



## FTA release Guidance Note on Tax Group

### Introduction

The Federal Tax Authority (FTA) has recently released a Guidance Note on Tax Group (VATGGR101). The document covers the purpose, eligibility criteria, and the procedures for forming, adding or removing or disbanding a tax group and prerogative of the FTA in refusing to form a group or forcing two related parties to form a group. In this alert, we have summarised the key points for your ease of reference:

### Implications of Tax Group

The effect of a tax group is that the members are treated as a single taxable person for VAT purposes and on account of this:

- Intra-group transactions are not chargeable to VAT
- Only one registration number is for the Group
- All supplies made or received deemed to be carried out by selected representative member of the Group

Apart from above, it has been clarified by the FTA that the members of tax group are jointly and severally liable for any and all VAT debts, including taxes and penalties and other obligations during the period of membership.



## Eligibility to form a tax group

Two or more legal persons can apply to form a tax group subject to following criteria:

- **Business criteria:** each member must be carrying out a business. A person who is not in a business cannot form or join a tax group
- **Legal Person criteria:** Each member of the group must be a legal person (company, government entity or similar). A natural person (i.e. individual) cannot create or join a tax group
- **Establishment criteria:** Each member must be resident in the UAE by way of a fixed establishment.
- **Related parties (and control) criteria:** Each member must be related to the other to a sufficient extent such as voting / market value interest of at least 50% or control by other means etc.

**Clarification:** It has been clarified by the FTA that foreign-owned subsidiary or branch of a foreign-owned company can also qualify under the fixed establishment test.

Further, it has been stated that a common sponsorship of two or more Legal Persons will give rise to the possibility of tax grouping; however, control criteria should also be met in actuality. Where a sponsorship agreement is overridden by another agreement, a tax grouping will not be possible.

## Government Entities

Designated Government Bodies may form or join a tax group with other designated government bodies however, they cannot join other government bodies which are not designated. Government bodies that are not designated can form or join a tax group with other legal entities subject to the fulfilment of certain conditions.

## Forming, amending a tax group, removing members, changing representative member or disbanding a tax group

On fulfilment of tax group conditions and registration thresholds either by one prospective member or cumulatively, it can make the application to form a tax group.

For amendment or removal of members etc., an application to the FTA can be made by a representative member. The registration will be effective from:

- the first day of a tax period following the tax period in which the application is received or
- any other date as determined by the FTA.



## **Anti-avoidance**

The FTA may refuse the application to form, amend or disband a tax group it considers a significant risk to the public revenue arising as a result of allowing the aforesaid change.

Instances where the FTA may refuse application:

- Applicants did not meet the criteria to be grouped,
- risk of tax evasion,
- significant reduction in overall tax due,
- administrative burden on FTA,
- insufficient transactions between tax group members,
- difficulties in FTA to undertake the audit,
- sole benefit of tax group is cash offset etc.

## **Comments**

In view of the various clarifications issued on Tax Group, it will be important for businesses to re-evaluate whether their tax group registration conditions are being fulfilled appropriately and align them with the guide issued.



## W T S Dhruva Consultants

### UAE

U-Bora Tower 2,  
11th Floor, Office 1101  
Business Bay P.O. Box 127165  
Dubai, UAE  
Tel: + 971 56 900 5849

## Dhruva Advisors

### Mumbai

1101, One India Bulls Centre,  
11th Floor, Tower 2B,  
841, Senapati Bapat Marg,  
Elphinstone Road (West),  
Mumbai 400 013  
Tel: +91 22 6108 1000 / 1900

### Ahmedabad

B3, 3rd Floor, Safal Profitaire,  
Near Auda Garden,  
Prahlanagar, Corporate Road,  
Ahmedabad - 380 015  
Tel: +91-79-6134 3434

### Bengaluru

Prestige Terraces, 2nd Floor  
Union Street, Infantry Road,  
Bengaluru 560 001  
Tel: +91-80-4660 2500

### Delhi/NCR

101 & 102, 1st Floor, Tower 4B  
DLF Corporate Park  
M G Road, Gurgaon  
Haryana - 122 002  
Tel: +91-124-668 7000

### Bahrain

Bahrain Financial Harbour, East Tower - Floor 23,  
Office 2301, Building 1398, Road 4626, Block  
346. Manama, Kingdom of Bahrain  
Tel: 973 1663 1921

### New York

Dhruva Advisors USA, Inc.  
340 Madison Avenue, 19th Floor,  
New York,  
New York 10173 USA  
Tel: +1-212-220-9494

### Silicon Valley, USA

Dhruva Advisors USA, Inc.  
5201 Great America Parkway,  
Santa Clara,  
California 95054  
Tel: +1 408 930 5063

### Singapore

Dhruva Advisors (Singapore) Pte. Ltd.  
20 Collyer Quay, #23-01,  
Singapore - 049319  
Tel: +65 9105 3645

## Contacts

### Dinesh Kanabar

Chief Executive Officer  
dinesh.kanabar@dhruvaadvisors.com  
Phone: +91 22 6108 1010/11

### Pratik Shah

Resident Partner & VAT Expert  
pratik.shah@dhruvaadvisors.com  
Phone: +971 55957 8232

#### Disclaimer

This information contained herein is in summary form and is therefore intended for general guidance only. This publication is not intended to address the circumstances of any particular individual or entity. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation. This publication is not a substitute for detailed research and opinion. Before acting on any matters contained herein, reference should be made to subject matter experts and professional judgment needs to be exercised. We cannot accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication.