HLB HAMT
AUDIT | TAX | ADVISORY

TAX
INSIGHTS & UPDATES

July 2022

PARTNER'S MESSAGE

The business landscape in the metropolis of Dubai has regained its normalcy following the global pandemic. Due to its status as the most appealing financial center in the Middle East and North Africa (MENA) region, Dubai has an economic strategy to foster a dynamic business environment that encourages growth and innovation.

The standards for complying with tax regulations are always evolving. The UAE's transition to a tax economy is both desirable and critical especially with the introduction of corporate tax beginning in June 2023 in response to increased global competitiveness. There have been a number of tax economic innovations that need consideration in order to enhance global tax compliance.

Numerous multinational corporations now conduct business internationally in the UAE, and the multitude of sectors has experienced unprecedented development in recent years. It is worth noting that, in spite of the current state of the world's volatility, Dubai has always been a sound investment for everyone, from small businesses to large organisations.

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CONTENTS

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UAE CORPORATE TAX

BEPS 2.0: PILLAR TWO

In October 2021, the UAE & over 130 other countries reached an agreement on BEPS 2.0. On 20 December 2021, the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting, involving 137 countries, released Model Globe Rules under Pillar 2 and on 14 March 2022 commentary were published on the globe rule. This commentary explains the intended outcomes under the GloBE Rules and clarifies the meaning of certain terms.

The introduction of a CT regime in the UAE will provide a basis for the UAE to execute its support of the global minimum effective tax rate as proposed under Pillar Two, and more broadly its commitment to enhancing tax transparency and preventing harmful tax practices. The Pillar 2 rules apply blending on a jurisdiction-by-jurisdiction basis.

The rules are due to be brought into law in each participating jurisdiction through domestic law changes in 2022, to be effective in 2023 for the Income Inclusion Rule (IIR), and 2024 for the Under-Taxed Payments Rule (UTPR).

Scope of global minimum effective tax

The GloBE Rules apply to Constituent Entities that are members of an MNE Group that has annual revenue of EUR 750 million or more in the Consolidated Financial Statements of the Ultimate Parent Entity (UPE) in atleast two of the four Fiscal Years immediately preceding the tested Fiscal Year. These scope rules ensure that smaller Groups and purely domestic Groups remain unaffected by the GloBE Rules.

Exclusions

Certain organizations, entities or arrangements are excluded from the GloBE rules. Government Entities, which do not carry on a trade, International Organizations and Non-profit Organizations and Pension funds are fully excluded. In addition, Investment Funds are excluded, but only when they are the Ultimate Parent Entity of an MNE Group. Certain holding vehicles owned by these excluded entities are also themselves excluded. There is an exclusion for international shipping income and certain related income

Income Inclusion Rule (IIR)

The GloBE rules are designed to ensure that large MNEs pay a minimum level of tax on the income arising in each jurisdiction in which they operate. The rules calculate the Effective tax rate (ETR) imposed on the MNE in each jurisdiction. Where the ETR in a jurisdiction falls below 15% these rules determine an amount of top-up tax for each constituent entity in the jurisdiction. The IIR is the primary rule to impose this top-up tax. Under the IIR a parent entity within the MNE group will pay tax in its jurisdiction of tax residence in respect of its allocable share of the top-up tax of a low taxed Constituent Entity. In this regard the IIR bears similarities to Controlled Foreign Corporation (CFC) rules.

An exception to the top-down rules can apply where a low-taxed Constituent Entity has a significant (i.e., more than 20%) minority interest holder outside the MNE group. The split-ownership rules apply to address the potential for leakage that would result from simply subjecting the UPE's allocable share of the low-taxed Constituent Entity to IIR tax.

Under-taxed Payments Rule (UTPR)

The UTPR operates as a backstop to the IIR, to be applied where insufficient top-up tax is collected under the IIR. The UTPR denies deductions or provides for a similar adjustment for group entities to the extent that there is top-up tax that has not been taxed under the IIR.

Effective tax rate (ETR)

The determination of whether top-up tax is required, either through the IIR or the UTPR, is based on a complex calculation of the Effective Tax Rate (ETR) for a jurisdiction. The Model Rules use modified deferred tax calculations for the timing differences and the treatment of losses

The GloBE rules prescribe that the ETR of the MNE Group for a jurisdiction with Net GloBE Income is calculated for each Fiscal Year. The ETR of the MNE Group for a jurisdiction is equal to the sum of the Adjusted Covered Taxes of each Constituent Entity located in the jurisdiction (numerator) divided by the Net GloBE Income of the jurisdiction for the Fiscal Year (denominator).

Net globe income = GloBE income all constituent entities- GloBE losses all constituent entities

Adjusted covered taxes= Current tax expense accrued in its Financial Accounting Net Income or Loss with respect to Covered Taxes for the Fiscal Year after adjustment.

