GCC Tax Round-up

Q2 2023

BDO

Introduction

The biggest news in the region comes from the UAE, where the implementation of corporate tax is in full swing. The tax became fully effective on 1 June 2023 and all financial reporting periods starting on or after this date will fall within the scope of corporate tax. During the past few weeks, the detail of how the tax will work in practice has become much clearer, through a series of important Cabinet and Ministerial Decisions. Perhaps the most significant of these decisions were those concerning the relief for free zone businesses. These decisions had been eagerly awaited and the scope of the free zone relief is now clear. It's likely there will be further Cabinet and Ministerial Decisions, and guidance from the FTA as we move forward.

Elsewhere, there is news of further automation of tax services in Bahrain, and the continued tax inspection program by Bahrain's National Bureau for Revenue. In Saudi Arabia, details of the e-invoicing wave six have been announced and there are also amendments to the VAT implementing Regulations.

Reporting deadlines for CRS have been extended in Kuwait and an updated list of Reportable Jurisdictions has been published.

There are some new tax treaties in Oman, and a new app created by the Oman tax authority.

FATCA and CRS provide the news in Qatar, with a wide range of new penalties for FATCA and CRS violations.

Kingdom of Bahrain

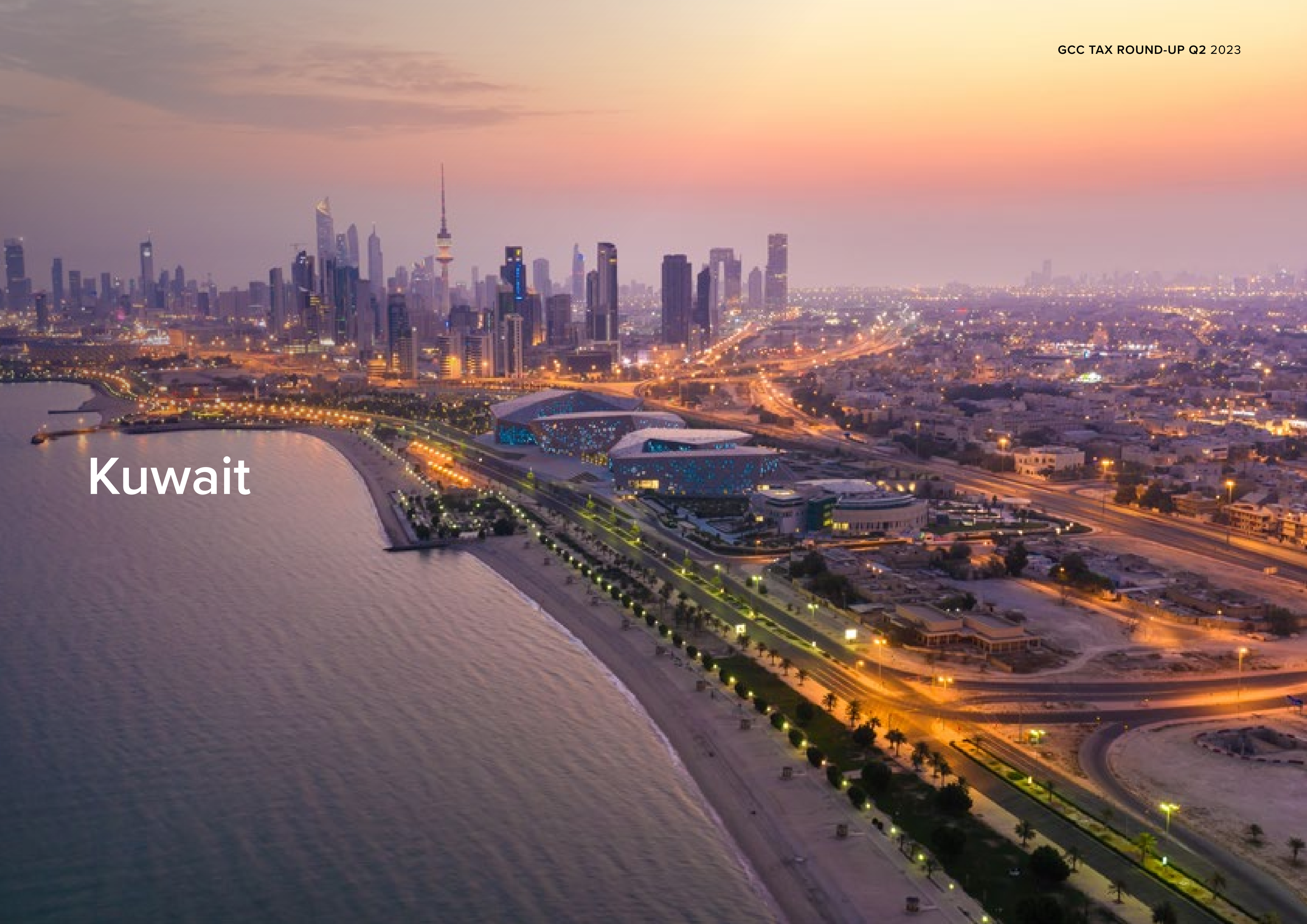
EXCISE TAX

Automation of Excise services

As part of National Bureau for Revenue (NBR) initiative to ease Excise related activities in Bahrain, all Excise processes and functionalities through the NBR portal have been automated. This includes registration of taxpayers, licensing, filing and payment of Excise, and the registration of Excisable products.

TAX INSPECTIONS FOR VAT AND EXCISE

NBR has conducted on-site inspections for VAT and Excise which have resulted in reports of violations that required the imposition of administrative fines. NBR has also taken legal action against businesses who are proven to have committed tax evasion. Such offences may be punishable by imprisonment and a fine.
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, including the implementation of the Digital Stamps Scheme on cigarette products available in the local markets.



Kuwait

Kuwait

COMMON REPORTING STANDARDS

On 4 June 2023, the Ministry of Finance in Kuwait issued a response letter to the Kuwait Banking Association providing an extension to the Common Reporting Standard ('CRS') reporting deadline of 31 May 2023 along with an updated CRS list of 'Reportable Jurisdictions'.

As per the letter, the CRS reporting deadline was extended until 25 June 2023. The updated CRS list of 'Reportable Jurisdictions' now includes 78 countries as compared to the previous list which only had 70 countries. This will be applicable to all reporting financial institutions in Kuwait under the scope for CRS reporting for the year ended 31 December 2022. The updated CRS list of 'Reportable Jurisdictions' has also been updated on the MOF AEOI portal.

Kuwait

Reportable jurisdictions for CRS:

Albania	Curacao	Hong Kong	Luxembourg	Saint Kitts And Nevis
Andorra	Cyprus	Hungary	Malaysia	Saint Lucia
Antigua and Barbuda	Czechia	Iceland	Maldives	San Marino
Argentina	Denmark	India	Malta	Saudi Arabia
Australia	Ecuador	Indonesia	Mauritius	Seychelles
Austria	Estonia	Ireland	Mexico	Singapore
Azerbaijan	Faroe Islands	Isle Of Man	Netherlands	Slovakia
Barbados	Finland	Italy	New Zealand	Slovenia
Belgium	France	Jamaica	Nigeria	South Africa
Brazil	Germany	Japan	Norway	Spain
Canada	Ghana	Jersey	Pakistan	Sweden
Chile	Gibraltar	Korea	Panama	Switzerland
China	Greece	Kazakhstan	Peru	United Kingdom
Colombia	Greenland	Latvia	Poland	Uruguay
Cook Islands	Grenada	Liechtenstein	Portugal	
Croatia	Guernsey	Lithuania	Russia	

The Sultanate of Oman

TAX COMPLIANCE

The second quarter of FY 2023 has been challenging owing to the multiple deadlines for compliance. Taxpayers have had to deal with preparing and finalising audited financial statement, together with the due date to file Corporate Income Tax return of 30 April 2023. This also coincided with the due date to file VAT return for Q1 2023. Given that holy month of Ramadan also fell in the month of April 2023, Taxpayers in Oman faced a difficult start to the second quarter.

TAX TREATIES

The Sultanate of Oman and the Arab Republic of Egypt signed an agreement and a memorandum of understanding in Cairo on 22 May 2023. The new tax treaty will enter into force after the ratification instruments are exchanged. Details of the new treaty are awaited. The agreement concerned the elimination of double taxation which is related to taxes on income and the prevention of tax evasion, while the memorandum of understanding relates to cooperation in areas related to financial policy and developments.

On 08 June 2023, The Sultanate of Oman and Russia signed a Double Taxation Avoidance Agreement. The agreement aims to legally protect investors from the imposition of double taxes and regulate the imposition of tax between the two friendly countries, which will contribute to enhancing investments and trade. The new tax treaty will enter into force after the ratification instruments are exchanged. Details of the new treaty are awaited.

