UAE

YEAR IN REVIEW 2024

dhruva consultants

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Foreward

We are happy to present the **UAE: Year in Review 2024,** a comprehensive overview of the significant tax developments in the UAE and briefly touching the wider GCC region. Historically synonymous with low taxation, the region has undergone significant shifts, embracing a regulated fiscal and taxation framework that aligns with global standards while encouraging economic growth and championing transparency.

NIMISH GOEL
GCC Leader

This publication captures the key tax developments of 2024 and offers a unique lens into the evolving dynamics of taxation through insights and analyses contributed by Dhruva Consultants' Partners and Directors.

The UAE's economic landscape has demonstrated remarkable resilience and growth, even amidst regional geopolitical tensions. The country's GDP saw a growth of 4% in 2024 and is expected to further grow by 5.1% in 2025 as per the recent estimates released by the International Monetary Fund. The nation's ambitious Vision 2031 and Beyond initiatives continue to position the UAE as a global hub for innovation, sustainability, and investment. Key sectors such as technology, renewable energy, and logistics are thriving backed by strong fiscal policies and structural reforms.

The full implementation of corporate tax and enhanced transfer pricing regulations have marked a new era of fiscal responsibility and alignment with international tax standards. Companies are now reevaluating their operating models, ensuring robust documentation and compliance to avoid potential disputes. Transfer pricing regulations have compelled businesses to critically analyze their value chains and profit allocations, making organisations focused on meticulous planning and accountability.

Dhruva Consultants has had the privilege of guiding some of the UAE's largest enterprises, government organizations, listed entities and sovereign funds through these intricate changes and helping them navigate complexities.

Among the compelling topics in this publication, our article on **Strategic Insights for M&A Success in the UAE Corporate Tax Era** delves into how the introduction of corporate tax has reshaped deal structuring and the importance of conducting tax due diligence. Similarly, our analysis on **E-Invoicing: The Future of Digital Taxation** explores how this upcoming system, set for phased implementation starting in 2026, is poised to revolutionize invoicing and compliance for businesses across the UAE. In the realm of transfer pricing, we spotlight how UAE businesses are adopting **Value Chain Analysis** to ensure alignment with the arm's length principle, a critical step for justifying profit allocations in multi-jurisdictional operations. Our insights into **Free Zone Taxation** reveal the challenges and opportunities businesses face in maintaining compliance while leveraging tax benefits in one of the world's most dynamic ecosystems.

Two prominent sectors, **Funds** and **Crypto** where Dhruva has advised some of the largest players in the UAE, also find an interesting space in this publication. The amendments to the VAT Regulations have brought some significant changes, which our team captures in a set of thought-provoking articles.

We hope this publication serves as a valuable resource, offering not just a retrospective view but also strategic insights into navigating the road ahead. At Dhruva, we remain committed to empowering our clients with cutting-edge expertise and foresight, helping them chart their paths in an increasingly complex tax world.

Corporate Tax Updates 2024: Key Developments Across the Region

The Gulf Cooperation Council (GCC), comprising the United Arab Emirates (UAE), Kingdom of Saudi Arabia (KSA), Oman, Bahrain, Kuwait, and Qatar, has undergone transformative tax reforms in 2024. Historically recognized for its tax-friendly environment, the region is embracing a more regulated fiscal landscape. This shift aligns with global standards, aiming to enhance transparency and compliance. Here's a breakdown of the latest updates and their implications for businesses operating across the GCC.

UAE

The UAE continued refining its corporate tax (CT) regime in 2024. Key developments include:

- **Mandatory CT Registration:** The Federal Tax Authority (FTA) set clear deadlines for CT registration, imposing fines of AED 10,000 for non-compliance. This move ensures better accountability across taxable entities.

- **Guidance on Tax Reliefs:** To foster business efficiency, the FTA clarified tax-neutral treatments for intra-group transfers and restructuring activities, allowing companies to realign operations without incurring tax liabilities.

- **Free Zone Tax Benefits:** Businesses operating in free zones received detailed guidelines on the 0% tax regime, covering eligibility criteria, qualifying activities, and compliance requirements.

- **Extended Filing Deadlines:** Taxpayers with short fiscal periods were granted extended CT return filing deadlines, easing the transition into new regulations.

- **Clarifications on tax residency and tax residency certificate:** Enhanced clarity provided by FTA on aspects such as tax residency under UAE CT and DTAA and how a UAE tax resident can obtain a TRC. Also, further clarity has been provided on the facts and circumstances that need to be considered while determining the Place of Effective Management (POEM) in UAE such as place where the board of directors or equivalent decision-making body regularly meet, where senior executives make key decisions, and the substance over form principle—i.e., actual control versus formal processes etc.

- **Amendment to the UAE VAT Executive Regulations:** The amended executive regulations introduce substantial changes to the VAT landscape, impacting several priority sectors, including Real Estate, Virtual Assets (Cryptocurrencies) and Investment Fund Management. Further, the amended executive regulations address various compliance inconsistencies, aiming to streamline and enhance the overall regulatory framework.

- **Future-Focused E-Invoicing:** The Ministry of Finance announced a digital invoicing system to be implemented by 2026, signaling a commitment to building a robust digital economy.

KSA

KSA continues to refine its tax ecosystem with reforms aimed at enhancing competitiveness and compliance:

- **Regional Headquarters Program:** To attract multinational corporations, Saudi Arabia offers a 30-year tax holiday for regional headquarters that meet economic substance requirements, including holding strategic meetings and maintaining local operations.

- **Zakat Updates:** The new Zakat bylaws align calculations with financial reporting standards, replacing sector-specific guidelines.

- **Lower Withholding Tax (WHT):** Rates for consulting, technical services, and telecommunications were reduced to 5%, making KSA more attractive for foreign investments.

- **Phased E-Invoicing Rollout:** Businesses must integrate with the ZATCA Fatoora system by 2025, following a revenue-based phased approach.

- **Guidance Manual for Inspection, Assessment, Correction, and Objection Procedures Regarding the Authority's Decisions Related to Value Added Tax (VAT):** Guidance manual published by ZATCA to help businesses manage compliance, audit and appeal procedures with ZATCA. Key points include a 20-day advance notice period before audits, requirements for businesses to provide VAT-related records, and the option to self-correct minor errors under SAR 15,000. Significant discrepancies must be reported within 20 days.

- **Real Estate Transaction Tax (RETT):** Revisions expanded exemptions and introduced clearer compliance protocols, enhancing transparency in real estate dealings.

Kuwait

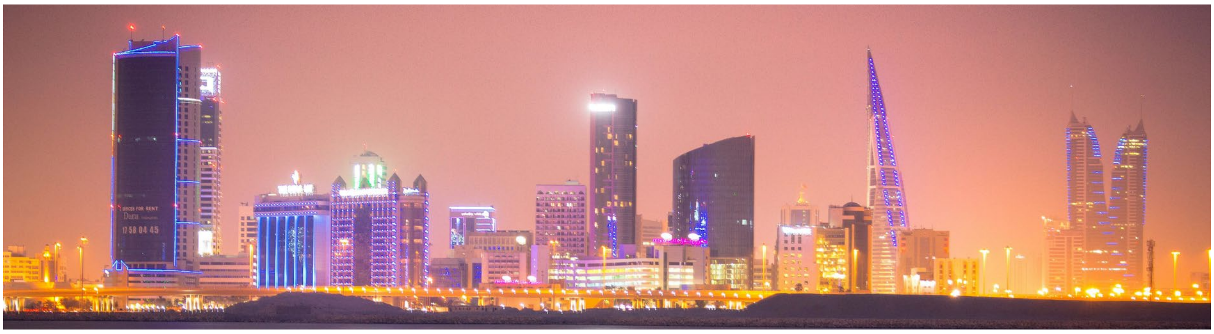
Kuwait's tax updates focus on international alignment and foreign investment facilitation:

- **Implementation of CRS Standards:** Financial institutions must adhere to OECD's Common Reporting Standards (CRS) for information exchange, enhancing tax transparency.
- **Business Profit Tax Discussions:** Kuwait is exploring a 15% Business Profit Tax to align with OECD's global minimum tax rules under BEPS Pillar Two.
- **Expanded Double Tax Treaties:** New agreements with Iraq, the UAE, and others aim to simplify cross-border commerce and eliminate double taxation.
- **Regulatory Changes:** Foreign companies can now establish branches without local partners, making Kuwait more accessible for international businesses.

Bahrain

Bahrain retains its 0% corporate tax for most sectors but introduced new measures for multinational enterprises (MNEs):

- **Domestic Minimum Top-up Tax (DMTT):** Aligned with OECD guidelines, MNEs with EUR 750M+ global revenues must meet a 15% effective tax rate starting in 2025.
- **Country-by-Country (CbC) Reporting:** New obligations ensure transparency in revenue allocation across jurisdictions.
- **Double Tax Treaties:** Agreements with the UAE, Hong Kong, and others strengthen Bahrain's position as a global business hub.



Oman

Oman is setting a precedent in the GCC by proposing a personal income tax (PIT):

- **Introduction of PIT:** Slated for 2026, PIT will apply to foreign nationals earning over $100,000 and Omani citizens with global incomes exceeding $1 million, marking a significant shift in regional taxation.
- **New Double Tax Treaties:** Oman signed agreements with Luxembourg and Estonia to facilitate cross-border investments and reduce tax burdens.
- **Capital Market Incentive Program (CMIP):** This initiative offers tax benefits and support to newly formed joint-stock companies, boosting investment in Oman's capital markets.

Qatar

Qatar's tax reforms prioritize alignment with GCC peers while introducing essential updates:

- **Double Tax Treaties:** Agreements with Saudi Arabia and the UAE prevent fiscal evasion and reduce cross-border tax complexities.
- **VAT Implementation:** Qatar is preparing to roll out VAT at a rate of 5%, affecting most goods and services while exempting essential sectors like healthcare and education.

Transfer Pricing Updates

The UAE's rapid evolution as a global economic hub has necessitated robust mechanisms to ensure tax compliance, fair taxation, and economic substance. Transfer pricing, pivotal in achieving these goals, governs intercompany transactions to prevent profit shifting and base erosion. The UAE's TP regime, rooted in the Federal Decree-Law No. 47 of 2022, now stands fortified with the FTA's Transfer Pricing Guide, issued in October 2023.

We discuss here a few aspects of the UAE Transfer Pricing regime and their impact on UAE businesses.

1. **Comprehensive TP Guide:** The UAE FTA released a detailed TP guide which provides detailed instructions for compliance, emphasizing:
    - Identification of connected persons and related parties.
    - Conducting Functional, Asset, and Risk (FAR) analyses.
    - Selection and application of TP methods, including comparability analysis.
    - Adherence to the arm's length principle.
    - Preparation and submission of Master File and Local File documentation.
2. **Substance Over Form:** The TP Guide underscores the principle of substance over form, prioritizing actual economic conduct over contractual agreements. This aligns UAE regulations with the OECD's global best practices.
3. **Benchmarking Standards:** While local and regional comparables are encouraged for benchmarking, the Guide acknowledges the validity of global comparables under specific conditions, provided rigorous economic adjustments are made.

Compliance and Documentation Requirements

1. **Transfer Pricing Documentation:**

    Taxpayers engaged in transactions with related parties are mandated to prepare contemporaneous TP documentation comprising:

    - **Master File:** A global overview of the multinational enterprise's (MNE) business, TP policies, and economic activities.
    - **Local File:** Detailed insights into the local entity's transactions.

Although these documents are not filed alongside the corporate tax return, they must be submitted within 30 days of an FTA request.

2. **Exemptions and Simplifications:**
    - Entities exempt from corporate tax or availing small business relief are not required to maintain TP documentation.
    - However, these entities must still demonstrate compliance with the arm's length principle for their intercompany transactions.
3. **TP Disclosure Form:**

    The FTA introduced a dedicated TP Disclosure Form to be filed annually as part of the corporate tax return process. It includes:

    - Schedules of related parties and connected person transactions.
    - Tax residence information and transactional details.
    - Supporting documentation and any self-initiated adjustments on transfer prices.

Thresholds and Deadlines

1. Materiality Thresholds for TP Disclosure forms:

- AED 40 million for aggregated related party transactions.
- AED 4 million per transaction category.
- AED 500,000 for transactions involving connected persons.

2. Submission Timelines:

The TP Disclosure Form and corporate tax return must be filed within nine months of the tax period's end. Non-compliance attracts penalties equivalent to corporate tax return defaults.

UAE Value Added Tax Updates

The UAE Federal Tax Authority ('FTA') has issued significant updates and clarifications regarding VAT compliance, including distinctions between manpower and visa facilitation services, error correction mechanisms, and amendments to the VAT Executive Regulations. These changes are aimed at ensuring accurate classification, valuation, and streamlined compliance processes for businesses.

Key updates during FY 2024 have been outlined hereunder:

FTA Decision in Case of No VAT Difference

The FTA issued Decision No. 8 of 2024, effective January 1, 2025, detailing the mechanism for correcting errors or omissions in VAT returns wherein the error does not result in a VAT difference. The FTA has clarified that in the following errors a Voluntary Disclosure will be required:

- Misreporting standard-rated supplies between Emirates.
- Incorrect reporting of zero-rated supplies (overstated or understated).
- Misreporting exempt supplies (overstated or understated).

Amendments to UAE VAT Executive Regulations

Cabinet Decision No. 100 of 2024 introduced certain VAT amendments effective November 15, 2024, unless specified otherwise. The key changes are as below:

1. **Supply Exceptions (Article 3bis):**
   Transfers of government buildings and related projects between government entities are now outside the scope of VAT, retroactive to January 1, 2023. This reduces administrative burdens for qualifying transactions. However, for the past transactions (2023-2024), will have to be evaluated.

2. **Export of Goods and Services (Articles 30-31):**
   The ambiguity regarding the need of exit certificates for export of goods is clarified. Enhanced flexibility with updated documentation requirements for exports. Acceptable documents now include customs declarations, shipping certificates, or official evidence of exports. Zero-rating rules for services consumed in the UAE have been clarified.

3. **International Transportation (Articles 33-35):**
   Narrowed scope of zero-rating for international transport services and clarified qualifying vehicles for VAT exemption.

4. **Residential Buildings (Articles 37):**
   Prior to the amendment, the definition of 'residential building' excluded a 'serviced apartment for which services in addition to the supply of accommodation are provided'. The amendment now excludes from the definition hotel apartments or serviced apartments or the like.

5. **Healthcare (Article 41):**
   Zero-rating is extended to import of pharma products, medical equipment and other related goods.

6. **Financial Services (Article 1 and Article 42):**
   Virtual Assets are defined as digital representations of value for trading or investment, excluding fiat currencies and securities, with VAT exemptions on transfer and conversion thereof effective retroactively from January 1, 2018.

In contrast, services related to the keeping, managing, and enabling control of virtual assets have been included in the definition of financial services. They may be either taxable or exempt, depending on whether they are provided in exchange for an explicit fee. Additionally, since this amendment is not retroactive (but effective only from 15 November 2024), such services rendered before the effective date would still be subject to VAT.

Financial services now also include fund management services for licensed UAE funds, covering operations, investments, and performance monitoring.

7. **Composite Supplies (Article 46):**

   For supplies without a principal component, VAT treatment is based on the overall supply nature.

8. **Health Insurance (Article 53):**

   Input VAT on health insurance for employees' families (one spouse, three children under 18) is recoverable from November 15, 2024. Pro-rata adjustments may apply for policies predating the amendment.

9. **Apportionment of Input Tax (Article 55):**

   Proportional adjustments are required for short tax years due to deregistration or tax group changes. Taxpayers can apply for a simplified recovery percentage.

   In addition, the blocked expenses will also have to be included in the computation which may negatively impact the recoverability. Interestingly, due to certain wordings in the amendments, it appears the common portion of the input VAT may also be included in the computation. However, we believe this may not be the intent of the law and further clarity is provided.

10. **Tax Invoices (Article 59):**

    Simplified invoices must now be issued immediately, while summary invoices have a 14-day extension post-month-end.

    Other additional changes include defining 'business day' and expanding 'supply of goods' to include real estate leases. Supplies under AED 5M between charities or government entities are not deemed supplies. The FTA has enhanced authority for deregistration, withdrawal of exceptions, and enforcement of compliance. Clarifications cover marketplace transactions, tax credit notes, zero-rating of means of transport imports, and stricter record-keeping for agents and principals.

For further details, please refer to our Dhruva Alert.

Manpower vs. Visa Facilitation Services

The VAT Public Clarification provides detailed guidance to differentiate between manpower and visa facilitation services:

1. **Manpower Services:**

   These involve the recruitment and provision of employees under the customer's supervision. The supplier handles employment obligations, including salaries and benefits. VAT is charged on the total consideration, encompassing all employee costs and any additional charges incurred by the customer.

1. **Visa Facilitation Services:**

   These are limited to administrative processes for obtaining visas within the same corporate group (but outside the tax group). The customer bears all employee obligations, and VAT applies only to the administrative fee, excluding employee costs.

For further details, please refer to our Dhruva Alert.

E-Invoicing

The release of the UAE E-Invoicing Programme 2024 by the Ministry of Finance has clarified the implementation process and timelines for E-Invoicing in the country.

The key highlights include:

The adoption of a decentralized, 5-corner model for structured electronic invoicing.

Initial coverage will focus on B2B and B2G transactions.

The initiative aims to create a more paperless, efficient, and transparent fiscal system, helping reduce tax gaps and evasion.

Integration with the Peppol network ensures global interoperability, aligning with international data exchange standards.

Implementation timelines:

- Q4 2024: Development of accreditation standards and UAE Data Dictionary.
- Q2 2025: Expected release of E-invoicing legislation.
- July 2026: Phase 1 to go live.

OUR EXPERTS VIEWS

Strategic Insights for M&A Success in the New UAE Corporate Tax Era

While the UAE Corporate Tax ('CT') brings new challenges to deals and M&A transactions, particularly around compliance with corporate tax regulations, it also presents opportunities to streamline deal structuring, optimize tax positions, and enhance documentation. We have summarized key UAE CT topics involved in the life cycle of a deal, from due diligence to transaction structuring and relief considerations.

Tax Due Diligence: The Foundation of Smart Deal Structuring

Due diligence has always been the backbone of M&A transactions, but with the new CT regime, it now requires a deeper dive into tax matters. Here are the critical focus areas:

a. Registrations and Tax Grouping: The First Checkpoint

The first step in due diligence is ensuring the target entity's compliance with tax registration requirements. Beyond registrations, understanding the target's participation in UAE CT group(s) is essential. For example, acquiring a holding company structure where the CT group remains intact is more advantageous, as CT groups often get disrupted during deals. Additionally, for any planned internal restructuring, commercially permitting, it is recommended to execute entity movements on the first day of the tax year. This ensures the 95% holding condition required for CT grouping is maintained throughout the year.

b. Private Clarifications and Tax Positions: What's Under the Surface?

We've seen taxpayers seek private clarifications from the Federal Tax Authority ('FTA') on broader CT positions (beyond registration). Alternatively, as per a part of corporate tax impact assessments, targets may have adopted key positions on tax optimization, qualifying free zone status, deductibility of expenses, or thin capitalization. Certain positions (e.g. elections, grouping) and transactions (e.g. provisions and possibility of reversal in the future) will have a continuing tax effect even after the acquisition. Acquirers must evaluate these positions for their sustainability under FTA audits, along with risks addressed through deal documentation and adequate tax accruals.

c. Overseas Businesses: Global Reach, Local Implications

If decision-making for overseas subsidiaries occurs in the UAE, there is a risk of these entities being deemed UAE tax residents under the "place of effective management" concept. This exposes foreign profits to UAE CT. Furthermore, assessments of overseas tax obligations are crucial, including outstanding liabilities, open tax years, and implications for carry-forward losses if ownership changes post-deal. An incidental point that we have observed is that businesses must also be aware of a potential VAT pitfall: where UAE entities provide services to foreign entities that have a local director based in the UAE, the FTA may consider these services as supplied within the UAE, triggering a VAT obligation. This is a crucial point often overlooked and can result in unexpected VAT liabilities.

d. Transfer Pricing: Ensuring Arm's-Length Deals

Arms' length requirements have become a blessing for most businesses seeking to clean up intra-group transactions and improve their governance structure. Acquirers must scrutinize intercompany transactions such as management fees, financing activities, or cost-sharing arrangements to ensure they align with the OECD arms-length principle.

d. Indemnities: Who is Responsible for What?

Commercially permitting, tax indemnities should cover all liabilities up to the deal date, including those arising for the past periods during audit proceedings. Responsibility for tax positions, compliance, and representations before the FTA must be clearly allocated between parties and in some cases, may require joint representation if there is an impact of the issue in the post deal period. While we've observed that deal documentation will have standard tax indemnity clauses, engaging tax experts to review these tax indemnity clauses is relevant since the UAE CT is at a nascent stage with significant complexities already evolving with the current state of the law.

Tax Structuring

a. Share vs asset deal: Choosing the Right Path

Once due diligence uncovers the relevant tax facts, the next step is tax structuring. We've provided a comparative assessment of our practical experience around two key factors of tax structuring a deal: asset deals versus share purchases, supplemented with reliefs.

Aspect	Share Deal	Asset Deal
Transfer of Tax Liabilities	Existing and contingent tax liabilities transfer to the purchaser.	Tax liabilities remain with the seller since it is linked with the entity.
Due Diligence Focus	Comprehensive due diligence is critical to identify liabilities.	Limited due diligence scope as liabilities do not transfer.
Taxability	Seller may explore participation exemption benefits.	Potential capital gains tax unless Qualifying Group ('QG') or Business Restructuring Relief ('BRR') relief applies.
Tax Losses	Target's tax losses can be carried forward, benefiting the acquirer.	Losses remain with the seller; they are not transferable.
VAT Treatment	No immediate VAT implications.	Asset transfer may trigger 5% VAT unless it qualifies as a Transfer of Going Concern ('TOGC').
Purchase Price Allocation	No revaluation at target level of individual assets for tax purposes.	Assets acquired at market value allow for tax-deductible depreciation unless relief is claimed by the seller, requiring a book value basis.
Preference	Useful for acquiring an ongoing business with intact contracts and operations.	Suitable for acquiring specific assets without inheriting liabilities or non-core parts of the business.

b. Debt vs. Equity: Structuring for Efficiency

Taxpayers often use a mix of debt and equity to achieve tax efficiencies. The UAE CT regime allows interest on external loans used for acquisitions to be tax-deductible, subject to a cap of 30% of EBITDA. However, interest on related-party loans is disallowed when used to acquire shares or make capital contributions, share repurchases, or dividend distributions, unless it can be demonstrated that the loan's primary purpose is non-tax-related. For debt structuring, the use of financing and treasury entities in the free zone could be beneficial.

b. QG Relief: Conditionally Powerful for Related Party Transactions

QG relief enables tax-neutral transfers of assets or liabilities within qualifying groups with at least 75% common ownership. However, the relief's clawback provisions—triggered if assets or shares are transferred within two years—require careful planning to avoid unintended tax exposure.

c. BRR: Covers Third-party Deals too!