For the purposes of this rule, each Stateless Constituent Entity shall be treated as a single Constituent Entity located in a separate jurisdiction.

Substance based income exclusion

The Net GloBE Income for the jurisdiction shall be reduced by the Substance-based Income Exclusion for the jurisdiction to determine the Excess Profit for purposes of computing the Top-up Tax. A Filing Constituent Entity of an MNE Group may make an Annual Election not to apply the Substance-based Income Exclusion for a jurisdiction by not computing the exclusion or claiming it in the computation of Top-up Tax for the jurisdiction in the GloBE Information Return(s) filed for the Fiscal Year.

The Substance-based Income Exclusion amount for a jurisdiction is the sum of the payroll carve-out and the tangible asset carve-out for each Constituent Entity, except for Constituent Entities that are Investment Entities, in that jurisdiction.

Conclusion

The UAE is working with other members of the Inclusive Framework to implement the Pillar Two proposals. The year 2023 being the first year of implementing year of corporate tax, it's very important to know that how the framework will be implemented in UAE. Asper the current information and documents from MOF, UAE CT intended to provide the incentives to free zones. This will have much impact on freezone which is part of MNE group.
As the work is ongoing at the Inclusive Framework level, further announcements on how the Pillar Two rules will be embedded into the UAE CT regime will be made in due course.

UAE Updates

Federal Tax Authority Intensifies Its Efforts by Increasing Inspections Visits 104 Percent in 6 months

The Federal Tax Authority (FTA) significantly expanded its efforts in collaboration with various government departments, ministries, and authorities to protect consumers from non-compliant products, combat tax evasion, and ensure compliance with tax legislations and procedures. During the first half of this year, the FTA carried out 9,948 inspection visits in local markets across the country in collaboration with the Ministry of Economy, the Federal Authority for Identity, Citizenship, Customs, and Port Security and various departments of Economic Development across the country. Inspections conducted in the first half of 2022 increased by 104 percent compared to 4,878 inspections conducted in 2021 in the same period.

The inspection visits in the first half of 2022 result in

- **1,213** Violations
- **130.4 Million Dirhams** Payable tax liabilities amounts
- **404 Notice** of Non Registered
- **1.07 Million** Packages of Excisable Drinks
- **5.5 Million** Packages of illicit tobacco & tobacco products not bearing the digital Tax Stamp

The authority explained that the control efforts resulted in the seizure and confiscation of nearly 5.5 million pieces of tobacco products that did not conform to specifications and do not carry "digital tax stamps", in addition to the seizure of nearly 1.07 million packages of violating other selective goods, which include soft drinks, energy drinks and sweetened drinks. Noting that the total value of tax liabilities seized during these inspection visits amounted to 130.4 million dirhams.

The Federal Tax Authority has updated Decision No. 3 of 2022 on implementing the marketing of tobacco and tobacco products scheme

Article 1

Designated Excise Goods For the purposes of this Decision, “Designated Excise Goods” shall mean all of the following:

- All types of cigarettes.
- Electrically heated cigarettes; and
- “Water pipe tobacco”, which is any product being imported, produced, or cultivated in the State that could be classified as “Water pipe tobacco” according to Schedule 24 of the Unified Customs Tariff for the GCC States.

Article 2

Marks with a New Design

- Marks with a new design shall be approved, and approval is withdrawn from marks with the old design.
- For the purposes of Clause 1 of this Article, the dates in the table below shall apply:

SCOPE	DATE	EVENT
Local markets, & duty-free markets - Arrival terminals	1 October 2021	Receiving requests for marks with the new design for local markets and duty-free markets - Arrival terminals
Duty-free markets - Departure terminals	1 January 2022	Receiving requests for marks with the new design for duty-free markets – Departure terminals
Local markets, dutyfree markets -Arrival Terminals, & Dutyfree markets- Departure terminals	31 December 2023	Preventing the supply, transfer, storage or possession of designated excise goods in the State using marks with the old design.

Article 3
Abrogation of Conflicting provision

All provisions contrary to or inconsistent with the provisions of this Decision shall be abrogated.

Article 4
Implementation of the Decision

This Decision shall come into effect as of 1 October 2021

The Federal Tax Authority has issued a new Decision No. 4 of 2022 on Setting the Time Limit for Claiming Refund of VAT by Tourists providing guidance on several requirements for the operators of the Tax Refunds for Tourist Scheme in the UAE

Tourists visiting the UAE are eligible to receive a refund of VAT incurred on purchases made in the country under Article 68 of the UAE VAT Law and by way of Cabinet Decision No. 41 of 2018, which specifies the detailed process of obtaining a VAT refund and the requirements prescribed for a person to be eligible for its application.
The newly published FTA Decision No. 4 specifies that the operator of the Tax Refunds for Tourist Scheme is required to set a one-year time limit for tourists to claim the VAT refund through cash or a debit/credit card from the date of verification of the refund request. Such time limit should be duly disclosed in the operator's published list of terms and conditions.

The Dubai customs authority published customs notice regarding a temporary suspension of export and re-export of wheat and wheat flour.

Dubai Customs published Customs Notice No. (06/2022) on 5 July 2022 regarding the temporary suspension of export and re-export of wheat and wheat flour of Indian origin in accordance with Ministry of Economy's Decision No. 72 of 2022.The notice imposes a ban on the export and re-export of wheat and wheat flour originating from India that were imported into the UAE after 13 May 2022.The companies wishing to export or re-export wheat and wheat flour of Indian origin imported into the UAE before 13 May 2022 as well as the aforementioned products of non-Indian origin are required to obtain permission from the Ministry of Economy in order to do so.

The Dubai customs authority published customs notice regarding a temporary ban on the export and re-export of iron scrap and paper waste. The customs notice takes effect on 30 September 2022.

Dubai Customs temporarily prohibits the export of iron scraps and paper waste under the below HS Codes with effect from 30 September 2022:

47071000 - Recovered (waste and scrap) paper or paperboard. (Unbleached "kraft" paper or paperboard or corrugated paper or paperboard).

47079090 - Recovered (waste and scrap) paper or paperboard. (--- other)

72041000 - Ferrous waste (ingots) from re-melting iron and steel scrap (Waste and scrap of cast iron)

72042100 - Ferrous waste (ingots) from re-melting iron or steel scrap (waste and scrap of alloy steel) (--- of stainless steel)

72042900 - Ferrous waste (ingots) from re-melting iron or steel scrap (waste and scrap of alloy steel) (--- others).

72043000 - Ferrous waste (ingots) from re-melting iron or steel scrap (-Waste and scrap of tinned iron and steel).

72044100 – Ferrous waste (ingots) from re-melting iron or steel scrap (-Other waste and scrap) (--Turnings, shavings, chips, milling waste, sawdust, filings, trimmings and stampings, whether or not in bundles).

72044900 – Ferrous waste (ingots) from re-melting iron or steel scrap (-Other waste and scrap) (--other).

72045000 – Ferrous waste (ingots) from re-melting iron or steel scrap (-Ingots from re-melting scrap).

Dubai Customs - Regulations under India-UAE CEPA

The UAE and India signed a Comprehensive Economic Partnership Agreement ("CEPA"), with effect from 1 May 2022. The intention of the CEPA is to boost bilateral trade between the two countries and mutually benefit from the respective countries' trade expertise. The UAE also signed similar deals with Israel and Indonesia.

Some of the immediate benefits for businesses in the UAE trading with Indian businesses include:

- Simpler customs procedures.
- Clear and transparent rules on trade.
- Lower tariffs.
- Enhanced market access.
- Government procurement opportunities.
- Greater information and guidance for Small and Medium Enterprises (SMEs).

In furtherance of the CEPA, Dubai Customs has recently issued Customs Policy No. (54/2022) on the conditions and regulations for the implementation of the CEPA, effectively publishing the tariff and non-tariff commitments of the UAE under the CEPA.

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GCC Updates

www.hlbhamt.com

KINGDOM OF SAUDI ARABIA

ZATCA published additional suggested amendments to the Excise Tax implementing Regulations for public consultations

On 4 July 2022, ZATCA published suggested amendments to a number of provisions in the Excise Tax implementing Regulations for public consultation which will end by 30 July 2022.

The Excise Tax Implementing Regulations' articles 17, 18, and 26, most notably, are affected by the new provisions, whereas ZATCA's objective is to make it easier for owners of excise products to acquire tax warehouse licenses, which increase cash flow flexibility by delaying the tax payment deadline. Additionally, it also clarifies the process for taxpayers to self-disclose and pay any unpaid or inaccurate taxes to ZATCA within 15 days.

Kingdom of Saudi Arabia's Re-election to Customs Policy Commission and Finance Commission of the World Customs Organization (WCO)

The Kingdom of Saudi Arabia succeeded in preserving its membership in the Customs Policy Commission and the Finance Commission of the World Customs Organization (WCO), after agreeing with the countries of the North African, Near and Middle East region at the 56th regional coordination meeting, held at the World Customs Organization in Brussels, and the support of members of the WCO's Board at its session (140/139) on the continuation of Saudi Arabia's membership in the two Commission, during the participation of the Zakat, Tax and Customs Authority in the meetings of WCO.

The Authority's delegation to the council's meetings was led by H.E. The Governor of Zakat, Tax and Customs authority, Eng. Suhail bin Mohammed Abanmi, where the meetings included the 86th meeting of the Customs Policy Commission, the 54th Regional Meeting of the North African, Near and Middle East countries, and the Meeting of the World Customs Organization Council at its 140/139 session.

