

Tax Updates

August **21'**



Tax *updates*

2021 August Edition

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United Arab Emirates

Dubai Customs Notice no. 13/2021: E-commerce between companies

With the aim of fostering a flexible business investment environment and for the purposes of simplifying, facilitating and improving the regulation of customs procedures and movement of goods between companies via e-commerce channels, the Dubai Customs via Customs Notice No. (13/2021) has decided that :-

- a) Companies wishing to trade via e-commerce channels must register in the Dubai Customs customer registration without the need to add the activity in Trade License
- b) Logistics companies can clear goods on behalf of the client companies if they registered these clients in Dubai Customs customer registration system

This notice applies to commercial companies, including free zone companies and customs warehouses, and will enter into force on 14 November 2021.

Extension on exemption of customs duty on personal imports via e-commerce

The Dubai Customs via Customs Notice No. (14/2021) has extended the applicability of Customs Notice No. 9/2021 on personal imports via e-commerce which stated that “all goods imported for personal purposes through postal parcels or courier companies with value no more than AED 300 are exempted of customs duty” to 1 January 2022.

The exemptions prior to the introduction of Notice no. 09/2021 were in force on goods imported for personal purpose shall continue in effect until 31 December 2021.



Comprehensive guide on customs services during EXPO2020 Dubai released

On 14 August 2021, Dubai Customs launched a comprehensive guide for all the services and facilities it provides to enable traders and businesses, which selected Dubai as their preferred investment destination, increase their trade and boost their revenues.

The guide has been introduced to the participants and exhibitors of EXPO2020 Dubai. The Dubai Customs has developed an exclusive Smart EXPO2020 Customs Channel which will facilitate all customs transactions for the participants in EXPO2020 Dubai. Customs centers at Jebel Ali and Al Maktoum International Airport will help complete all EXPO's customs transactions around the clock to ensure streamlined and quick customs processes, saving the exhibitors time and cost.





Introduction of Law concerning protection of Industrial Property Rights

The UAE has issued Federal Law no. 11 of 2021 ("the Law") concerning the regulation and protection of Industrial Property Rights. The Law covers patents, industrial designs, integrated designs, undisclosed information and utility certificates. The Law was published in Official Gazette no. 703 on 31 May 2021 and is expected to come into force when the Executive Regulations are published in November 2021.

On review of the Law, the changes appear to harmonise the UAE's patent law with international patent legislations. The most notable change is the introduction of a 12 months grace period for disclosures of inventions prior to filing and accelerated examination of 'urgent applications'.

The new law revoked the Federal Law No. 17 of 2002 as stated in Article No. 78. The new law states in Article 77, the issuance of the executive regulations of this law by the Council of Ministers within a period of six (6) months from the date of publication of this law. The new law also stipulates in Article 79, the regulations and decisions issued in implementation of the provisions of Federal Law No. 17 of 2002 shall continue until the necessary decisions are issued to implement the provisions of the new law, but in a manner that does not conflict with the provisions of the new law.

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The new law revoked the Federal Law No. 17 of 2002 as stated in Article No. 78.

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Kingdom of Bahrain

Bahrain Requiring Economic Substance Returns through International Tax Information Exchange System

Bahrain's National Bureau for Revenue (NBR) has established that the annual economic substance return filing requirement must be met through the International Tax Information Exchange System (ITIES). Bahrain's economic substance requirements were introduced with effect from 1 January 2019 in order to comply with BEPS Action 5. Filings were originally required through the commercial registration system (SIJILAT) but must now all be submitted through ITIES.

The standard deadline for the annual return is within three months following the end of the year, although an extended deadline of 31 August 2021 has been provided for 2020.

Kingdom of Saudi Arabia

Kingdom of Saudi Arabia Publishes E-Invoicing Guidelines

The Kingdom of Saudi Zakat, Tax, and Customs Authority (ZATCA) has published E-Invoicing Detailed Guidelines. The guidelines contain the requirements for E-Invoicing (FATOORAH) as well as technical and security requirements for taxpayers and E-Invoicing providers.

It also includes detailed technical requirements such as invoice specifications, data dictionary, and security specifications for the E-Invoicing application. ZATCA has also published Simplified Guidelines For E-Invoicing Phase 1, which contains the requirements for all taxpayers subject to the E-Invoicing Regulation to prepare and update their invoicing systems to issue, amend, and save invoices electronically.

Phase 2, known as the Integration phase, will be rolled out in waves for targeted taxpayer groups and involves the introduction of Phase 2 technical and business requirements for electronic invoices and electronic solutions, and the integration of these electronic solutions with ZATCA's systems. ZATCA will notify taxpayers of their Phase 2 wave at least six months in advance. The enforcement date for the first target group will not be earlier than 1 January 2023.