BRR applies to business transfers involving third parties, provided the consideration is settled in shares. Like QG relief, BRR ensures tax neutrality but carries its clawback provisions. In our experience, public company mergers with share exchanges face higher risks of triggering these clawback provisions, necessitating meticulous alternative structuring.

Our experience indicates that collaborative efforts between tax advisors, legal teams, and business strategists are essential for optimizing deal outcomes.

d. Pillar 2 and the Global Minimum Tax: Future Proofing M&A

The UAE has announced its intention to implement a Qualified Domestic Minimum Top-up Tax ('QDMTT') aligning with OECD Pillar 2 initiatives, aiming for a 15% minimum tax for large MNEs from FY2025 onwards. *At the time of writing this article, the QDMTT legislation is awaited.* For future M&A transactions, acquirers will need to assess the potential impact of QDMTT and varying Pillar 2 implementation timelines in other jurisdictions.

e. Key Takeaways: Collaboration is Key

Summarizing the foregoing discussions, key steps include:

- **Conduct thorough Tax Due Diligence:** Focus on tax registrations, grouping, historical liabilities, and overseas business risks.
- **Implement strategic structuring:** Weigh the benefits of asset versus share deals and leverage QG or BRR relief effectively.
- **Ensure proactive documentation:** Address tax positions and potential exposures in SPAs, including statute limitations and clawback risks.

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Fund Industry in 2024 and Beyond

2024 will be remembered as a pivotal year for the investment fund sector in the UAE. As the UAE establish itself as a global investment hub, initiatives to streamline regulatory frameworks and create a business-friendly environment have continued to attract investors, investment funds, and fund managers. The recent amendments to the VAT Executive Regulations, which came into effect on 15 November 2024, have significantly altered the VAT treatment of fund management services, introducing welcome relief for investment funds.

However, with these opportunities come challenges, particularly in navigating the complexities of VAT implications for various investment structures. For fund managers and investors alike, these changes must be carefully evaluated and navigated.

Fund Management Services: Major Reform

Pre-Amendment VAT Treatment

Before the amendments, the UAE VAT legislation did not explicitly address fund management activities. This led to fund management services being subject to the general VAT rules, with services being taxed at 5% by default. For UAE-based funds, particularly those with minimal or no taxable supplies, this resulted in substantial irrecoverable VAT costs.

For non-UAE investment funds, the situation was often more complex. In theory, services provided to foreign funds could be zero-rated, avoiding VAT altogether – but only if all zero-rating conditions were met. These included the fund being genuinely non-resident and located outside the UAE for VAT purposes. However, in practice, factors such as the fund's central management being the UAE or the presence of directors or partners in the UAE often inadvertently violated these conditions, jeopardizing the ability to zero-rate services. These nuances, often misunderstood or overlooked, could lead to unwelcome VAT surprises for fund managers and investors.

Post-Amendment: Relief, With Caveats

The legislative amendments have transformed the VAT treatment in the sector. Fund management services provided to funds licensed by a competent authority in the UAE are now classified as exempt financial services for VAT purposes. This change offers significant benefit for funds that cannot recover the full VAT charged by managers, as they will no longer see their profits eroded by irrecoverable tax costs.

Naturally, this reform also means that fund managers, now making exempt supplies, will face restrictions on recovering VAT on their own expenses, reducing their margins. Managers will need to reassess their pricing models to determine whether these costs can – and should – be passed on to the funds.

Overall, however, the reform is seen as a positive step for the UAE, which has become a more attractive destination for funds. While the irrecoverable costs have been passed from funds to fund managers, these costs are typically significantly lower for the managers.

Challenges for Fund Managers

For fund managers, the newly introduced exemption from VAT brings additional challenges.

Determining VAT Treatment of Services

Firstly, not all funds will qualify for the exemption – given the variety of fund forms and structures, not all UAE-based funds will be "licensed by a competent authority in the UAE". While fund managers may often face pressure from investors not to charge VAT, they should carefully review the application of the exemption conditions on a case-by-case basis. Where these conditions are not met, services should be treated as taxable – any error in the application of the exemption could result in penalties from the Federal Tax Authority.

Where conditions for exemption are not met, one potential solution, where available, is VAT grouping, which allows fund managers and funds to be treated as a single taxable person, eliminating VAT on management fees. The downside is, however, that including non-taxable fund's activities into the VAT group can impact on the group's overall VAT recovery percentage, reducing input tax recovery.

It is also important to note that for non-resident funds, the VAT rules remain unchanged. Since such funds are not licensed by UAE authorities, services provided to them may still be taxable at either 5% or 0%. As discussed above, careful examination is required to ensure all zero-rating conditions are met.

The situation above does mean that depending on the status of the funds, fund management services provided by a single fund manager may be either taxable at 5% or 0%, exempt, or outside the scope of VAT, therefore complicating tax compliance.

To Deregister or Not to Deregister

Fund managers that solely provide exempt services to licensed UAE funds should assess whether they are required to deregister from VAT. This analysis should take into account any services imported by fund managers, as these may trigger obligations to remain registered and account for VAT under the reverse charge mechanism.

Investment Funds

For funds themselves, the VAT implications remain complex. While revenue streams of conventional investment funds such as share sales or dividends, might not trigger VAT obligations, fees such as account charges, redemption fees, or exchange fees require closer scrutiny. For alternative investment funds, which generate income from a variety of sources, VAT treatment will depend on the exact nature of their activities.

On the expense side, funds should review whether it is possible to streamline their expense streams. In particular, since imported services directly incurred by funds often give rise to VAT registration obligations and irrecoverable VAT liabilities, optimizing expense structures may help mitigate these costs and tax compliance.

Conclusion

The VAT reform marks an important point for the UAE's investment landscape, aligning the UAE more closely with other global financial centers. The change is expected to attract new funds and investors, solidifying the UAE's position as a premier destination for capital.

For funds and fund managers, however, the immediate task is clear: understand the changes, evaluate their impact, and ensure compliance while optimizing VAT strategies. Investors prioritize stability and predictability, and in a sector that is inherently uncertain, one risk that can be mitigated is the risk of tax non-compliance.

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Partner
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Transfer Pricing Trends and Strategic Insights for UAE Businesses

The introduction of the corporate tax regime in the UAE signifies a transformative shift for multinational companies contending with compliance and strategic transfer pricing challenges. As we look back on the past year, the responses of UAE businesses to the new transfer pricing provisions have varied widely. Their approaches have ranged from reactive measures to proactive strategies, showcasing a diverse spectrum of adaptation and alignment.

We outline essential focus areas that companies in the UAE must prioritize to effectively navigate the complexities and challenges presented by the new regulatory landscape.

Strategic Management of Corporate Cross-Charges

In the UAE's unique corporate landscape, entities often provide services to regional group companies, necessitating effective management of corporate cross-charges, particularly for shared services across borders. It's vital to not only identify realistic allocation keys but also ensure that service mark-ups are supported by comprehensive benchmarking analysis. Services are typically categorized as low-value add, high-value add, or strategic, each requiring different charging mechanisms and mark-ups. For essential support services critical to group operations, UAE businesses frequently adopt a percentage of sales model rather than a cost-plus approach.

Development of a Comprehensive Transfer Pricing Policy

UAE businesses often engage in complex commercial transactions, making it essential to develop and maintain a robust transfer pricing policy. The primary focus is on identifying related parties and documenting all intra-group transactions. Reviews occasionally reveal that some transactions may not meet arm's length standards, prompting UAE businesses to enhance their transfer pricing policies with proactive risk management strategies.

Conducting Value Chain Analysis for Strategic Alignment

Reviews of inter-company pricing arrangements have shown that transactions and operations are often so intertwined that a transaction-wise approach may be inadequate. Many UAE businesses have recognized this and have aligned their entire value chain with the arm's length principle. Value chain analysis is crucial for justifying profit allocations across jurisdictions, detailing the contributions and interdependencies of different business units. This is especially important for free-zone companies within the structures, ensuring they comply with arm's length standards.

Innovative Approaches to Intangible Property and DEMPE Functions

Prior to the UAE TP regulations, many businesses with significant intangibles and strategic functions failed to recognize such assets. With the new regulations, it's crucial for UAE businesses to identify, value, and record any created intangibles. These assets are key to value creation, and applying the DEMPE framework for their valuation and remuneration is essential. Companies must adopt innovative remuneration models that accurately reflect the value of intangibles, supported by empirical data and aligned with industry standards.

Streamlined Year-End Transfer Pricing Adjustments

Year-end closures highlight the need for critical transfer pricing adjustments to align actual transaction values with arm's length prices, as required by UAE regulations. Often, intra-group transactions throughout the year may not meet these standards, leading to reactive and hasty adjustments. By conducting a detailed analysis of functions, assets, and risks, and maintaining regular monitoring, these adjustments can be streamlined. Implementing an iterative approach throughout the fiscal year reduces complexity and improves accuracy.

Customized Business Models and Remuneration Strategies

Transfer pricing ensures that margins align with the roles of entities within an organization, requiring a deep understanding of specific business models like limited risk distributors, contract manufacturers or entrepreneurs. Determining the right remuneration methodologies for these models involves a tailored approach that accounts for their limited risks. Methods such as the TNMM or Cost Plus or a residual profit split should be chosen based on a thorough analysis of functions and risks.

Enhanced Compliance Readiness

In response to the UAE's corporate tax requirements, compliance readiness transcends basic adherence to rules. It demands a strategic alignment of transfer pricing policies with robust documentation trails. UAE businesses should focus more on compliance readiness as for many taxpayers, the first tax period has closed. Implementing a robust framework to ensure all transfer pricing policies are clearly documented and are aligned with the UAE regulations becomes extremely important.

Embracing Operational Transfer Pricing in the UAE

Operational transfer pricing is a practical application of transfer pricing policies and rules within the day-to-day business operations, ensuring consistent compliance and execution across all transactions. For UAE businesses, this means integrating transfer pricing principles directly into their operational workflows, from procurement to sales. By embedding automated systems and controls, companies can monitor and adjust intercompany transactions in real-time, ensuring they always reflect arm's length standards.

As this concept gains traction, it is crucial for UAE businesses to develop robust operational transfer pricing frameworks that can respond dynamically to both business and regulatory changes. This proactive approach not only mitigates compliance risks but also enhances operational efficiency by aligning financial outcomes with global transfer pricing strategies.

