

Tax Insights Newsletter

Welcome to the inaugural edition of our Legal Insights Newsletter, where we unravel the complexities of tax landscapes in the United Arab Emirates and the Kingdom of Saudi Arabia. In this dynamic region characterized by rapid economic growth and evolving regulatory frameworks, understanding the intricacies of taxation is paramount. Our goal is to provide you with insights into recent developments, key legislative changes, and essential compliance considerations affecting businesses and individuals. This first newsletter will provide particular information on applicable regulations and requirements in both the UAE (I) and the (II) Kingdom of Saudi Arabia.

1. UNITED ARAB EMIRATES

1.1. CORPORATE TAX: MAIN REQUIREMENTS

- 1.1.1. Registration:** All businesses in the UAE, including free zone companies, must register for corporate tax from June 2023 onward (even if they already have a VAT number).
- 1.1.2. Accounting Records and Tax Submission:** Proper accounting records, as per UAE's corporate tax law, must be maintained. After the first taxable period, businesses need to file a corporate tax submission with the Federal Tax Authority (FTA), irrespective of potential exemptions.
- 1.1.3. Corporate Tax Rates:** There are three tiers of corporate tax rates:
- Tier 1: 0% tax rate for profits up to AED 375,000.
 - Tier 2: 9% tax rate for profits exceeding AED 375,000.
 - Tier 3: Higher tax rate for large multinational companies with a global revenue over AED 3.5 billion.
- 1.1.4. Free Zone Companies:** Free zone companies must register for corporate tax but may be exempted if they meet specific criteria enabling them to qualify as "Qualifying Free Zone Person."
- 1.1.5. Small Business Relief Rule:** Businesses with revenue under AED 3 million are exempt from corporate tax. Even if eligible for relief, businesses must still register, maintain accounting records, and file tax submissions.
- 1.1.6. Calculation of Taxable Profit:** Taxable profit is calculated as revenue minus business-related expenses. Those expenses are subject to specific rules and our team of experts would guide you identifying them such as salaries to owner, interests,

entertainment, tax credit for foreign branches, dividends, capital gains from selling shares of a subsidiary.

1.1.7. Corporate Tax Exemptions: Various entities, including government entities, businesses in specific industries, and charitable organizations, may qualify for corporate tax exemption.

1.1.8. Corporate Tax Penalties - Effective from 1st August 2023: Administrative penalties apply for violations, including failure to keep required records, submit data in Arabic, file tax returns on time, settle payable tax, and for submitting incorrect tax returns. Penalties range from AED 500 to AED 20,000.

1.2. ECONOMIC SUBSTANCE REPORTING (“ESR”)

1.2.1. All companies that **carry out “relevant activities”** must comply with ESR requirements and submit notifications and reports annually to avoid potential penalties and sanctions.

1.2.2. UAE registered entities shall undertake self-assessment to determine if they have engaged into any Relevant Activity(ies). In the positive, they shall **submit the Economic Substance Notification** on the MoF portal within 6 months from the end of their financial year). Please note that no additional documents are needed for this step. Only the completion and submission of the Economic Substance Notification is required before 30 June 2023.

1.2.3. Those entities must submit an annual Notification form to their Regulatory Authority, and complete and submit to the same Regulatory Authority **an Economic Substance Report** within 12 months from the end of their financial year (e.g. **31 December 2023** for entities with a financial year ending 31 December 2022).

1.2.4. Failure to submit their Economic Substance Report, where applicable, within the aforementioned period shall be subject to **a penalty of AED 50,000.**

1.3. UPDATE ON THE RECENT ISSUED GUIDELINES

Furthermore, please find below a summary of the recent issued guidelines by the UAE Federal Tax Authority (FTA) which can help you navigate within the new UAE tax landscape:

1.3.1. Public clarification issued by the FTA on the application of the **Reverse Charge Mechanism (RCM)** on electronic devices via Cabinet Decision No. 91 of 2023. The FTA addresses the application of the RCM on electronic devices by VAT registered persons within the UAE.

