuwait that provides for the exchange of information for tax purposes except for the Foreign Account Tax Compliance Act (FATCA), which is covered under a separate law in Kuwait (Law no. 109 of 2015).

The introduction of the Draft Law is expected to contribute to the existing legal framework in place for the implementation of Common Reporting Standards (CRS) in Kuwait and the Convention on Mutual Administrative Assistance in Tax Matters (Convention). The Draft Law applies mainly to financial institutions but contains certain obligations on other entities, as well as individuals. It reiterates the key obligations under CRS that Reporting Financial Institutions (RFIs) in Kuwait must meet and introduces hefty penalties and significant sanctions for failure to comply with the CRS requirements.

The proposed financial penalties are as follows:

VIOLATION	AMOUNT (KWD)
Failure by an RFI to submit correct CRS reports	**40,000 to 50,000**
Failure by an RFI to comply with the due diligence procedures	**30,000 to 40,000**
Failure to obtain self-certification forms by RFI upon account opening	**5,000 to 10,000**
Failure by an RFI to appoint an approved audit firm/compliance officer or to maintain records	**20,000 to 30,000**
Failure by any person to provide timely or accurate information	**40,000 to 50,000**
Failure to comply with the secrecy of the information collected under the Draft Law	**10,000 to 30,000**
Failure to cooperate with the regulatory authorities in performing their roles or duties	**10,000 to 20,000**
Failure by any person to complete a self-certification form with correct data	**5,000 to 10,000**
Failure by the approved auditor to disclose violations/errors in the CRS reports of the RFI	**5,000 to 10,000**

The Draft Law also introduces obligations for any person (natural or legal) to cooperate with the MOF and to submit documents and information required to implement international agreements relating to the exchange of information for tax purposes.

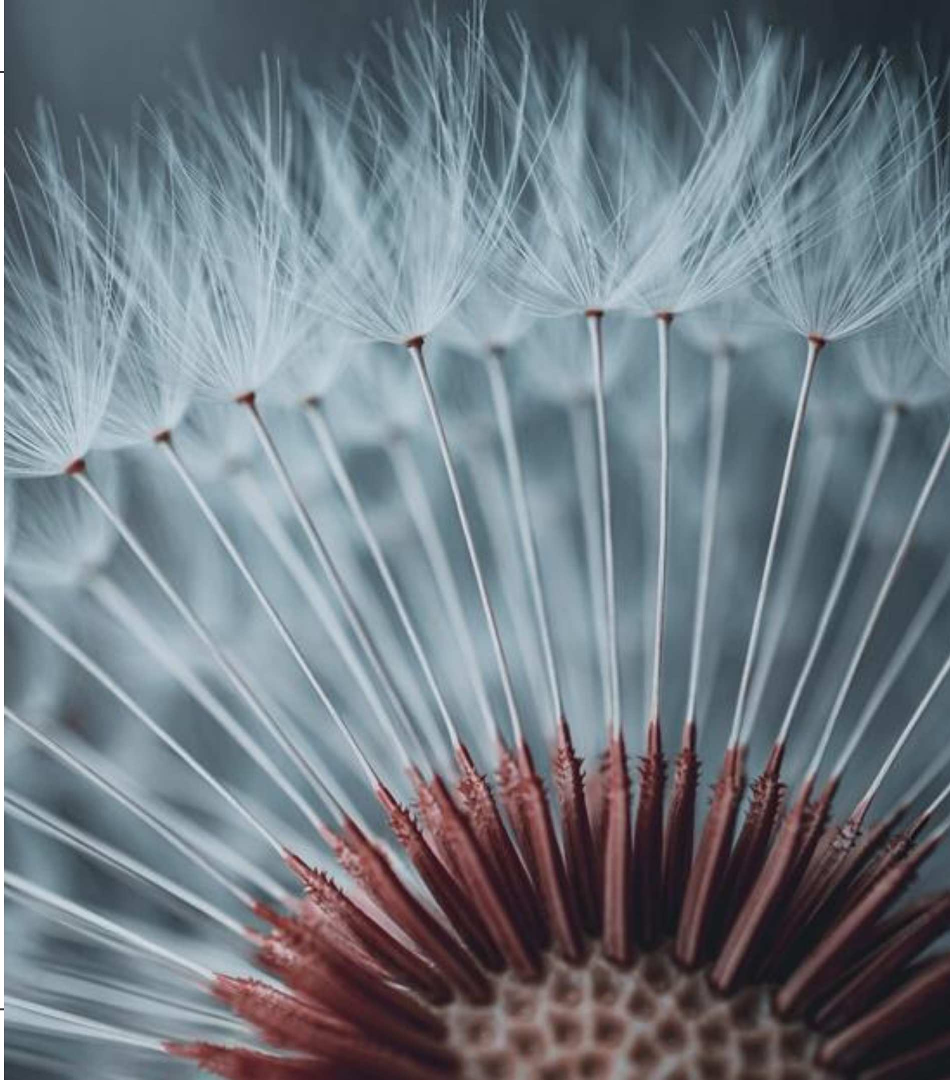
The Draft Law will undergo further review within the government legal department before moving to the parliamentary review and approval process.