Harnessing Tax Technology for Transfer Pricing in the UAE

Tax technology plays a pivotal role in modernizing transfer pricing practices, offering UAE businesses the tools they need to ensure compliance and strategic alignment with global standards. By implementing advanced software solutions, companies can automate data collection, analysis, and reporting processes, which are crucial for maintaining accurate and timely transfer pricing documentation. This enables businesses to conduct real-time analyses, facilitating immediate adjustments to intercompany transactions to meet the arm's length principle. For UAE businesses, investing in tax technology not only streamlines compliance efforts but also provides strategic insights that can enhance decision-making and improve financial outcomes in a complex international tax environment.

Conclusion: Charting the Path Forward in Transfer Pricing

As UAE businesses navigate the transformative changes brought on by the new corporate tax regime, it is imperative to adopt a strategic and proactive approach to transfer pricing. Moving forward, UAE companies must continue to refine their transfer pricing strategies by embedding operational transfer pricing into daily business practices, ensuring real-time compliance and alignment with global standards. Additionally, the strategic use of tax technology should be prioritized to automate and streamline transfer pricing processes, thereby enhancing decision-making and ensuring accuracy in documentation and reporting.

For UAE businesses, the journey towards transfer pricing excellence involves a continuous cycle of assessment, adjustment, and advancement. Companies should not only strive to meet current regulatory demands but also anticipate future changes, preparing to adapt swiftly. By doing so, they can ensure that their transfer pricing practices not only comply with the UAE's regulations but also contribute to their broader business objectives.

In conclusion, as we look ahead, the role of informed, data-driven transfer pricing strategies will become increasingly crucial. UAE businesses are advised to stay vigilant, embrace innovation in transfer pricing practices, and continually seek ways to integrate these strategies into their core operations. This proactive and informed approach will provide the foundation for not only navigating the present complexities but also capitalizing on future opportunities in the global market.

Kapil Bhatnagar
Partner
Transfer Pricing

E-Invoicing: The Future of Digital Taxation

ANDORA | ARGENTINA | AUSTRALIA | AUSTRIA | BRAZIL | BULGARIA | DOMINICAN REPUBLIC | CANADA | CHILE | COLOMBIA | COSTA RICA | CROATIA | CYPRUS | CZECHIA | DENMARK |

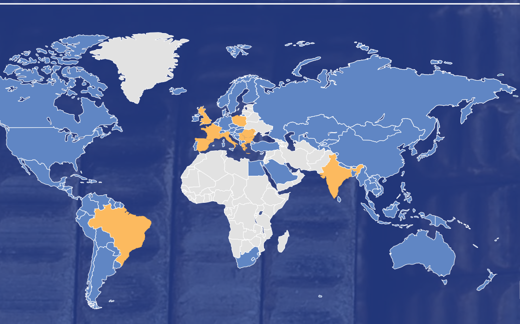
ECUADOR I ESTONIA I FINLAND I EGYPT I FRANCE I GERMANY I GHANA I GREECE I GUATEMALA I ONDURAS I HONG KONG I HUNGARY I ICELAND I IRELAND I ISRAEL I ITALY I INDIA I JAPAN I LATVIA I LITHUANIA I LUXEMBOURG

POLAND I PHILIPPINES I PERU I PARAGUAY I PANAMA I PAKISTAN I NORDIC COUNTRIES I NORWAY I NEW ZEALAND I NETHERLANDS I MEXICO I MALTA I MALAYSIA I MAURITIUS

PORTUGALI ROMANIA I RUSSIA I SAN MARINO I KSA I SERBIA I SINGAPORE I SLOVAKIA I SLOVENIA I SOUTH AFRICA I SOUTH KOREA I SPAIN I SWEDEN I SWITZERLAND I TAIWAN I TURKEY I UKRAINE I USA I UK I URUGUAY I VIETNAM I ZAMBIA

The Ministry of Finance has released UAE's E-Invoicing Programme which clarifies the implementation process and timelines

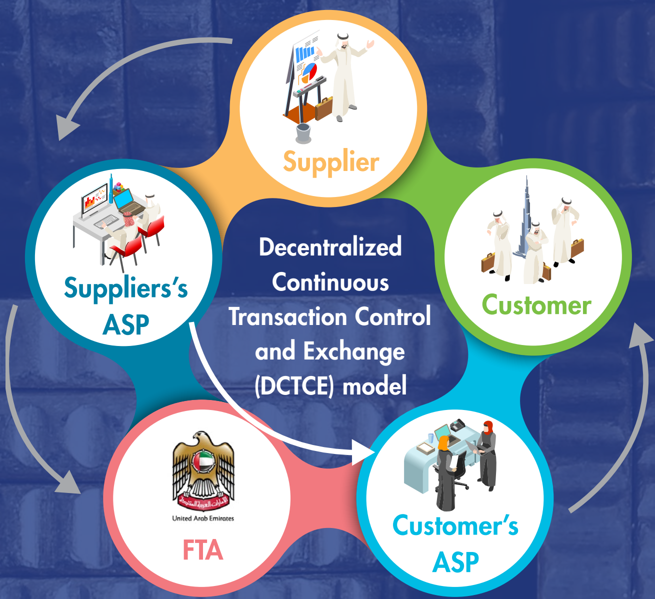
E-Invoicing Globally



The GCC region is led by Kingdom of Saudi Arabia, which introduced it in 2020 in multiple phases.

UAE roadmap for implementation

UAE's Proposed Model



Key Aspects

- Uses PEPPOL, a global standard for electronic data exchange
- Real-time validation by ASPs

Benefits

- Cost Reduction
- Improved Accuracy
- Enhanced Efficiency
- Transparency and Compliance
- Security

Call to Action

- Proactive Adaptation
- Technological advancement
- Cross-border compatibility
- Enhanced data analytics
- Standardization and Compatibility
- Security and Privacy
- Compliance-related issues
- Training and Awareness

Ujjwal Kumar Pawra
Associate Partner
Indirect Tax

UAE Corporate Tax Grouping: A Complex Path to Simplification?

Historically, businesses in the UAE often operated multiple entities under the same holding company, aiming to segregate business streams and manage operations accordingly. Despite this structural separation, these entities were typically centrally managed by the parent company.

With the introduction of corporate tax in the UAE effective June 1, 2023, each individual entity became subject to corporate tax and its associated compliance requirements. This development would have significantly increased the compliance burden, especially for businesses with multiple entities. To alleviate this, the UAE Corporate Tax (CT) Law introduced **Tax Grouping** provisions, allowing entities within the same group to consolidate their financial results for tax purposes. This concept is comparable to similar frameworks in developed countries like the UK and Australia.

Why Tax Grouping?

Tax grouping offers several benefits:

- Consolidated financial reporting for group entities.
- Simplified tax compliance, including transfer pricing requirements.
- Potential reduction in the overall tax burden.

Who is eligible?

Tax grouping offers several benefits:

Entities must satisfy the following conditions under the UAE CT Law:

- The parent company and subsidiaries must be **resident juridical persons.**
- The parent company must own at least **95% legal and beneficial ownership,** either directly or indirectly.
- Neither the parent company nor subsidiaries can be **exempt persons or free-zone persons.**
- All entities must follow the **same financial year** and accounting standards.

These conditions must be maintained throughout the tax year.

A snapshot of the year

Although the corporate tax law became effective on June 1, 2023, the tax grouping applications were majorly filed in the year 2024, as these applications must be submitted by the end of the Tax year and considering most companies in the UAE follows Gregorian calendar year as its financial year. Once registrations were completed, taxpayers began filing tax grouping applications in 2024.

During this process, several unique aspects of the tax grouping provisions came to light. While some of these were clarified already by the Federal Tax Authority (FTA) in the Tax Grouping Guide issued earlier in 2024, certain issues remained unresolved. Taxpayers have continued to identify and navigate these complexities based on their interactions and experiences with the FTA. We have discussed hereunder few critical aspects in relation to tax grouping as faced by many taxpayers during 2024:

- **Intermediary subsidiary to comply with all the conditions**

  A parent company indirectly holding 95% legal and beneficial ownership in a subsidiary may form a tax group with the subsidiary. **However, the intermediary subsidiary (while not forming part of the tax group) must also meet all the conditions required for tax grouping.** Many multinational enterprises establish intermediary holding companies in foreign jurisdictions for various commercial reasons. In such instances, a UAE-incorporated parent company may be ineligible to form a tax group with UAE subsidiaries (unless the intermediary holding company is effectively managed from the UAE and qualifies as a resident juridical person under the UAE CT Law).

- **Proportionate shareholding to be considered in case of indirect ownership**

  In cases of indirect ownership, the parent company's proportionate shareholding must meet the 95% threshold for tax grouping. For example, if A LLC owns 95% of B LLC, and B LLC owns 95% of C LLC, A LLC's indirect ownership in C LLC is 90.25% (95% of 95%), which falls below the required threshold. While A LLC and B LLC, as well as B LLC and C LLC, can form separate tax groups, A LLC cannot directly form a tax group with C LLC. This clarification was provided in the Guide on Tax Group.

- **"Subsidiary" vs. "member" of a tax group**

  According to the UAE CT Law and the Guide on Tax Group, an entity can only be a member of one tax group at a time. However, the Guide provides a fine distinction between being a "Subsidiary" for tax grouping purposes and being a "Member" of a tax group. For instance, if A LLC fully owns B LLC, which in turn fully owns C LLC and D LLC:

  - A LLC and C LLC can form Tax Group 1, with B LLC being considered a subsidiary for this purpose but not a member of Tax Group 1.
  - Consequently, B LLC can potentially form Tax Group 2 with D LLC, as its subsidiary status in Tax Group 1 does not equate to membership of Tax Group 1.

  This distinction enables to maintain flexibility in forming separate tax groups while complying with grouping regulations.

- **Interplay with VAT Tax Group**

  Like corporate tax, UAE VAT Law also allows Tax Grouping. Having said it, corporate tax group is distinct from VAT Group.

  Initially during 2024, the taxpayers contemplated that the grouping process for corporate tax might be similar to that of VAT. However, there are differences in the approach and process as outlined in subsequent paragraphs.

  One key distinction is that a "subsidiary" must obtain corporate tax registration before becoming part of a Corporate Tax Group. In contrast, for VAT Grouping, entities can join without even having a separate registration at the time of filling grouping application.

  Corporate Tax Grouping has simpler documentation requirements compared to VAT Grouping, which demands additional details such as group structures and no-objection certificates. For VAT purposes, documentation like powers of attorney can be time-intensive, whereas Corporate Tax Grouping avoids such complexities, streamlining the process.

Additionally, Corporate Tax Group applications follow a three-step process with minimal documentation, whereas VAT Group applications involve a single step but require more extensive documentation, making the latter potentially more time-consuming.

- **Sufficiency of documents submitted while obtaining corporate tax registration**

  When applying for corporate tax registration, certain documentation must be submitted, such as a Memorandum of Association (MoA) detailing the authorized signatory. Alternatively, a notarized Power of Attorney (PoA) from the UAE Courts may suffice. Based on practical experience, registrations have often been approved using only the PoA. However, during Tax Group applications, the FTA has required companies to amend the taxable person details of their subsidiaries and provide the MoA, particularly if it was not submitted during the initial registration.

  The FTA generally responds to applications within 20 business days, but if additional information is requested, the timeline resets. To avoid delays, taxpayers who filed tax grouping applications on or before December 31, 2024, may proactively ensure that all required documentation for tax group member entities were correctly submitted during the corporate tax registration process. If discrepancies are identified, taxpayers should amend the taxable person's details and upload the necessary documentation without waiting for the FTA to request the same.