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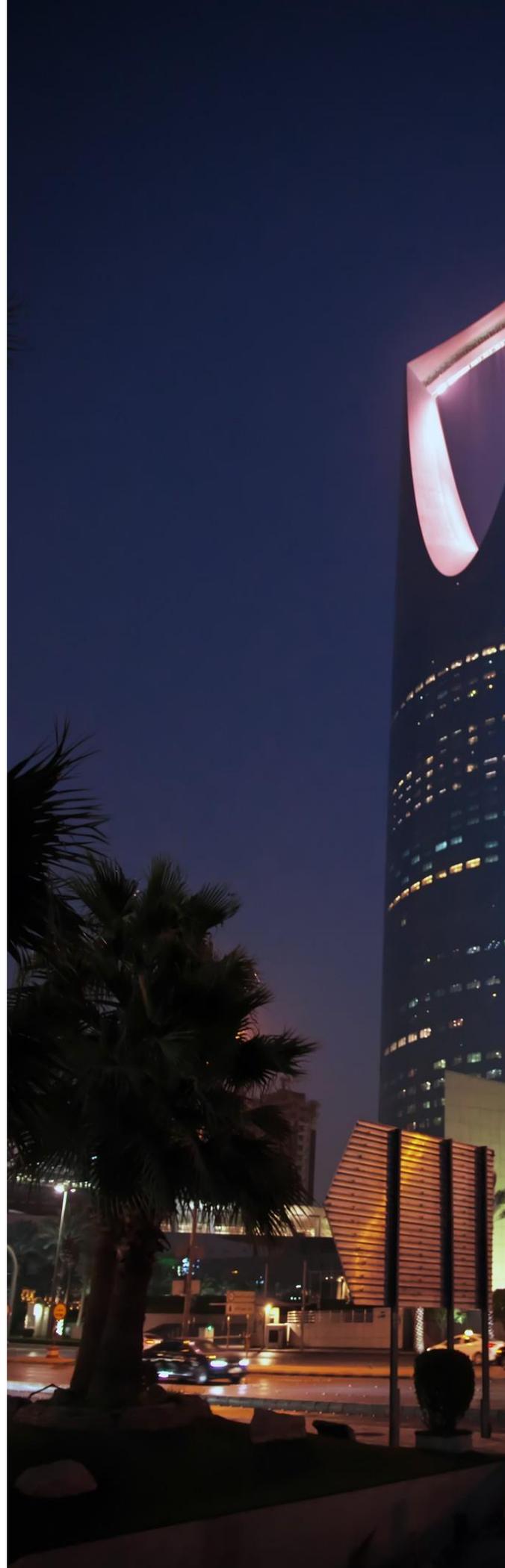
It also includes detailed technical requirements

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Taxpayers must file CbC Report notification on AEOI portal

Following the issuance in May 2020 of the second edition of the transfer pricing guidelines, the Zakat, Tax and Customs Authority (ZATCA), previously known as the General Authority for Zakat and Tax (GAZT), started notifying taxpayers that they must file their country-by-country (CbC) report notification through the automatic exchange of information (AEOI) portal and that the filing must be done as soon as possible to avoid penalties.

Under the guidelines, all constituent entities based in Kingdom of Saudi Arabia must submit a CbC report notification with their annual return and on the AEOI portal each financial year. The specific penalties have not been released but are expected to be the same as those stipulated under income tax laws.





Qatar

Qatar Requires Submission of Withholding Forms through Dhareeba Tax Portal

Qatar's General Tax Authority announced (via Twitter) on 5 August 2021 that it has issued Circular No. 5 of 2021 regarding the requirement for all taxpayers to submit withholding tax forms electronically through the Dhareeba tax portal <http://dhareeba.gov.qa>.

It is further confirmed that paper forms are no longer accepted.

Qatar Cabinet Approves Pending Tax Treaty with the Democratic Republic of the Congo

On 4 August 2021, the Qatar Cabinet reportedly approved the pending income tax treaty with the Democratic Republic of the Congo.

The treaty, signed 29 March 2021, is the first of its kind between the two countries and will enter into force once the ratification instruments are exchanged and will apply from 1 January of the year following its entry into force.

Protocol to Tax Treaty between Qatar and Ukraine to be Signed

On 18 August 2021, Ukraine's Cabinet of Ministers issued an order authorizing the Minister of Finance to sign an amending protocol to 2018 income tax treaty with Qatar.

