

MIDDLE EAST TAX NEWSLETTER

Upcoming events

Baker McKenzie EMEA Tax Conference - Ahead of Tax
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Amsterdam, Netherlands
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Our Middle East Tax Newsletter aims to provide you with regular updates, insights and practical guidance on the tax implications of doing business in the region. Below are the most recent tax-related developments from across the Gulf Cooperation Council (GCC).

In this issue

Bahrain

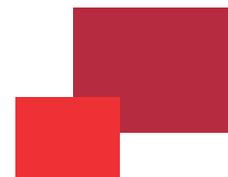
Guidance on VAT treatment of financial services

Following the publication of the VAT Financial Services Guide by the National Bureau for Revenue (tax authority in Bahrain), all three of the GCC countries that have introduced VAT have now published guidance on the VAT treatment of financial services in their respective jurisdictions. The definition of financial services and the scope of the VAT exemption are not entirely the same in all three countries. A notable difference is the VAT treatment of option premiums. The premiums are taxable in the UAE, but exempt in the KSA and Bahrain. There are also differences in the standard method applied in each country for the apportionment of residual input tax in cases where taxpayers are partially exempt. For example, in the UAE, the affected taxpayers are also required to carry out an actual use calculation at the end of the tax year, and the guidelines appear to limit how "actual use" can be determined by the taxpayers. It is important for businesses to understand the differences in treatment across the respective countries in order to minimize inadvertent VAT leakage.

Saudi Arabia (KSA)

1. Issuance of Transfer Pricing regulations

The deadline for many companies to file the first disclosure of related party transactions to the tax authority (the General Authority of Zakat and Tax or



GAZT) is 30 April 2019 pursuant to the Transfer Pricing (TP) regulations issued in February 2019.

The regulations mainly set out the affected parties, documentation and reporting requirements, and the acceptable TP methods. They apply to controlled transactions (between related parties) to which taxpayers are a party during the fiscal year ending 31 December 2018 onwards. A key point to note is that parties could be related even if there is no shareholding or common shareholding relationship between them. A related party relationship could arise where one party is able to influence the business decisions of the other, including cases where 50% or more of the absolute aggregate value of one party's business activities (based on its financial statement year-end balance) depends on transactions with the other party.

Taxpayers are required to file tax returns together with a disclosure of related party transactions, regardless of their value. For companies observing calendar-based financial years, they would need to file the disclosure before 30 April (ultimately within 120 days from the end of the fiscal year). The disclosure should also contain other business related, financial and transactional information, as well as include an affidavit of a licensed auditor certifying the consistent application of the TP policy.

2. Publication of draft law on C-Zones

The GAZT has also released a draft of the [Special Cloud Computing & Informational Technology Zone Law](#). Under the Law, one or more Special Cloud Computing Services & Electronic Zones (C-Zones) shall be created in the KSA. The draft clarifies the treatment of C-Zone activities and the position of C-Zone entities for income tax purposes, particularly in the application of Double Tax Treaties. Businesses can submit feedback on the draft law via publicconsultation@gazt.gov.sa.

United Arab Emirates (UAE)

1. Guidance on VAT refund scheme for foreign businesses

The UAE Federal Tax Authority (FTA) has issued detailed guidance on the conditions and procedures for foreign businesses (i.e. non-residents) to claim a refund of UAE VAT. Only companies that are located in a country that is on the approved list and that has a VAT system can claim a refund. The list is based on countries that have reciprocal arrangements for UAE businesses. Some of the countries excluded from the list are the United States, India, Ireland, Germany, Italy, China and Spain. Companies based in the excluded countries may need to reconsider the cash flow effect on their relevant transactions.



2. Tax Disputes Resolution Committees in Dubai and Sharjah

Following a ministerial resolution, Tax Disputes Resolution Committees have been put in place for the emirates of Sharjah and Dubai. The Sharjah Committee has jurisdiction to handle objections from taxpayers registered in all the emirates except for Dubai and Abu Dhabi, whilst the Dubai Committee has jurisdiction to consider objections from taxpayers registered in Dubai. A committee has yet to be formed for taxpayers registered in Abu Dhabi. Non-resident taxpayers will fall under the competence of the Abu Dhabi Committee. With the formation of the Committees, there is now formally a mechanism in place for resolving disputes between taxpayers and the tax authority.

The Committees have the authority to:

- decide in respect of objections to the tax authority's decisions on applications for reconsideration;
- decide in respect of applications for reconsideration submitted to the tax authority but pending a decision according to the provisions of the law; and
- any other jurisdictions entrusted to the Committee by the UAE Cabinet.

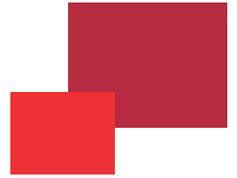
As a first step, based on the Tax Procedures Law, the taxpayer will first need to submit an application (or a reconsideration request) in Arabic to the tax authority to reconsider a decision issued to the taxpayer by the tax authority. The taxpayer must do so within 20 business days of being notified of the decision. Thereafter, an objection may be filed to the relevant Tax Disputes Resolution Committee.

An objection can then only be submitted to the relevant Committee after (i) the reconsideration request has been previously submitted to the tax authority as noted above and (ii) the applicable tax and penalties, which are ultimately the subject of the objection, have been settled.

Oman

Issuance of Oman Excise Tax Law

Oman has published a Decree Law on 13 March 2019 in respect of the introduction of excise tax on goods that are harmful to human health or to the environment and on luxury goods. The Excise Tax Law will come into effect 90 days after the date of publication of the Decree Law. The list of goods on which the new tax will apply still has to be confirmed but is expected to be in line with the other GCC countries that have introduced the excise tax.



For previous editions of the Middle East Tax Newsletter and other resources, you can visit our Middle East Insights blog and GCC VAT website:

- <http://me-insights.bakermckenzie.com/>
- <http://www.bakermckenzie.com/en/insight/publications/2017/10/doing-business-gulf-vat-regime>

To speak to us in relation to any tax issues in the Middle East, please feel free to contact one of the lawyers below, or your usual Baker McKenzie contact.



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