  Building on this experience, taxpayers should, in the future, thoroughly verify all documentation prior to filing any tax grouping application. This includes ensuring that all required documents were uploaded during registration, addressing any missing information, and checking the validity of trade licenses. Any updates or corrections should be made before submitting the tax grouping application to avoid unnecessary delays.

- **Documentation requirement for foreign entities**

  Under the UAE CT Law, a foreign entity effectively managed from the UAE is considered a Resident Person and thus eligible to join a Tax Group (provided such foreign entity is not a Dual Resident). Previously, as per Ministerial Decision No. 125 of 2023, such entities were required to obtain documentation from their country of incorporation confirming they were not regarded as tax residents in that jurisdiction. However, this requirement was removed by Ministerial Decision No. 301 of 2024 recently issued by the FTA, replacing the earlier decision.

  This update is a significant and welcome change, especially as many foreign jurisdictions, particularly tax havens, do not issue such confirmations based on our practical experience.

  However, it is important to note that Ministerial Decision No. 301 of 2024 applies only to financial years commencing on or after January 1, 2025. Consequently, a foreign entity effectively managed from the UAE and seeking to become part of a Tax Group for a financial year starting before January 1, 2025, will still be required to maintain this documentation.

- **Adjustment of unutilized interest expenditure and losses pertaining to pre-grouping period**

  The UAE CT Law imposes restrictions on adjusting unutilized interest expenditure and carried-forward tax losses from pre-grouping periods. Generally, these can be offset against the taxable income of the respective member after joining a tax group. An exception in the Guide on Tax Group allows pre-grouping unutilized interest expenditure of a taxpayer, who later becomes the parent of the tax group, to be treated as the group's unutilized expenditure.

However, no similar exception has been explicitly mentioned for pre-grouping tax losses of the new parent company. In principle, the rationale for extending this exception to pre-grouping tax losses of the new parent company is sound. As the parent company effectively serves as the representative of the tax group, with subsidiaries losing their separate identity, the group is identified by the parent company alone. Whether this interpretation aligns with the FTA's approach remains to be seen and will need to be tested in practice.

Recent changes via Ministerial Decision No. 301 of 2024 (replacing Decision No. 125 of 2023) have simplified the taxable income computation requirements for subsidiaries. Previously, standalone entities with pre-grouping losses or unutilized interest expenditure had to separately compute their taxable income annually. Now, this computation is required only in the year when the loss or interest expenditure is utilized.

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- **Newly incorporated entity being part of the Tax Group**

One of the conditions for forming a tax group is that all entities must share the same financial year. When a new entity is incorporated mid-year, its tax year start date may not align with other group entities. Does this mean the new entity cannot join the tax group. The corporate tax guide issued earlier clarified that a newly incorporated entity can join a tax group from its date of incorporation. However, the language in the guide appeared to suggest that a new entity could only join an existing tax group. This led to the interpretation that a newly incorporated entity could join from its date of incorporation only if the tax group was already established.

This ambiguity was resolved through practical experience with the FTA, where the inclusion of a newly incorporated entity in a tax group (when forming a new tax group rather than joining an existing one) was approved. This clarification provides greater flexibility for businesses navigating tax grouping requirements.

- **Challenges and practical aspects:**
  - **System Glitches -** As the year 2024 closed, technical glitches on the EMARA tax portal were a recurring issue, hindering the application process for many taxpayers. One such technical glitch being faced by major taxpayers is explained below:

    Under Step 2 of the Tax Grouping application process, each subsidiary must confirm its agreement to be part of the Tax Group. Once confirmation is provided by at least one subsidiary, Step 3, the final step of the application, can be initiated.

    However, in many cases, taxpayers encountered an issue where subsidiaries provided the required confirmation, but this approval did not appear in the grouping application. As a result, the system did not permit the taxpayer to proceed to Step 3, causing delays in filing the application.

    Given these challenges, it is crucial for taxpayers to promptly engage with the FTA to resolve such technical issues and ensure the timely submission of their upcoming tax grouping applications.

  - **Accounting Complexities -** While a tax group is treated as a single taxable entity, each standalone entity is still required to record current and deferred taxes in its financial statements, which can create reconciliation challenges.

    In tax grouping, the group is recognized as a single taxable person, represented by the parent company. This eliminates the separate corporate tax identities of subsidiaries, with tax liability calculated only at the parent entity level. However, International Financial Reporting Standards (IFRS) often require standalone entities to record tax expenses individually.

    This raises practical questions: How should the standalone entities record the tax liability? Different approaches surfaced in the market each having advantages and disadvantages.

    One approach involves recording tax liabilities for financial reporting purposes based on the standalone computation of each tax group member entity. While straightforward, this method can lead to discrepancies between the standalone tax liabilities and the consolidated amount paid by the parent. These differences arise due to inter-company adjustments, the elimination of related-party transactions, and other group-level considerations.

    Another approach involves allocating the tax liability among group entities earning taxable income only. However, this raises issues regarding loss-making entities. Technically, when a loss is utilized by another profit-making entity in the group, the loss is considered "utilized." As a result, no deferred tax asset can be created on such losses, potentially impacting the financial position of the loss-making entity.

    Resolving these issues will be a critical task for tax groups as the financial year closes.

Some closing remarks on tax grouping

Tax Grouping is a highly beneficial initiative for businesses with multiple entities in the UAE. The year 2024 has provided substantial technical and administrative clarifications, making the process more accessible and streamlined.

As the financial year 2024 has concluded, many taxpayers would have filed the tax grouping application and are now awaiting approvals from the FTA. To ensure efficiency in the process, the taxpayers should:

- *Verify that all required documentation is accurate, complete, and properly uploaded.*
- *Update records for all subsidiaries and the parent company on the tax portal.*
- *Establish an effective mechanism for allocating tax expenses among group entities to ensure compliance and operational efficiency.*

Additionally, many taxpayers have undertaken steps to align with corporate tax grouping requirements and are preparing to file tax grouping applications for 2025. These taxpayers will benefit from the clarity gained throughout 2024. It is essential for them to carefully evaluate their eligibility to form tax groups based on the principles and conclusions derived during the past year to ensure compliance and maximize the benefits of tax grouping.

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Bitcoin's Surge, UAE's Tax Clarity, and Dhruva's Crypto Journey

Global Emergence

The year 2024 witnessed a remarkable surge in global interest in cryptocurrencies, with Bitcoin surpassing the six-figure USD 100,000. This milestone has led to some viewing Bitcoin as "digital gold," while the majority still remain cautious, citing volatility and regulatory uncertainties. Recent announcements by U.S. President Donald Trump and discussions among various countries about establishing a strategic Bitcoin reserve have further fuelled excitement and speculation at the same time.

UAE Regulatory Framework and Largest Crypto-Mining Site in the GCC

In contrast to other jurisdictions, the UAE maintains a more progressive outlook on cryptocurrency adoption. In the recent past, Dubai established the Virtual Asset Regulatory Authority (VARA), while the Abu Dhabi Global Market (ADGM) introduced a dedicated framework for digital assets. These initiatives have paved the way for crypto exchanges and service providers to establish regional operations.

Building on this foundation, Abu Dhabi became home to the first and the largest Bitcoin mining facility in the region.

UAE's Tax Position on Cryptocurrencies

While the UAE had established a regulatory framework for the crypto sector, one missing piece of the puzzle was the tax treatment of cryptocurrency-related activities.

This gap was first addressed in May 2024 with the UAE Corporate Tax (CT) Free Zone Person Guide, which explicitly recognized cryptocurrencies as part of "shares and other securities." The clarification provided significant benefits to crypto businesses operating in free zones, allowing them to enjoy CT exemptions on their long-term holdings (for more than 12 months) and fulfilling other free zone compliance conditions. However, this exemption does not extend to all cryptocurrency-related activities. For example, short-term/active trading in cryptocurrencies – common due to asset volatility - and income from transaction fees earned by exchanges may not qualify for the exemption as such activities are likely to fall outside the scope of the qualifying activity as defined.

In October 2024, the clarity was further expanded with amendments to the VAT Executive Regulations, introducing VAT treatment for virtual assets. The changes were applied retroactively from January 2018 and classified transactions involving the transfer and conversion of cryptocurrencies as financial services, making them exempt from VAT.

For Bitcoin mining to Crypto Exchanges, Dhruva's advisory experience

As a firm, Dhruva has had the privilege of working with a diverse range of businesses in the crypto space this year.

This included advising a government-held company that supplies power to Bitcoin mining facilities and supporting Bitcoin mining facilities and crypto exchanges with VAT impact on various supply chain touchpoints. Dhruva also worked with publicly listed crypto mining operators and investment holding companies with their corporate tax impact assessment and planning strategies.

In this article, we are pleased to share key insights related to this unique industry and how tax treatment on some of these transactions still requires much-needed clarity.

Bitcoin Mining

The activity of Bitcoin mining involves the use of computational power to solve cryptographic puzzles, resulting in the creation of a digital asset (Bitcoin) as a reward. However, there is no identified recipient of this service, and any consideration—paid in Bitcoin—is not always guaranteed. Miners are rewarded only when they successfully validate a transaction, making the activity speculative in nature.

In addition to the block reward, miners also earn transaction fees in the form of Bitcoin to validate and add transactions to the blockchain. Similar to the block reward, no identified recipient for such services exists.

The VAT Law requires a supply to have a recipient for it to be taxable. Since Bitcoin mining lacks a clear recipient, it raises questions about whether mining constitutes a taxable supply. Additionally, the input VAT incurred on significant operational expenses, such as electricity and data center and cooling equipment, often becomes non-recoverable, as it is difficult to attribute these costs to a taxable activity.

An important factor that should also be considered is the platform fees miners incur during the Bitcoin mining process. These fees are paid through Bitcoin and may not be explicitly identified, as they are typically deducted from the Bitcoin received by the miner (netted against the rewards and fees). In cases where the platform provider is based outside the UAE, it is necessary to assess whether a reverse charge mechanism applies to the platform fees paid through Bitcoin.

The October 2024 amendments to the VAT Executive Regulations clarified certain aspects of virtual asset transactions; however, the treatment of cryptocurrency mining remained open. The recent public clarification issued by the FTA now provides much-needed clarity on the VAT treatment of cryptocurrency mining as out of VAT scope, distinguishing between mining for others (commonly known as hosting) as a taxable supply and the associated input tax recovery position..

Under the UAE CT framework, income generated from Bitcoin mining is taxable. Additionally, the applicability of Free Zone relief—typically available for passive holdings of Bitcoin—remains uncertain for mining revenue and requires a detailed analysis to confirm eligibility and evaluate structuring options to bring efficiencies.

Cryptocurrency Exports

Transfer and sale of cryptocurrencies are VAT-exempt. However, when cryptocurrencies are sold to a recipient outside the UAE, the transaction qualifies as a zero-rated export supply, provided the recipient can be identified.

The challenge arises when cryptocurrencies are sold on exchanges, where the identity of the recipient is typically not disclosed to the seller. Unlike peer-to-peer (P2P) transactions, where parties are identifiable, exchange-based trades occur within an anonymized environment, making it nearly impossible to determine whether the buyer resides within or outside the UAE.

Exchange-related Services with Consideration in Cryptocurrency

In traditional banking and financial institutions, charges such as commissions, fees for financial services, and interest are generally subject to VAT unless specifically exempt. However, in the crypto economy, where similar types of financial transactions are carried out using cryptocurrencies instead of fiat currency, the VAT implications remain uncertain.

For example:

Bitcoin Lending / Staking: Both crypto lending and staking are popular ways to earn passive income in the cryptocurrency space, but their tax implications remain uncertain.

In crypto lending, platforms often charge in cryptocurrencies, which in conventional financial systems could be subject to tax. Similarly, staking rewards are earned for validating transactions on proof-of-stake networks. The lack of clear guidance on how these transactions should be valued and taxed remains a problem.

Gas Fees for Conversion: Gas fees, charged for facilitating transactions or converting one cryptocurrency into another, function similarly to service fees in traditional financial markets. Should these fees be taxable when provided by intermediaries and when these are not in fiat currency?

Transaction Facilitation: Cryptocurrency exchanges and platforms often charge users a percentage-based fee for trading, swapping, or withdrawing funds. While such services are generally taxable in fiat-based transactions, it remains unclear how VAT should be applied when fees are paid in cryptocurrency.

Storing Cryptocurrency

While the scope of financial services as per the amended provisions includes keeping and managing cryptocurrencies, it is important to note that only cryptocurrency exchanges and conversions are explicitly identified as exempt supplies. In contrast, services related to the storage of cryptocurrencies, such as wallets and custodianship, may be subject to the general tax treatment for financial services. As a result, these services could either be subject to 5% VAT or exempt, depending on whether consideration is charged through an explicit fee or commission. If the service is provided for an implicit margin, it may be treated as an exempt supply.

To conclude, clarity on tax treatment on various transactions in the crypto space still remains ambiguous. Businesses in this sector must tread carefully and seek necessary clarity to ensure compliance.

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VAT on Group Employment Arrangements

FTA's VATP038 clarification highlights VAT implications for employee visa and manpower arrangements within UAE business groups

Manpower Supply

Supplier is involved in the end-to-end process of hiring and making employees available to the customer

v/s

Visa Facilitation Service

Supplier is only helping the administrative process and the customer is responsible for the employee's obligations

Need to Classify Correctly to Determine the Value of Supply

Entire Amount

- Salary
- Benefits
- Recharge expenses
- Related amounts

Facilitation Fee

- Typing fees
- Medical tests
- Emirates ID

Conditions for Visa Facilitation Service

Supplier not engaged in manpower supply

Entities within same corporate group

Supplier not responsible for employee obligations (salary, etc.)

Employees work exclusively for the customer, and under its supervision and control

ALL ABOVE CONDITIONS MUST BE FULFILLED TO QUALIFY FOR VISA FACILITATION SERVICE

Complexities

- Multiple contracts bifurcated between group entities
- Applicable when customer is outside UAE?
- Will disbursements qualify (directly or indirectly borne by customer)
- Basis to evaluate exclusivity

Call to Action

- Review contracts for payments, benefits, and obligations
- Mapping employee responsibilities
- Determine the nature and ascertain Value of Supply
- Ensure VAT compliance

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Riddhi Doshi
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The Evolution of Free Zone Taxation in the UAE: Challenges and Opportunities

As the year draws to a close, it is an opportune moment to reflect on the transformative journey of the UAE's tax landscape, particularly concerning free zones. With over 40 dynamic free zones, including globally renowned hubs like Jebel Ali Free Zone (JAFZA), Abu Dhabi Global Market (ADGM), Dubai International Financial Center (DIFC) etc., the UAE has become a magnet for foreign investment, fostering innovation, and propelling economic diversification. These zones embody the nation's vision for sustainable growth beyond its traditional reliance on oil revenue.

However, the introduction of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses (the "CT Law") has redefined the free zone ecosystem. While the law provides reassurance by retaining tax incentives for Qualifying Free Zone Persons (QFZPs), it has introduced intricate compliance requirements that necessitate innovative strategies and professional expertise.

Understanding the New Free Zone Framework

The CT Law's approach to FZ taxation balances incentivization with regulatory oversight. To qualify for the zero percent corporate tax rate, a QFZP must:

- Maintain adequate substance within the free zone.
- Derive qualifying income.
- Not opt for taxation at the standard rate.
- Comply with transfer pricing requirements.
- Prepare and maintain audited financial statements.
- Ensure non-qualifying income does not exceed the lower of 5% of revenue or AED 5 million during the tax period.

Failure to meet these conditions at any point disqualifies an entity for the current tax period and the subsequent four years, emphasizing the importance of a robust compliance framework.

Emerging Challenges and Analytical Perspectives

This inaugural year of corporate taxation has presented businesses with unforeseen challenges. These challenges underscore the need for a comprehensive understanding of the law and its nuances.

- **Legal vs. Economic Employer**

  The substance requirements emphasize maintaining full-time employees within the free zone. However, in the UAE, it is not uncommon for employees to be sponsored by one entity while performing duties for another. This practice raises questions about whether legal sponsorship or actual work location carries more weight in compliance. The challenge lies for free zone person (FZP) in demonstrating that employees contributing directly to the free zone entity's qualifying activities are its own employee when the payroll, social security, medical insurance, visa etc. responsibility are of another group company. In this regard, by exploring the concept of 'economic employment', one can demonstrate that free zone entities could fulfill substance requirements even without being the legal employer, **provided employees rendered services in the free zone.**

  Further, in large business groups with multiple segments, employees often work across entities on shared responsibilities, with their costs allocated accordingly. This raises a key question should such employees still be considered full-time employees of a specific company?

- **'High Sea Sales' in Distribution Models**

  High-sea sales pose a specific challenge in the context of distribution models for free zone entities. The CT Law mandates that goods entering the UAE must pass through designated zones for availing 0% tax rate. However, an exception arises in high-sea sales transactions, where goods are directly dispatched to the ultimate buyer.

  The corporate tax guidance on FZP outlines a straightforward high-sea sales scenario: a buyer in the UAE (Designated Zone) purchases goods from Country A and sells them to an ultimate buyer in Country B simultaneously, with the goods billed to the UAE buyer but shipped directly to the ultimate buyer in Country B. In practice, however, a common variation occurs when a UAE entity (established in a Designated Zone) purchases goods from Country A and sells them to a buyer in the UAE mainland. If such a transaction occurs before clearing UAE customs gates, questions arise regarding whether it meets the conditions of a qualifying distribution activity. This is particularly relevant as the goods are entering the UAE via the mainland rather than a designated zone.

  A potential argument for free zone entities is that these transactions could be classified as high-sea sales since they occur before goods cross UAE customs barriers. Consequently, the mode of import—through the mainland or a designated zone—may not be pertinent. However, the lack of a clear definition of high-sea sales in the UAE's CT Law, VAT Law, or customs regulations adds complexity.

  Determining the point of sale therefore becomes crucial in such scenarios. Businesses must carefully analyze contractual terms, such as **FOB** (where the buyer assumes responsibility for freight, insurance, and customs) versus **CIF** (where the buyer's responsibilities begin after the goods arrive at the destination port) or any other terms like **CFR** and **EXW** impacting the financial and operational flow of goods.

- **Funding Oneself**

  The guidance clarifies that interest income generated from surplus funds cannot be classified as an ancillary activity. Instead, it must independently qualify as a core activity to be treated as Qualifying Income (QI). Failure to meet this criterion will result in the interest income being categorized as non-qualifying income, potentially affecting the Free Zone Person's (FZP) eligibility for tax benefits.

  Although this principle was not explicitly introduced in the Corporate Tax (CT) law, the CT Guide for FZPs provides clarification by stating that the qualifying activity of "Treasury and Financing Services to Related Parties" includes funding oneself. This interpretation seems straightforward in cases where an FZP is engaged in treasury and financing activity. In such scenarios, earning interest on surplus funds can be treated as QI since funding oneself is considered as part of treasury and financing activities provided to related parties.

  However, complexities arise when an FZP is primarily engaged in activities other than treasury and financing activity. In such cases, the Federal Tax Authority (FTA) could argue that the FZP is not performing treasury and financing activities, and consequently, the interest income might be classified as 'non-qualifying' revenue.

  The question arises as to whether the UAE corporate tax guide on Free zones has expanded the scope of treasury and financing services (initially intended for related party transactions only) to include transactions conducted with oneself on a standalone basis? If this is the intent of the law, then interest earned on surplus funds, while may not be classified as an ancillary income, may never be considered as 'non-qualifying income' under such interpretation, rendering the issue academic.

- **Effective Management vs. Core Income Generating Activities**

  It is vital to draw a clear line between the effective management and core income-generating activities (CIGAs) for FZPs.

  CIGAs are the operational tasks that directly generate income for a FZP, such as manufacturing, distribution, or service delivery. In contrast, effective management refers to the strategic oversight and high-level decision-making that ensures the business operates effectively but does not typically involve operational execution.

  A recurring complexity arises when decisions related to purchases, operational expenses, or capital expenditures etc. are approved under a Delegation of Authority (DOA) framework that includes employees from mainland group entities. While DOAs are designed to manage business risks and streamline approvals, any decision made by a mainland employee under such a framework must be scrutinized to determine whether it pertains to CIGAs or is limited to oversight functions.

  If decisions constituting CIGAs are influenced or approved by mainland employees, it could call into question whether the FZP meets the regulatory requirements for economic substance, potentially jeopardizing its tax benefits.

- **Addressing CIGA Before Incorporation**

  A key principle to keep in mind is that CIGAs must be conducted within the free zone to meet regulatory requirements. For instance, in the case of a holding company, a critical CIGA is making investment decisions. These decisions should be carried out within the free zone.

  It is common practice for an investor, such as one based in the mainland, to establish a Special Purpose Vehicle (SPV) in the free zone for subsequent investments. However, the decision to make the investment—recognized as the core income-generating activity for the SPV—often occurs prior to the SPV's incorporation. This raises compliance concerns, as such a decision taken by the mainland investor outside the free zone may not align with the requirement that CIGAs be undertaken within the free zone.

  One may argue that the SPV could convene a board meeting after incorporation to formally make the investment decision. However, this would likely amount to a mere ratification of the decision already made by the mainland investor before the SPV's establishment, rather than the actual conduct of the CIGA within the free zone. Accordingly, understanding FTA's objective particularly in the context of CIGA of an investment business becomes critical here as this is a fairly common occurrence. A strict/narrow interpretation by the FTA of the requirement for CIGA of an investment business to be demonstrably conducted within the free zone could potentially create challenges for businesses undertaking such investment activities and using SPVs as part of their holding structure.

- **Beneficial Recipient Clause**

  Income earned by a FZP from transactions with another FZP (excluding excluded activities) qualifies as QI under UAE tax regulations. However, to prevent potential misuse of this provision, a key condition applies: the FZP must be the beneficial recipient of the goods or services.

The term 'beneficial recipient' is defined as an entity that has the right to use or enjoy the goods or services without any obligation to transfer them to another party. This determination may become particularly complex when a FZP is involved in the sale of shares held in a company.

In situations where the FZP purchasing the shares subsequently transfers them on a back-to-back basis or within a short time frame, questions could arise regarding whether the FZP is the true beneficial recipient. Such transactions may give the impression that the FZP is merely holding the shares on behalf of another party, rather than being an ultimate beneficiary.