EXPECTED INTRODUCTION OF VAT AND EXCISE TAX

On 7 August 2021, the MOF published the financial result of the State of Kuwait for the year ended 31 March 2021. The result showed a record deficit of KWD 10.8 billion (approximately USD 36 billion), an increase of 174% from the previous year's deficit of KWD 4 billion (approximately USD 13 billion). The drop in oil prices coupled with COVID-19 spending and restrictions contributed to the State's growing deficit. As a result, international bodies such as the World Bank and International Monetary Fund have urged Kuwait to implement financial reforms to minimize the State's growing deficits and address the liquidity issue.

At the start of calendar year 2021, the local authorities circulated an updated draft plan on the financial and economic sustainable development for Kuwait. According to the draft plan, excise tax should be introduced in 2022 and VAT in 2023. It is estimated that Kuwait would be able to raise additional tax revenue of KWD 1.7 billion (approximately USD 5.6 billion) by 2025 following the introduction of these taxes.

While the Kuwaiti Parliament is likely to continue to oppose such tax proposals, the State will need to introduce financial reforms to increase non-oil revenue as the projections for the year ended 31 March 2022 show a deficit of KWD 12.1 billion (approximately USD 40 billion). We will keep you updated on the likely implementation of VAT and excise tax in Kuwait.



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UPDATE ON THE NEW VAT REGIME

The introduction of VAT continues in the Sultanate, and the tax authorities in Oman have conducted a series of seminars outlining the rules and regulations of Oman VAT. The tax authorities have also announced a consumer helpline number to report or lodge complaints against the unlawful charging of VAT.

VAT REGISTRATION

VAT registration in Oman is mandatory for businesses with annual supplies (i.e., standard-rated supplies, zero-rated supplies and supplies subject to the reverse charge) of at least OMR 38,500.

As outlined in our **article** in the March 2021 issue of BDO's Indirect Tax News, registration for VAT is being implemented through a phased approach. Businesses with annual supplies exceeding OMR 1 million were required to register by 16 April 2021 and those with annual supplies between OMR 500,000 and OMR 1 million were required to register by 1 July 2021. Two groups are still to register:

- Businesses with annual supplies between OMR 250,000 and OMR 499,999 must register by 1 October 2021; and
- Businesses with annual supplies exceeding OMR 38,500 must register by 1 April 2022.

Non-resident businesses must register for VAT purposes if they provide taxable supplies in Oman mainly to unregistered recipients, irrespective of the value of supplies made.

Resident businesses with annual supplies exceeding OMR 19,250 may voluntarily register for VAT purposes at any time.

Businesses that are due to register for VAT are urged to get the process of aligning and updating systems under way to avoid last-minute problems.

The Oman Tax Authority has recently published and announced the most awaited sector specific VAT guide on Real Estate (RE) on its official Tax website portal. Though the RE guide has been issued in Arabic language but it is very much like the RE guides issued in other part of VAT implemented GCC Countries.

VAT TECHNICAL UPDATES

- Zero-rate VAT on supplies to the oil and gas sector is a contentious subject. However, the Ministry of Energy and Minerals released a letter dated 13 July 2021, advising operators in the oil and gas sector not to refuse contractors or subcontractors' invoices with 5% VAT.
- The tax authority has released a taxpayer guide on filing VAT returns, as well as a 'Taxpayer Checklist' for filing VAT refund applications.
- The tax authority has conducted series of VAT seminars.
- A VAT helpline number has been announced to lodge complaints against the unlawful charging of VAT.
- Taxpayers in Oman intending to deduct VAT paid on the purchase of goods or services prior to the effective date of registration must file an application with the tax authorities manually, within 30 days from the effective date of registration.

UPCOMING VAT DEADLINES

- Businesses making annual supplies between OMR 250,000 and 499,999 are required to register for VAT from 1 October 2021.
- VAT returns for the period 1 July 2021 to 30 September 2021 are due by 30 October 2021.
- Businesses registered with effect from 1 October 2021 are required to file an application for the credit of pre-registration input tax on or before 30 October 2021.

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LIST OF E-INVOICING SERVICES PROVIDERS RELEASED

The Zakat Tax and Customs Authority (ZATCA) has published a directory of e-invoicing solution providers.

The providers listed in the directory have passed a qualification process, and the purpose of the list is to allow taxpayers easy access to potential solution providers. However, ZATCA has also confirmed that taxpayers may choose any e-invoicing solution provider if the provider's solution meets the e-invoicing requirements. ZATCA will consider the taxpayer compliant if it meets the e-invoicing requirements even if the solution provider is not listed in the directory.

The guidance also includes a disclaimer by ZATCA, confirming that the list is for guidance purposes only and is not legally binding on taxpayers. It is a list of invoicing providers that have expressed their willingness to provide solutions that meet the requirements for issuing electronic invoices and notices. Inclusion in the list should not be taken as an indication that ZATCA has approved the e-solutions provided by the solution providers. ZATCA will not bear any liability arising from publishing the list, directly or indirectly.

VAT E-COMMERCE GUIDELINE ISSUED (IN ARABIC ONLY)

ZATCA has released a VAT guide for e-commerce companies and transactions.

The guide defines e-commerce as the process of buying and selling goods or services through a website, an electronic platform, or a store in social media or an app and transferring money and data to complete the sale.

Forms of e-commerce covered in the guide include:

- Business-to-consumer (B2C) supplies.
- Business-to-business (B2B) supplies.
- Business-to-business and business-to-consumer (B2B2C) supplies.
- Direct supplies to the consumer (D2C).
- Supplies from the consumer to the consumer (C2C).
- Supplies from the consumer to the business (C2B).

The guide emphasizes the mandatory registration requirements in the Saudi VAT implementing regulations. This is important in the context of e-commerce supplies as any supplies of goods and services treated (for the purposes of the VAT place of supply rules) as having been made in Saudi Arabia to a non-registered customer results in the supplier having to register for VAT.

The guide provides some detailed information, which will be helpful to any business providing e-commerce supplies to or from Saudi Arabia.

VAT GUIDE FOR GOVERNMENT BODIES IN SAUDI ARABIA (ISSUED IN ARABIC AND ENGLISH)

This publication provides guidance for Saudi government bodies. It covers the following topics:

- The interpretation of economic activity for VAT purposes;
- The VAT treatment of transactions between individuals, entities and government bodies; and
- The VAT treatment of activities undertaken by government bodies, and distinguishes between activities that are subject to VAT and those that are outside the scope of VAT.

Government bodies are broadly defined in the guide as bodies carrying out all forms of state and local government. This includes:

- State-wide authorities (executive, judicial and legislative authorities, and government departments or ministries);
- Regional and local government authorities, including municipalities; and
- Other bodies governed by public law that form part of the public administration or carry out the duties empowered and designated by the state.