- 1.3.2. Small Business Relief Tax Guide** released on August 28th, 2023, provides an overview of what is the Small Business Relief regime, who is eligible for it, how it works and the compliance requirements related to it.
- 1.3.3. General Corporate Tax Guide** released on September 11st, 2023 provides an overview of the main UAE Corporate Tax rules and procedures including the determination of the corporate tax base, the calculation of corporate tax, filing of corporate tax returns and other related compliance requirements.
- 1.3.4. Corporate Tax Guide for Non-Resident Persons** released on October 9th, 2023 provides general guidance to natural persons and legal persons, who are not considered resident persons for corporate tax purposes but who derive income from the UAE, to determine whether they are subject to tax in the UAE as non-resident persons.
- 1.3.5. Corporate Tax Guide on 'Exempt Income: Dividend and Participation Exemption'** released on October 16th, 2023 provides clarification with respect to the conditions for the UAE participation, exemption regime to apply and therefore certain income, such as capital gains and foreign dividends, to be exempt from UAE corporate tax.
- 1.3.6. Corporate Tax Guide on Transfer Pricing** released on October 23rd 2023, provides an overview of the transfer pricing rules and procedures applicable in the UAE as well as obligations in terms of transfer pricing documentation.

On the international tax front, the Minister of Finance has recently announced that the UAE will not implement Pillar Two rules in 2024 (global minimum tax). A public consultation is expected to be conducted in Q1 2024 to discuss the potential implementation of the rules and impact on UAE taxpayers.

As more guidelines are now available, we recommend businesses to assess the impact of the new rules and consider the exemption regimes/ relief available to ensure tax efficient structures. Feel free to reach out to us should you need help to assess the impact on your business.

2. KINGDOM OF SAUDI ARABIA (KSA)

Several amendments to the existing KSA tax regulations have been made over the last months by Zakat, Tax and Customs Authority (ZATCA). Therefore, taxpayers should assess the impact on their business in KSA.

2.1 Tax Amnesty program for the waiver of fines on certain taxes, including corporate income tax, withholding Tax, VAT and Real Estate Transaction Tax (RETT) has been extended until December, 31st 2023.

2.2 ZATCA announced the **8th wave of taxpayers required to implement Integration Phase (Phase 2) of E-invoicing** on August 18th, 2023. VAT registered taxpayers with taxable revenue exceeding 40 million Saudi Riyals during fiscal years 2021 or 2022 would have to integrate their E-invoicing solutions with the FATOORA platform with effect from March 1st, 2024. An assessment of taxable revenues and the reviewing of compliance practices of the taxpayers would allow benefiting from the applicable tax amnesty program before the deadline.

2.3 In order to be consistent with the aim of encouraging foreign investment and domestic economic growth, **ZACTA proposed a new tax law** that adheres to international best practices. The draft has been proposed for public consultation until December, 25th 2023.

The team of Links Advisers remain at your disposal for any clarification or support required to guide you through every step, providing the expertise and support your needs.

About us

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Founded by Celine Farhat, our leader with over 15 years of legal expertise in the Middle East, we specialize in illuminating the path for French and international clients. Whether it's navigating the business landscapes of the UAE and KSA or unlocking investment opportunities, we are your trusted guides in the rewarding Middle Eastern markets.

Our Services: A Spectrum of Excellence

Our comprehensive legal services are tailored to enhance your enterprise. From the foundational elements of contract and corporate law to the strategic intricacies of business setup in mainland and free zones, we provide comprehensive support for all business needs. Conducting restructuring and liquidation with ease, and staying ahead with our expert guidance on labor laws, commercial agencies, and distributorships. Our commitment to corporate compliance and litigation fortifies your legal security. Moreover, our extended offerings in tax, corporate finance, accounting, auditing, and PRO services ensure that your business continues to sail smoothly towards success.

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