Also, while shares are not classified as goods, the transfer of equity shares may fall under the category of 'financial services' as per the UAE VAT regulations. This can lead to further characterization issues as the UAE Transfer Pricing rules (UAE TP rules) might challenge its treatment as a service. Instead, the UAE TP rules may assess and benchmark the transaction as 'sale of shares' only (instead of a financial service).

The road ahead

The evolving tax framework for FZPs underscores the UAE's commitment to maintaining a balanced regulatory environment—one that fosters economic growth while ensuring compliance and fairness. By introducing stringent requirements, such as economic substance reporting, robust classification of activities, and the concept of the beneficial recipient, the UAE has established a system that prioritizes both transparency and equity.

The introduction of the BEPS Pillar 2 regime in 2025 will further amplify the importance of strategic tax policies. As the regulatory net tightens, the charm of the UAE extends beyond its tax advantages to encompass its vibrant ecosystem of innovation, infrastructure, and global connectivity.

By embracing these opportunities with foresight and adaptability, businesses can thrive in this dynamic landscape while aligning with the UAE's broader vision for sustainable economic diversification.

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UAE Authorized Economic Operator (AEO)

A global initiative enhancing trade efficiency and security by partnering businesses with Customs authorities

Key highlights

Implemented by over **70** countries

130 certified AEO holders presently exist in the UAE

90% of global trade anticipated to operate through AEO frameworks

Promotes a shift to **System based controls**

Key Benefits

- Elimination of paper submissions
- Faster clearance & reduced inspections
- Self-guarantee and automatic refund credits
- Reduction in declarations selected for control
- Mutual Recognition Arrangement - cross border benefits

Eligibility Criteria

- Legal entity involved in customs-related activities
- Valid customs business code
- Clean legal record (no serious offence in last 3 years)
- Ensure prior AEO status was not revoked (within last 3 years)

AEO Certification Parocess

Application
Submit an application to Customs, validated for completeness and eligibility

Validation
Completion of a Questionnaire followed by Customs conducting risk assessments, site visits, and process verification

Certification
Successful applicants are awarded AEO certificate and assigned KAM for dedicated support Post certification, monitoring, evaluation, and re-validation by AEO Team

Relevance of AEO

- Improved security
- Streamlined logistics
- Protection against illegal trade
- Trade Efficiency
- Strengthen international trade relations

Call to Action

Unlock global trade opportunities with the UAE AEO Program—enhance efficiency, compliance, and gain worldwide recognition

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Cross Border Transactions and Permanent Establishment in GCC Region

Background

In the fast-paced era of globalization, technological advancements have enabled businesses to expand their operations across borders, irrespective of geographical distances. This shift has revolutionized business models, marking a paradigm shift from the traditional brick and mortar model. Today, the world has shrunk to a 'global village', where no market is out of reach. As businesses navigate this evolving landscape, two types of cross-border transactions have emerged: – (a) doing business with a country, and (b) doing business in a country..

A. Doing Business with a Country: Under this model, foreign companies engage in business transactions with the residents of a country, without setting up a business presence there. For instance, they may directly sell products to its residents, with the risks and rewards of ownership transferring outside the country. In such cases, foreign companies generally would not be exposed to taxation in the country of sale, in absence of any formal presence.

B. Doing Business in a Country: This model involves a foreign company establishing a formal presence in a country, often referred to as the 'source country'. This could be in the form of a branch, subsidiary, or through employees or agents. As business activities in the source country increase, complex tax issues may arise, particularly around determining the right of the source country to tax the company's profits. This is where international tax concepts of Permanent Establishment (PE) and profit attribution come into play, helping to define the taxing rights between the source country and the country of residence. The PE concept is recognized by most countries and has been incorporated by them in their domestic tax provisions and international tax treaties.

Cross-border transactions include the transfer of money, property or businesses between two different jurisdictions, which can raise a host of regulatory concerns and compliances. These include tax considerations, regulatory approvals and compliance with local laws. Hence, appropriate planning for such arrangements is important, as such transactions/arrangements are governed by the laws of several countries.

Beyond regulatory structuring of these transactions, tax-efficient structuring is vital to avoid. the substantial costs of double or multiple taxation, which can otherwise render a transaction financially unviable.

Furthermore, cross-border funding strategies – whether through debt, equity, royalties, or technical fees must be carefully considered. A thorough understanding of the tax consequences of divestments and profit repatriation is equally important.

Cross border tax structuring helps to avoid surprises or inefficient tax consequences while actually undertaking the transaction. It is essential to align this structure with business objectives and commercial realities and not be driven solely by tax considerations.

This approach is especially important in light of anti-avoidance tax measures which are implemented locally in several tax legislations.

Aspects of cross border tax structuring

There are several aspects of cross border tax structuring as follows:

- **Setting up an entity – Choice of entity type**

  Businesses in the GCC can operate through branches or Limited Liability Companies (LLCs). A branch is treated as an extension of the parent company, often leading to taxation in both the source and home country. Conversely, an LLC is treated as a separate legal entity, providing liability protection but incurring high compliance costs. For example, the UAE allows businesses to claim exemptions on branch profits if taxed abroad at a rate of 9% or higher, while Bahrain imposes no corporate tax on branches but requires adherence to substance rules.

- **Tax-Efficient Funding Strategies**

  Debt financing is generally more tax-efficient as interest payments may be tax-deductible, while equity financing involves non-deductible dividend payouts. However, withholding taxes on cross-border payments differ by GCC country. For example, Oman imposes withholding tax on interest and dividend payments, while the UAE currently maintains a 0% rate. However, for the recipient of income, there may favorable tax treatments in their home country depending on whether interest or dividends are received. For example, in UAE CT, participation exemption is available on dividends received by a UAE resident company provided certain conditions are met. Similarly, KSA CT provisions offer tax exemptions on dividends subject to certain conditions.

- **Inbound and Outbound Cross-Border Tax Structuring**

  Businesses entering the GCC often use intermediary holding companies in tax-friendly jurisdictions to minimize tax liabilities. However, the introduction of global minimum tax standards requires reassessment of these structures. For example, Bahrain's implementation of a Domestic Minimum Top Up Tax in line with the OECD guidelines (to maintain an effective tax rate of 15%), the tax landscape in the region is clearly evolving. Further, Qatar has acknowledged that it is considering implementation of rules that generally are in line with OECD BEPS Pillar 2 guidelines to ensure a global minimum level of taxation @ 15% for Multinational Enterprises.

- **Cross-Border Mergers and Acquisitions**

  Cross-Border M&A activities involve careful planning to leverage treaty benefits and minimize tax costs associated with asset or share sales. For example, in UAE CT, Business Restructuring relief may become available when a UAE taxable person transfers its business and satisfies certain conditions.

- **Profit Repatriation Strategies**

  Profit repatriation through royalties, dividends, or technical fees is common but subject to withholding taxes and transfer pricing regulations. For example, UAE imposes 0% withholding tax on cross border payments, while KSA levies a 5% tax on dividends and 15% on royalties.

Permanent Establishment

The concept of PE is critical in cross-border tax structuring, as it determines whether a country has a right to tax the profits of a foreign entity operating within its borders. Generally, PE definitions are included in Article 5 of tax treaties, and may include:

- Fixed Place PE – A fixed place of business through which the business of an enterprise is wholly or partly carried on. It is necessary that the fixed place of business is at the disposal of the enterprise to perform its activities. Specific inclusions in the definition of Fixed Place PE are place of management, branch, factory, workshop, building/construction site lasting for more than a prescribed period.

- Agency PE – Business carried on by a dependent agent of the enterprise in the country of source and has the authority to act on behalf of the enterprise, secure orders and conclude contracts.

- Service PE – Employees/personnel of the enterprise visiting the country of source beyond a prescribed threshold of days and performing business functions.

In order to decide whether a PE is constituted, one has to undertake a functional and factual analysis of each of the activities undertaken by the enterprise in the country of source and evaluate whether any of the above-mentioned criteria for triggering a PE are satisfied.

GCC Implementation Issues and PE Challenges

United Arab Emirates (UAE)

The UAE's Corporate Tax regime introduces a 9% tax rate above AED 375,000 in profits. Businesses must determine whether activities create a PE under UAE law or applicable treaties. Economic substance regulations require companies to demonstrate substantial business activities in the UAE and a failure to comply can lead to penalties and loss of treaty benefits. The UAE's extensive tax treaty network offers opportunities to mitigate withholding taxes, but adequate documentation is essential to access these benefits.

Kingdom of Saudi Arabia (KSA)

KSA applies a 'Force of Attraction' rule under which income earned directly by a foreign company in the country is aggregated with income attributed to its PE. Transfer pricing regulations are stringent, requiring detailed local and master files, with non-compliance also leading to significant penalties. Withholding taxes can very by payment type, and businesses must apply for treaty benefits through advance rulings from ZATCA.

Bahrain

Bahrain's adoption of the Domestic Minimum Top-Up Tax (DMTT) aligns with OECD guidelines and increases compliance requirements for multination companies. Although, Bahrain imposes no corporate tax on most entities, recent changes necessitate reassessment of PE risks. Bahrain's tax treaty network provides relief from double taxation, but companies must meet substance requirements to avail all benefits.

Oman

Oman's Tax Authorities have heightened their focus on service PE's, where employees or contractors spend extended periods in the country. Transfer pricing rules mandate local documentation and arm's length principles, aligning with OECD's guidelines. Also, withholding tax principles apply to cross-border payments, and businesses must evaluate the impact of Oman's evolving tax treaty network.

Kuwait

Kuwait's tax framework includes PE risks for construction and service sectors. Activities exceeding a specific time threshold can create a taxable presence. Compliance with withholding tax on royalties and technical fees requires careful planning and documentation to leverage treaty provisions. Kuwait is progressing towards adopting global minimum tax standards, which will further impact cross-border structures.

Qatar

In Qatar, the corporate tax regime mandates a corporate tax rate of 10% on the profits of businesses operating within its jurisdiction. Taxable presence under the concept of PE is determined primarily through the duration of activities, such as construction projects or service engagements, which exceed specific thresholds set by Qatar law. This creates a significant need for businesses to carefully track the duration and nature of their activities to avoid inadvertently triggering a PE. Withholding taxes are also applied to cross-border payments such as dividends, royalties, and technical fees. Companies can often access treaty benefits to reduce these rates, but doing so requires robust documentation to substantiate these claims. VAT implementation is also on the radar for Qatar, with a rate of 5% to be rolled out, affecting most goods and services while exempting essential sectors like healthcare and education. Navigating Qatar's tax system requires businesses to engage in meticulous planning to address PE risks, and ensure compliance with local and international tax standards.

Remarks

Cross border tax structuring and complexities of constituting a PE would be critical to businesses, and it is essential that meticulous and detailed tax planning is carried out before undertaking a transaction. Further, tax planning should be backed by an overall business plan and cost benefit analysis of factors apart from tax considering the anti-avoidance tax measures implemented in the domestic tax laws as well as the tax treaties. It would also be necessary to take into account the legal perspectives and have access to dependable legal advice before undertaking a transaction as compliance with local laws would be of utmost importance to achieve the desirable structure.

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UAE Corporate Tax: Navigating the Accounting Maze

The introduction of Corporate Tax (CT) in the UAE marks a pivotal shift for businesses, necessitating a nuanced understanding of its interplay with accounting principles. As 2024 ends, UAE businesses face the challenge of readiness for CT compliance and tax provisioning while optimizing tax positions. This article explores the nuances of accounting's intersection with UAE CT and outlines key actions to navigate these complexities.