The Sultanate of Oman

VALUE ADDED TAX

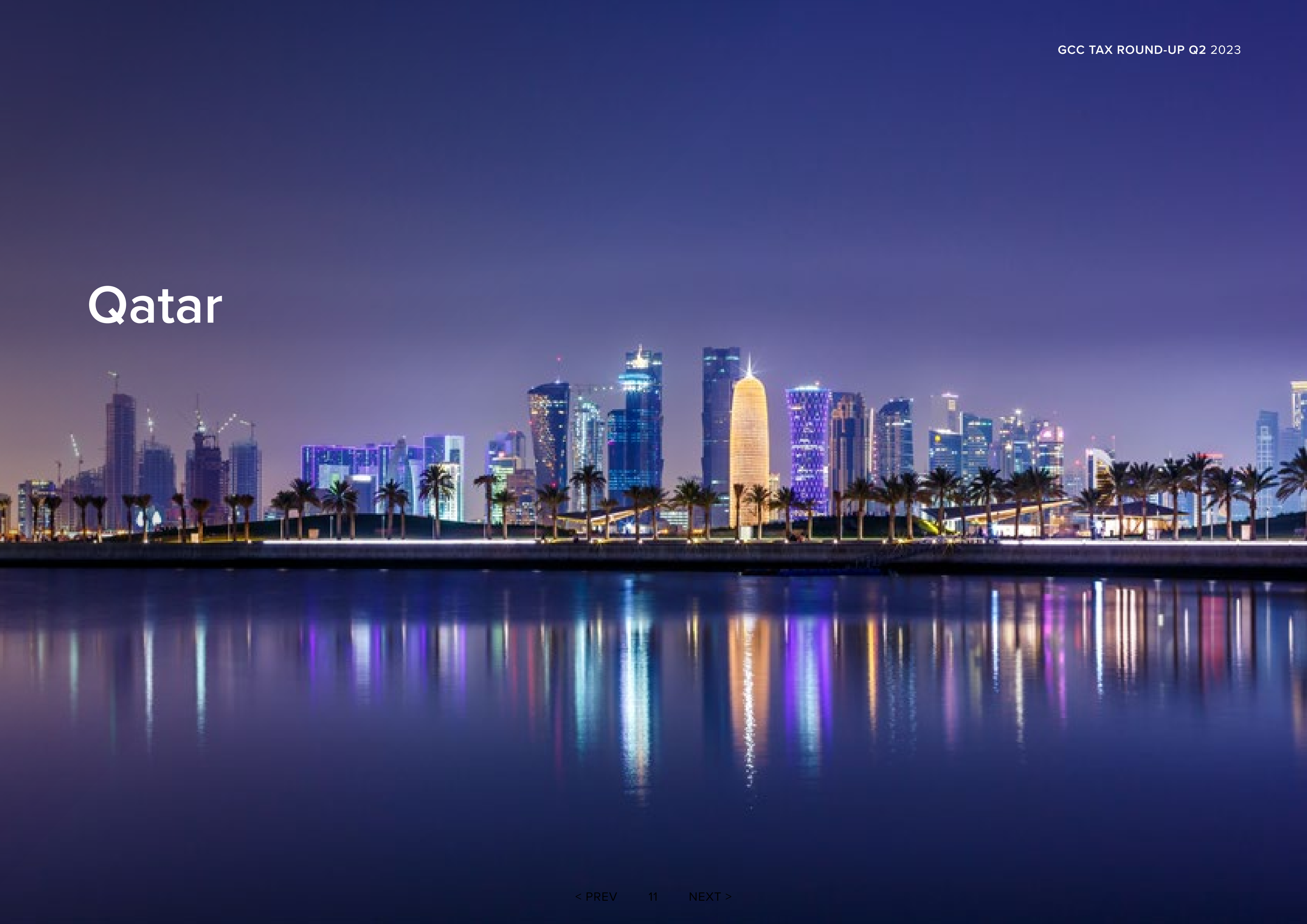
The Oman Tax Authority has made a significant announcement regarding electric vehicles (EVs) and EV parts in the Sultanate. As per the latest announcement, these items will be subject to VAT at 0%, subject to conditions.

VAT guides were issued by the Oman Tax Authority in English on input tax, the education sector, transfer of activity, profit margin mechanism, reverse charge mechanism, health care, transportation, and related person. Further, VAT guides were issued in Arabic for charities and non-profit organisations, commercial agencies, capital assets, exports and imports, and promotional offers.

TAX APP

The Tax Authority has launched an app called ‘Ta’akad’ to protect consumers, prevent the spread of counterfeit goods in the local markets, and ensure the validity of the tax stamp on products.

Qatar



Qatar

FATCA AND CRS

General Tax Authority has published a decision of the general tax authority director No. (7) for 2023 to amend the CRS report penalties as follows:

- Every reporting financial institution that does not submit the information report regarding the financial accounts on the specified date will be subject to a financial penalty of QAR 500 for each day of delay, up to a maximum of QAR 180,000.
- Every reporting financial institution that provides incomplete or erroneous information in the information report will be subject to a financial penalty of QAR 500 for each incomplete or erroneous information.
- Every reporting financial institution that does not take appropriate measures to obtain from the account holder a self-certification or other required information, or does not perform the required due diligence, shall be subject to a financial penalty of QAR 20,000.
- Every financial institution, person, or intermediary who does not possess the required information and documents, including records and evidence, shall be subject to a financial penalty of QAR 20,000.
- Every financial institution or intermediary person who does not provide the required information and documents, including records and evidence, within 15 days from the request date, shall be subject to a financial penalty of QAR 20,000.
- Every financial institution, person, or intermediary that adopts practices that circumvent the reporting and due diligence procedures will be subject to a financial penalty of QAR 20,000.
- Any account holder or his representative who refuses to provide a valid self-certificate if requested by the reporting financial institution, will be subject to a financial penalty of QAR 20,000.
- Any account holder or his representative who signs or confirms an incorrect personal certificate shall be subject to a financial penalty of QAR 5,000.

FATCA and CRS reports for the Financial Year (FY) 2022

The TABADOL Portal, the electronic portal for the exchange of information for tax purposes, is now open to receive FATCA and CRS reports for FY 2022. The deadline to submit FATCA and CRS reports for FY 2022 is on 31 July 2023.

Kingdom of Saudi Arabia

E-INVOICING

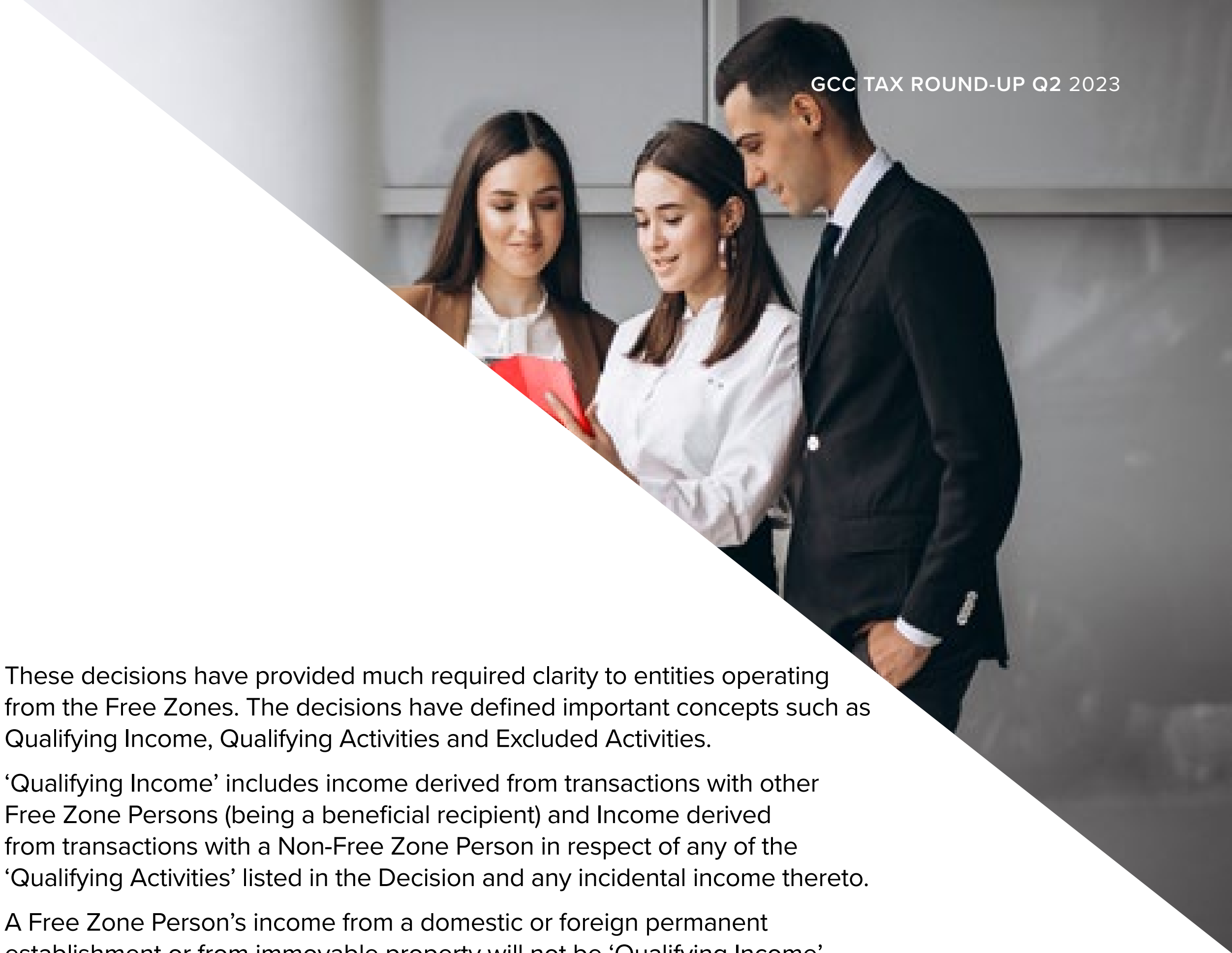
The Zakat, Tax and Customs Authority (ZATCA), has released the criteria for the sixth wave of the 'Integration Phase' of Electronic Invoicing (e-invoicing). The announcement confirms that all taxpayers whose revenues exceeded 70 million Riyals during 2021 or 2022 will be required to integrate their e-invoicing solutions with the FATOORA platform with effect from 1 January 2024. The e-invoicing initiative was launched in 2020. It obliges taxpayers to cease generating handwritten or computer-generated invoices through text editing software, and implement a technical solution that is compatible with the official e-invoicing requirements. The initiative commenced with the Generation Phase in December 2021, and this has been followed by the rollout of further integration phases. It is expected that ZATCA will make formal contact with taxpayers that have been selected for Wave 6 of the Integration phase.

VALUE ADDED TAX

ZATCA has approved amendments and additions to the VAT implementing regulations. The changes were published in the Official Gazette on 23 June 2023, and this will be the effective date for the amendments and additions.

The changes cover a wide range of items including zero-rating, exemption, the correction of errors and other administrative matters.

United Arab Emirates



CORPORATE TAX

Implementation of the UAE Corporate Income Tax Law (UAE CT Law)

The Corporate Income Tax has been now implemented in the UAE with effect from 01 June 2023. The corporate tax will be imposed on taxable persons for financial years beginning on or after 01 June 2023 at the headline rate of 9% for income exceeding AED 375,000. Tax Residents will be liable to tax on their global income whereas the Non-Residents will be taxed on income from Permanent Establishments (PEs), state sourced income and income having nexus in UAE.

Whilst the UAE CT Law proposes to generally cover business profits earned in the UAE, relevant exemptions and concessions are provided to certain entities and specific income streams. This includes some reliefs for free zone businesses.

The UAE CT law also includes anti-avoidance mechanisms such as Transfer Pricing, General Anti-Abuse Rules (GAAR) and interest deduction limitations.

The UAE CT Law is supported by Cabinet and Ministerial Decisions. The Ministry of Finance has also released an explanatory guide (Explanatory Guide for Federal Decree-Law no. 47 of 2022) providing explanation and rationale for every Article of the UAE CT Law.

We have provided below, a list of some of the most important recent decisions.

Free Zones: Cabinet Decision No. 55 of 2023 on Determining Qualifying Income and Ministerial Decision No. 139 of 2023 on Qualifying Activities and Excluded Activities.

These decisions have provided much required clarity to entities operating from the Free Zones. The decisions have defined important concepts such as Qualifying Income, Qualifying Activities and Excluded Activities.

‘Qualifying Income’ includes income derived from transactions with other Free Zone Persons (being a beneficial recipient) and Income derived from transactions with a Non-Free Zone Person in respect of any of the ‘Qualifying Activities’ listed in the Decision and any incidental income thereto.

A Free Zone Person’s income from a domestic or foreign permanent establishment or from immovable property will not be ‘Qualifying Income’.

‘Qualifying Activities’ include manufacturing of goods or materials, processing of goods or materials, holding of shares and other securities, ownership, management and operation of ships, reinsurance services, fund management, wealth and investment management services that are subject to the regulatory oversight of the competent authority in the UAE. They also include headquarter services to related parties, treasuring and financing services to related parties, financing and leasing of aircraft, including engines and notable components, logistics services; distribution in or from a designated zone that meets the relevant condition; and any activities that are ancillary to the above-mentioned activities.