The Customs Policy Commission is one of the most important and prominent commission of the WCO, which is concerned with formulating the organization's policies by making recommendations to the Council regarding the strategic plan, or the relevant commission.

The meetings of the WCO Council discussed international standards and practices recommended for development or adoption during the next fiscal year, to promote the management and facilitation of cross-border trade, and members focused their discussions on several areas, including data strategy, performance measurement, capacity building, rules of origin, evaluation, classification, compliance, and trade facilitation, as well as many issues related to customs.

Saudi Arabia issues amendments to transfer pricing bylaws

On 4 July 2022, the Saudi Arabia Zakat, Tax and Customs Authority (ZATCA) issued a public consultation document proposing to amend the Transfer Pricing (TP) Bylaws (Amendments to Transfer Pricing Bylaws to be applied to Zakat payers). One of the major proposed amendments, if approved, will result in the applicability of TP documentation to zakat payers such as TP disclosure forms, and local file and master file requirements, in addition to the existing Country-by-Country Reporting (CbCR) requirements for qualifying multinational groups.

Comments on the proposal may be submitted by 30 July 2022.

KINGDOM OF BAHRAIN

Imported cigarette products implementation milestone

All cigarette products that arrive at the entry point of the kingdom of Bahrain through customs affairs for clearance must have a digital stamp, which will be effective from 17 July 2022

4 July 2022 the updated excise goods list is published on NBR's website

https://www.nbr.gov.bh/publications/view/excise_goods_list

QATAR

Qatar extends transfer pricing filing deadline to 30 September

On 17 June 2021, the Chairman of Qatar's General Tax Authority (GTA) issued Decision No. 8 of 2021 extending the deadline for submission of the master file and local file to the GTA from 30 June 2021 to 30 September 2021, by companies whose financial year began on or after 1 January 2020.

Originally set to 30 June of the year following the fiscal year in general, Decision No. 10 sets the deadline to 60 days after the deadline for submitting the annual tax return. For calendar fiscal years, the deadline remains 30 June given that the annual return is due within four months after the end of the year, or 30 April. The Master file and Local file must be submitted via the Dhareeba tax portal, and if not submitted by the prescribed deadline, late filing penalties will apply equal to QAR 500 per day, up to a cap of QAR 180,000.

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International Tax Updates

OECD

International tax reform: Multilateral Convention to implement Pillar One on track for delivery by mid-2023

11/07/2022 - Implementation of the international tax reform agreement to ensure multinational enterprises pay a fair share of tax wherever they operate is progressing, according to an OECD report delivered to G20 finance ministers and central bank governors ahead of their meeting in Indonesia later this week.

According to the OECD Secretary-General Tax Report, Members of the OECD/G20 Inclusive Framework on BEPS have concentrated on the practical implementation of the landmark agreement to reform international tax arrangements reached by over 135 countries and jurisdictions in October 2021.

The report includes a new Progress Report on Pillar One, presenting a comprehensive draft of the technical model rules to implement a new taxing right that will allow market jurisdictions to tax profits from some of the largest multinational enterprises ("Pillar One"). This report will now be subject to public consultation through to mid-August. The Inclusive Framework will then aim to finalise a new Multilateral Convention by mid-2023, for entry into force in 2024. This revised timeline, previously flagged by OECD Secretary-General Mathias Cormann and agreed by the Inclusive Framework is designed to allow greater engagement with citizens, business and parliamentary bodies which will ultimately have to ratify the agreement.

UNITED KINGDOM

UK publishes draft legislation on new transfer pricing documentation requirements

On 20 July 2022, the United Kingdom (UK) Government published draft legislation as part of the draft Finance Bill 2022/23 which will make it a requirement for large multinational businesses operating in the UK to keep and retain transfer pricing documentation in a prescribed and standardized format, set out in the Organisation for Economic Co-operation and Development's (OECD) Transfer Pricing Guidelines.

The measure will require large multinational businesses operating in the UK to maintain a master file and a local file in a prescribed and standardised format, as set out in the OECD's transfer pricing guidelines. It will also introduce a requirement to complete a Summary Audit Trail, which is a questionnaire detailing the main actions undertaken in preparing the local file. his applies to large multinational businesses within the Country-by-Country Reporting (CbCR) regime, with global revenues of €750m or more, operating in the UK.

RECENT UPDATES

Public clarification on gold making charges
VATP029 Gold Making Charge15062022.pdf (tax.gov.ae)

Excise tax public clarification Excise Goods which are deficient or missing & the process for the destruction of Excise Goods within a Designated Zone
EXTP007 - Wastage of excise goods - 20 06 2022.pdf (tax.gov.ae)

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