The protocol will be the first to amend the treaty and must be finalized, signed, and ratified before entering into force.

Certain Other Jurisdictions

OECD

133 inclusive framework members have now joined agreement on global tax reform

The OECD announced on 12 August 2021 that 133 of the 139 current member jurisdictions of the OECD/G20 Inclusive Framework on BEPS have now agreed to the statement released on 1 July 2021 regarding the key components of a “two-pillar” plan for global tax reform that aims to address the tax challenges arising from the digitalization of the economy.

At the time the statement was released, 130 members had agreed to the statement. Peru and St. Vincent and the Grenadines agreed to the statement later in July, and Barbados agreed to the statement on 12 August 2021.



MFN Clause Activated for Dividends Under Tax Treaty Between India and Switzerland

On 13 August 2021, the Swiss Federal Tax Administration published a notice regarding the application of the most favored nation (MFN) clause introduced by the 2010 protocol to the 1994 tax treaty with India.

This includes that the MFN clause has been activated in respect of dividends as a result of India's 2011 tax treaties with Colombia and Lithuania, which have since joined the OECD (a condition for the MFN clause).

Accordingly, Indian tax residents receiving dividends from Swiss sources as of 5 July 2018 or 28 April 2020 can claim, subject to the conditions laid down in the India-Swiss tax treaty, a refund of the (additional) withholding tax in accordance with the established procedures and conditions.

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India

CBDT provides formula to recalculate minimum alternate tax following TP adjustments

India's Central Board of Direct Taxes has published Notification No. 92/2021 of 10 August 2021. The notification sets out the formula for adjusting the minimum alternate tax (MAT) payable in a year in which transfer pricing (TP) adjustments are made for past years (i.e., additional income is included in the books of account) following the conclusion of an advance pricing agreement (APA) or a secondary adjustment.

The notification was issued pursuant to an amendment to section 115JB of the Income tax Act, 1961 (Act) (relating to book profits) made by the Finance Act, 2021. Section 115JB(2D) was added by the Finance Act 2021 to provide relief when computing the minimum alternative tax in cases where there has been an increase in book profit as a result of an advance pricing agreement (APA) adjustment or a secondary adjustment:



India Publishes Act Nullifying Retroactive Taxation of Indirect Transfers

India has published the Taxation Laws (Amendment) Act 2021 (Act No. 34 of 2021) in the Official Gazette, which received the assent of the president (was enacted) on 13 August 2021.

The Act provides important amendments to the Income Tax Act 1961 and the Finance Act 2012 in regard to the taxation of indirect transfers of Indian assets.

While the Finance Act 2012 allowed for retroactive taxation, Taxation Laws (Amendment) Act 2021 provides for the nullification of the retroactive taxation of indirect transfers made before 28 May 2012, which is the date Finance Act 2012 was assented (enacted).

Germany

Germany and US issue joint statement on spontaneous exchange of CbC reports for 2020

On 10 August 2021, the German Ministry of Finance published a joint statement (German | English) from the German and US competent authorities on the implementation of the spontaneous exchange of country-by-country (CbC) reports for fiscal years beginning in 2020.

The statement provides an interim solution for the exchange of CbC reports. The competent authorities believe that the objectives of exchanging CbC reports (including assessing high-level transfer pricing and BEPS risks and economic and statistical analysis, where appropriate) should not be postponed until the already concluded agreement for the automatic exchange of CbC reports between Germany and the US is fully implemented.

The competent authorities issued similar joint statements on the spontaneous exchange of CbC reports for fiscal years beginning in 2016, 2017, 2018 and 2019. These arrangements have the effect of limiting the circumstances in which a German taxpayer that is part of a multinational enterprise (MNE) group with a US ultimate parent entity may be required to file a CbC report with the German tax authorities under the “secondary mechanism.”

Russia

Russia Clarifies Taxation of Interest Paid by a Permanent Establishment to a Non-Resident Company

The Russian Ministry of Finance recently published guidance letter 03-08-13/62064 regarding the taxation of interest income paid by a Russian permanent establishment (PE) of a foreign company in favor of another foreign company, without a PE in Russia, that provided loans to the PE for the purpose of carrying out activities in Russia.

The letter provides that in accordance with the current provisions of the Tax Code, interest payments in such cases are not subject to tax (withholding). However, the letter also notes that in accordance with amendments to the Tax Code introduced Federal Law No. 305-FZ of 2 July 2021, the scope of income of a foreign company subject to withholding includes interest income on debt obligations of foreign organizations operating in Russia through a PE, provided that the debt on which the interest is paid arose in connection with the activities of the PE. This amendment applies from 1 January 2022.



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