Income from certain specific ‘Excluded Activities’ will not be treated as ‘Qualifying Income’ regardless of whether the income is derived from a Free Zone Person or as part of undertaking a ‘Qualifying Activity.’

United Arab Emirates

CORPORATE TAX

In addition to the above, the decisions have introduced a de-minimis requirement and the concept of Domestic PE (i.e., Freezone person's presence in the mainland).

As per the de-minimis requirement, the non-qualifying income would not be eligible for free zone relief where specified limit is breached. (i.e., Excluded Activities plus income that is not a 'Qualifying Income' exceeds the lower of 5% of total revenue or AED 5 million). In calculating revenue for the de minimis requirement, revenue attributable to a domestic or foreign permanent establishment of the Free Zone Person and revenues attributable to immovable property located in a Free Zone that cannot benefit from the Free Zone exemption will be ignored. Such income will be taxable at 9% tax rate.

The Decisions have also specified the manner in which the freezone persons can ensure adequate substance in the UAE. These requirements allow outsourcing of activities to related parties subject to adequate supervision. Failure to meet the free-zone conditions would result in taxation of entire freezone profits @ 9% and would also disentitle the free zone person from exemption for 5 years.

Nexus of Non-resident persons in the UAE: Cabinet Decision No. 56 of 2023

As per the decision, a non-resident juridical person earning income from any Immovable Property situated in the UAE shall be treated to have nexus in the UAE and accordingly would be liable to obtain corporate tax registration and pay the relevant taxes in the UAE.

The decision further clarifies that any attempt to artificially transfer or dispose of the property without any economic substance or commercial rationale (merely to obtain a tax advantage) would be disregarded.

Tax on natural persons conducting business activities: Cabinet Decision No. 49 of 2023

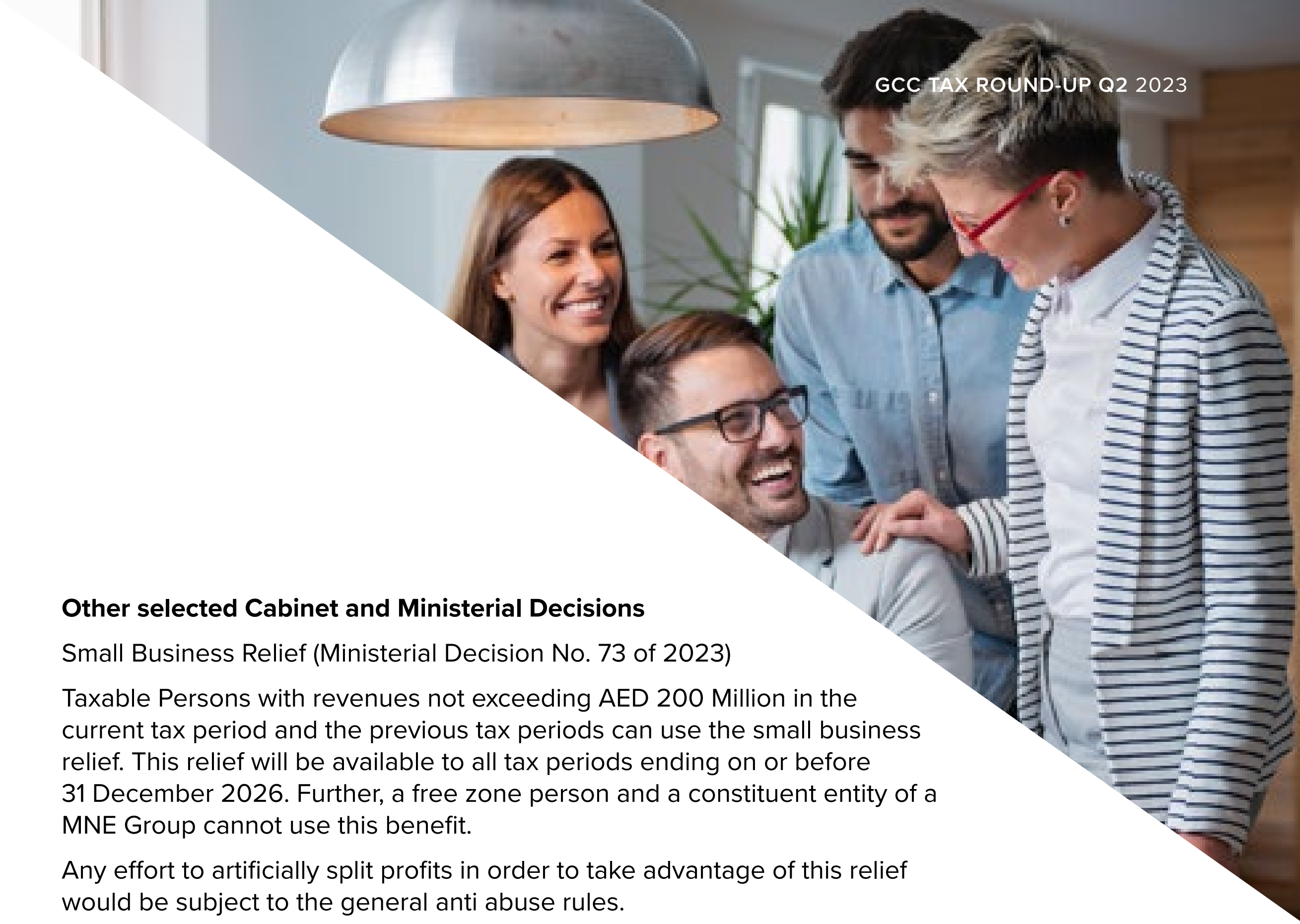
This decision clarified aspects with respect to the applicability of corporate tax on resident and non-resident individuals undertaking business activities in the UAE.

As per the decision, individual taxpayers (both resident and non-resident) shall be liable to corporate tax in the UAE if their revenue from business operations exceeds AED 1 Million in the relevant tax period. However, the following income streams of individuals shall be kept out of the corporate tax scope:

- Wage/salaries from employment.
- Personal investments for which no commercial or trade license is required.
- Real Estate investments (the sale, leasing, sub-leasing and renting of land or property) for which no commercial or trade license is required.

The Decision also clarifies that an individual not doing business shall not be required to register for corporate tax.

Introduction of guidelines in respect of interest deduction and general rules for determining taxable income: Ministerial Decision No. 126 of 2023 and Ministerial Decision No. 134 of 2023



CORPORATE TAX

The deductible amount for net interest expenditure incurred during the relevant tax period shall be capped at 30% of EBITDA (excluding exempt income). Any excess amount of interest expenditure incurred shall be disallowed. However, the excess can be carried forward and set off in the subsequent ten tax periods. Further, the limitation rule will not apply in the following cases:

- Banks and insurance providers
- Natural Persons conducting business
- Where the net interest expense does not exceed AED 12 Million
- Historical financial liabilities whose terms were agreed prior to 9 December 2022
- Net interest expenditure in relation to 'Qualifying Infrastructure Projects'

The Ministry of Finance also released Ministerial Decision No. 134 of 2023 providing general rules for determining the taxable income. The decision provides general guidelines in respect of adjustments that need to be made to the accounting income.

Other selected Cabinet and Ministerial Decisions

Small Business Relief (Ministerial Decision No. 73 of 2023)

Taxable Persons with revenues not exceeding AED 200 Million in the current tax period and the previous tax periods can use the small business relief. This relief will be available to all tax periods ending on or before 31 December 2026. Further, a free zone person and a constituent entity of a MNE Group cannot use this benefit.

Any effort to artificially split profits in order to take advantage of this relief would be subject to the general anti abuse rules.

Maintaining transfer pricing records (Ministerial Decision No. 97 of 2023)

Taxable Persons with consolidated group revenue exceeding AED 3,150 Million in a tax period or Standalone revenue exceeding AED 200 Million in a tax period will have to mandatorily maintain transfer pricing master file and local file.

Requirement to prepare financial statements under IFRS (Ministerial Decision No. 114 of 2023)

Taxable Persons are required to mandatorily prepare financial statements in accordance with International Financial Reporting Standards. Where the annual revenue in a tax period does not exceed AED 50 Million, taxpayers can prepare financial statements using IFRS for Small and Medium Enterprises.

United Arab Emirates

CORPORATE TAX

Where revenue from UAE operations does not exceed AED 3 Million in a tax period, the taxpayer can use the cash basis of accounting for maintaining its books of accounts.

Requirement for financial statements to be audited (Ministerial Decision No. 82 of 2023)

Financial statements will have to be mandatorily audited for businesses that take advantage of the free zone relief and for businesses whose revenue from operations during the relevant tax period exceeds AED 50 Million.