Government bodies are generally funded by the state for the wider public good or are established to carry on regulatory activity.

The guideline sets out three conditions that determine whether an activity carried out

by the government body constitutes an economic activity and, therefore, whether the activity may be subject to VAT. Very broadly, an activity will not be considered an economic activity if a government body is designated to carry out the activity, the activity is assigned to the government body by the State through the law or a royal decree or there is a an order establishing the body concerned to carry out public functions. This applies regardless of whether the government body makes charges or accepts charges for carrying out these functions or is VAT-registered.

The guide also covers the VAT implications of a government body carrying out activities when not acting as a public authority. This includes the activities of government-owned companies. In certain circumstances, a government body will have the right to acquire shares in companies, such as joint-stock companies or limited liability companies. These companies are not public bodies, even if a majority of the ownership is by government, and they will be subject to normal VAT rules in Saudi Arabia.

If a government body carries out activities in addition to its designated functions, such as investing commercial real estate, in that case, the activity may be viewed as an economic activity and the body must follow the normal VAT rules.

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FEDERAL SUPREME COURT RULES IN FIRST VAT EVASION CRIMINAL CASE

The UAE Federal Supreme Court has issued its first judgement in a case concerning VAT fraud, ruling against the taxpayer, and confirming a penalty payment of five times the evaded tax amount.

The background to the decision is that in October 2020, the Federal Primary Court determined the penalty to be paid based on an expert opinion. This was contested by the taxpayer in an appeal filed with the Federal Appeals Court, which upheld the decision of the Primary Court.

The Federal Tax Procedures Law defines tax evasion as the use of illegal means that result in the reduction of the tax due, non-payment thereof or a refund of a tax that a person does not have the right to have refunded under the tax law. The penalties for tax evasion include imprisonment and penalties up to five times the amount of tax evaded; these penalties are separate from the administrative penalties payable for errors, late filing and other administrative violations.

This court decision is significant as it confirms the intention of the federal courts to strictly enforce the Tax Procedures Law in cases involving tax evasion.

UAE GEARS UP FOR DUBAI EXPO 2020

EXPO 2020 will commence in Dubai on 1 October 2021 and will run for six months. 192 countries are expected to participate in Expo, allowing them to display their culture and technological innovations.

The UAE Federal Tax Authority has introduced special rules for official participants that are entitled to claim VAT incurred on goods and services. These goods and services should be directly connected with the construction, installation and alteration of exhibition spaces, activities directly related to organising and operating exhibition spaces, and other operating costs.

The process for submitting refund applications and the related refund rules are published in the Cabinet Decision and Guide for official participants.

Foreign visitors attending Expo may also be able to take advantage of the UAE's refund schemes for tourists and business visitors to obtain a VAT refund on some purchases made while in the country.

UAE'S COMMITMENT TO THE OECD'S TAX INITIATIVES

The UAE has welcomed the statement issued by the OECD and G20 concerning the building blocks for a new global tax framework. The UAE's Ministry of Finance has said that UAE's policies have been carefully designed to meet the country's fiscal needs and international requirements. The UAE recently has taken steps to boost international tax transparency, supporting the OECD tax objectives, with the introduction of economic substance regulations and country-by-country reporting.

ECONOMIC SUBSTANCE REGULATIONS (ESR)

A reminder that licensees within the scope of ESR have two separate annual filing obligations: ESR notification and year-end reporting. Failure to submit the notification or report by the deadlines will attract penalties ranging from AED 20,000 to AED 400,000. Below is the summary of the upcoming deadlines:

FINANCIAL YEAR-END	NOTIFICATION DEADLINE	ESR REPORT DEADLINE
September 2020	31 March 2021	30 September 2021
December 2020	30 June 2021	31 December 2021
March 2021	30 September 2021	31 March 2022
June 2021	31 December 2021	30 June 2022

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