Exemption from requirement to obtain tax registration (Ministerial Decision No. 43 of 2023)

The following persons will be exempted from the requirement to obtain a corporate tax registration:

- Government & Government controlled entities
- Extractive and non-extractive natural resource businesses
- Non-residents (with no PE in the UAE) that only derive state sourced income in the UAE

The above exemption will not apply to entities mentioned in the first two bullet points where the entities are engaged in business activities.

Transitional Rules (Ministerial Decision No. 120 of 2023)

The decision prescribes specific adjustments that can be made in respect of certain immovable property, intangible assets and financial assets & liabilities.

Tax payers will be required to make elections related to these adjustments in the first tax return and these will be treated as irrevocable (except under certain exceptional circumstances).

Other relevant cabinet and ministerial decisions:

- Ministerial Decision No. 68 of 2023 on the Treatment of all Businesses and Business Activities of a Government Entity as a Single Taxable Person
- Cabinet Decision No. 37 of 2023 Regarding the Qualifying Public Benefit Entities
- FTA Decision No. 5 of 2023 on the Conditions for Change in Tax Period
- FTA Decision No. 6 of 2023 on the Tax Deregistration Timeline
- FTA Decision No. 7 of 2023 on the Provisions of Exemption from Corporate Tax
- Ministerial Decision No. 105 of 2023 on the Determination of the Conditions under which a Person may Continue to be Deemed as an Exempt Person, or Cease to be Deemed as an Exempt Person from a Different Date
- Ministerial Decision No. 83 of 2023 on the Determination of Condition under which the Presence of a Natural Person in the State would not Create a Permanent Establishment for a Non-Resident Person
- Ministerial Decision No. 115 of 2023 on Private Pension Funds and Private Social Security Funds for Corporate Tax Purposes
- Ministerial Decision No. 116 of 2023 on the Participation Exemption for Corporate Tax Purposes
- Ministerial Decision No. 125 of 2023 on Tax Group for the Purposes of Federal Decree Law No. 47 of 2022 on the Taxation of Corporations and Businesses
- Ministerial Decision No. 127 of 2023 on Unincorporated Partnership Foreign Partnership and Family-Foundation for the Purposes of Federal Decree Law No. 47 of 2022
- Ministerial Decision No. 132 of 2023 on Transfers Within a Qualifying Group for the Purposes of Federal Decree-Law No. 47 of 2022
- Ministerial Decision No. 133 of 2023 on Business Restructuring Relief for the Purposes of Federal DecreeLaw No. 47 of 2022 on the Taxation of Corporations and Businesses
- Ministerial Decision No. 83 of 2023

United Arab Emirates

VAT

Recent VAT initiatives

The FTA has recently launched a number of specific VAT projects aimed at enhancing the country's competitiveness. These include the Muwafaq package and Specialised Tax Agent. It has also been indicated in the FTA Board of Directors meeting, that an Electronic Invoicing System (e-invoicing) will be introduced in the UAE in due course.

The FTA has also launched its digital innoVATion platform named 'Tax 10', designed to strengthen and encourage innoVATion, excellence, and professional creativity among its employees.

Applications for Refund of input tax incurred on operating mosque

The FTA has begun accepting refund requests for VAT incurred on operating mosques via its EmaraTax digital tax services platform. The refund is to be claimed as per the provisions of Cabinet Decision on Refund of Input Tax Incurred on the Construction and Operation of Mosques and the Ministerial Decision in that regard which was announced in November last year.

The timelines for the VAT Refund applications is as follows:

Mosque began operating	Timeline for submission of refund application
Before 1 January 2022	April - September 2023
After 1 January 2022	October - December 2023
In years subsequent to 2022	January - April of the following year

Private clarifications guide

The FTA has recently updated the guide for submission of private clarifications. The updates cover the changes in the procedures for submitting the application online on the EmaraTax portal, timelines and the fees to be paid in respect to private clarifications from 01 June 2023.

The fees are as follows:

- Private clarification relates to one tax only - AED 1,500 per application
- Private clarification relates to more than one tax - AED 2,250 per application

The timeline for receiving a response from FTA on the private clarification request is 50 business days.

The FTA has stated that private clarifications are not considered to be a decision by the FTA, but rather the FTA's view on the application of the applicable legislation based on a specific set of facts. Hence, the private clarifications are not subject to the dispute resolution process and business cannot apply for a reconsideration or review of the private clarifications.

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