Deferred Tax

Deferred tax encapsulates the tax effects of temporary differences between the accounting and tax treatment of assets and liabilities. Companies opting for the realization basis of accounting, having taxable losses, availing transitional relief (on qualifying immovable properties, intangible assets, financial assets and liabilities), etc. shall have to factor the deferred tax implications.

In UAE, deferred tax concept may at times extend beyond basic tax adjustments, like, deferred tax on intangibles recorded in consolidated financial statements due to business combination accounting, difference in accounting policies followed at Parent level vs at subsidiary / associate level. Similarly, a temporary difference arising in the consolidated financial statements of a UAE entity due to a foreign subsidiary may require application of the foreign country's CT rate (as opposed to UAE CT rate) to determine the deferred tax impact.

Companies must carefully monitor amendments to the UAE CT Law. For instance, the FTA recently amended participation exemption conditions (effective 1 January 2025), deeming profit and liquidation tests satisfied for investments costing AED 4 million or more. These changes affect deferred tax on unrealized investment gains or losses already recognized in the financial statements.

Other Comprehensive Income (OCI)

OCI introduces additional complexity to UAE CT due to its non-recyclable nature. Gains or losses recognized within OCI, such as fair valuation gain /loss on investment classified as OCI, often bypass the profit and loss account. Despite this, UAE CT may impose tax on these amounts, demanding precise adjustments to accounting income to align it with taxable income.

Direct Credit to Reserves

Gains transferred to reserves without passing through the profit and loss account may still attract tax under UAE CT. Similarly, the conversion of shareholder contributions into reserves necessitates careful scrutiny to determine whether such transfers constitute taxable events. The absence of clear guidelines in this domain often requires businesses to adopt conservative tax positions or seek FTA clarifications.

Transfer Pricing (TP): Navigating Compliance with Precision

TP adjustments must be finalized before book closure, as suo moto adjustments during return filing may increase group tax costs as the counterparty cannot mirror the adjustment without FTA approval.

CT Grouping – A Strategic Move

In tax groups, corporate tax is calculated at the group level, with the resulting provision allocated among the member entities. This allocation demands careful consideration, particularly due to factors such as intra-group loss utilization, the application of the AED 375,000 basic exemption limit to a single entity, etc.

Standalone allocation based on individual taxable income often fails to reflect group-level adjustments, such as the elimination of intra-group transactions. Alternatively, allocating tax liability solely to profit-generating entities can lead to the permanent loss of deferred tax benefits for entities whose losses are absorbed within the group.

With no definitive guidance provided by IFRS on such allocations, companies have adopted varying practices. To address these complexities, tax groups must establish clear policies to ensure accurate and compliant year-end reporting.

Consolidation Adjustments vs. Aggregation for Tax Purposes

A clear distinction exists between consolidation adjustments required under IFRS and tax aggregation mandated by UAE CT. Consolidation under IFRS often involves adjustments such as those arising from business combination accounting, which can lead to recognition of bargain gains, goodwill, and intangible assets. Conversely, UAE CT's tax aggregation approach aggregates the standalone numbers of entities within a tax group without generating such adjustments. This necessitates meticulous reconciliation between accounting consolidation entries and tax aggregation calculations. While a bargain gain recorded at consolidated level may not have UAE CT implications, deferred tax implications could arise on intangible assets recorded at consolidated level.

Accounting Systems and Audit

The introduction of CT necessitates a comprehensive review and enhancement of accounting systems. Key actions include updating the chart of accounts to differentiate between allowable and non-allowable expenses. Tax-specific financial statements are essential for tax grouping and compliance. Early auditor engagement is critical, especially for businesses exceeding AED 50 million in revenue or qualifying free zone status. Some aspects which are crucial to clarify include whether gains from investment sales are classified as revenue for calculating this threshold or if gross proceeds should be considered, ensuring accurate assessment and audit readiness.

Uncertain Tax Positions

IFRIC 23 provides guidance on managing uncertainties in tax treatments. Businesses must disclose uncertain tax positions, applying the "more likely than not" threshold to determine whether a tax treatment is probable. Given the UAE CT's nascent state, entities frequently encounter ambiguity in areas such as inter-company transactions, valuation adjustments, etc. Seeking private clarification from the Federal Tax Authority (FTA) becomes a prudent strategy to mitigate risks and establish compliance.

Optimizing CT Positions and Year-End Calculations

Year-end provides a strategic opportunity to optimize tax positions. Real estate businesses must align transitional relief claims with revenue recognition methodologies, such as the percentage of completion.

A detailed and accurate tax provisioning is essential, as significant differences between tax provision and actuals may lead to adjustments in subsequent periods, requiring explanations to auditors and potentially raising questions from the FTA.

Illustrative tax disclosures templates

A detailed ETR reconciliation and disclosure formats should be agreed upon early to avoid last-minute surprises. A sample disclosure is below:

FS Disclosure

Aspect	Share Deal
Current Tax Expenses	
- Current Year	XX
- Prior Year	XX
- Total (A)	XX
Deferred Tax Expenses	
- Current Year	XX
- Prior Year	XX
- Total (B)	XX
Total Tax Expense (C) = A + B	**XX**

Reconciliation of Tax

Particulars	Amount
Accounting profit as per the financial statements (A)	XX
Tax Liability @9% on the accounting profit (B)	XX
Add: Tax impact of adjustments made to the consolidated profits	XX
Add: Tax impact of permanent disallowances	XX
Less: Tax impact of exempt income	(XX)
Less: Tax impact of basic exemption	(XX)
Add: Deferred tax not recognized on losses (if any)	XX
Add / Less: Deferred tax on consolidation	XX
Add / Less: Prior period tax expenses:	
- Current Tax	XX/(XX)
- Deferred Tax	XX/(XX)
Total tax expense	**XX**

Deferred Tax Movement

Particulars	Opening Balance	Charged to P&L Account	Charged to OCI	Closing Balance
Property, Plant & Equipment	xx	xx	xx	xx
Goodwill & other Intangible assets	xx	xx	xx	xx
Investment Properties	xx	xx		
Investment through Income Statement	xx	xx		
Investments through OCI	xx	xx		
Other Fair Value Adjustments	xx	xx		
Unrealized gains/loss subject to election	xx	xx		
Provisions for ECL	xx	xx		
Carry Forward Losses	xx	xx		
Others	xx	xx		
Total	**xx**	**xx**	**xx**	**xx**

The above information aligns with CT best practices and should be tailored to organizational needs for audit readiness.

Looking Ahead: Preparing for FY2025 and Beyond

As businesses plan for FY2025, aligning compliance with strategic goals becomes paramount. Tax accounting readiness is critical, requiring robust systems to enhance accuracy, efficiency, and real-time reporting capabilities. Automation and tax technology play a pivotal role in achieving alignment with evolving tax laws, streamlining processes, and reducing the risk of errors.

Tax provisioning processes must be fortified to manage potential discrepancies between tax provision and actual liabilities. Detailed reconciliations, including Effective Tax Rate (ETR) analyses and upfront agreement on disclosure formats, are essential to avoid last-minute surprises.

Tax audit readiness also requires synchronization of transfer pricing policies, validation of expense deductibility, and reconciliation across CT, VAT, and financial statements. Monitoring anticipated changes to withholding tax rates, rules on Qualifying Domestic Minimum Top-up Tax (QDMTT), and R&D incentives will be vital for proactive compliance. Businesses must approach these challenges as opportunities to refine practices, leveraging precise reporting and strategic foresight to navigate this dynamic regulatory landscape effectively.

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Navigating the Intersection of UAE VAT, Corporate Tax, and Transfer Pricing

The UAE's evolving tax landscape presents unique challenges and opportunities for businesses operating within the country. With the recent introduction of Corporate Tax ('CT') and Transfer Pricing ('TP'), and the established Value Added Tax ('VAT') regime, companies should be able to navigate the complex interactions between the various tax frameworks. Understanding the interplay between VAT, CT, and TP is critical for ensuring compliance, optimizing tax positions, and mitigating risks associated with audits.

This article explores key areas where the VAT, CT, and TP provisions intersect, raising relevant questions about their implications.

Deductibility of Expenses

Under the VAT legislation, input tax on certain expenses is blocked from recovery. A few common examples are:

- Input tax on expenses blocked under Article 53 of the VAT Executive Regulations.
- Input tax on expenses attributable to exempt supplies, and input tax on common mixed-use expenses.
- Expenses where the recipient does not hold a tax invoice that meets the requirements of Article 59 of the VAT Executive Regulations.

The CT legislation takes a different approach to the deductibility of expenses as compared to the non-recoverable rules under the VAT legislation.

For example, under Article 53 of the UAE VAT Executive Regulations, input tax recovery is blocked for entertainment expenses incurred for non-employees, including hospitality of any kind such as accommodation, access to events, etc.

In contrast, under the CT provisions, entertainment expenses incurred wholly or exclusively for business purposes are generally deductible, unless a portion of expenses involves personal benefits to non-employees, in which case the deduction is restricted to 50% of the expense.

Key considerations: Companies need to assess whether input tax blocked from recovery under VAT can be claimed as a deductible expense under CT. Additionally, it is important to evaluate the potential impact of VAT costs on profits subject to CT.

Netting Off Losses

Under the CT provisions, group entities may be eligible for 'transfer of tax losses to qualifying group entities' to enable profit-making entities to offset taxable income against losses of loss-making entities. However, to utilize this provision, certain conditions must be met, including the requirement that there should be at least 75% common ownership between the entities. Additionally, the amount of loss transferred cannot exceed 75% of the recipient entity's taxable income.

Key considerations: A 'taxable supply' is defined as a supply of goods or services for consideration during the course of business. Businesses need to evaluate whether netting losses against profits between group entities constitutes a taxable supply under the UAE VAT law and assess the potential VAT implications of such supplies.

Funds

The CT legislation classifies funds into the following categories:

Unincorporated funds:

Funds that are classified as 'pass-through entities', where there is a registration requirement as the investors must report the income earned by the fund.

Incorporated funds:

Funds that have a legal personality, where there is a separate reporting requirement unless an application for election is filed and approved by the tax authority for pass-through treatment.

However, funds may earn income, recharge expenses, or import goods and services, all of which might have VAT implications directly at the fund level.

Key considerations: Even though the fund is not a legal person under the UAE Companies Law, for VAT purposes the fund may be regarded as a separate person. Businesses should evaluate whether funds are subject to the same classification and bifurcation for VAT purposes, and if funds need to register for UAE VAT even in cases where there is no CT registration requirement.

Year-end reconciliation

VAT returns are typically filed on a monthly or quarterly basis, whereas CT returns, including any TP disclosures, are filed annually.

Given the reporting variations between VAT, CT, and TP, discrepancies may arise in the revenue figures reported in VAT returns, CT returns, and financial statements.

As the Federal Tax Authority has access to all return submissions, they may compare these revenue figures to evaluate the reasons for any differences.

Key considerations: Companies should anticipate the possibility of tax authorities requesting reconciliations of revenue figures reported in financial statements, VAT returns, and CT returns. Ensuring preparedness to perform such reconciliations is essential.

Transfer Pricing adjustments

Companies must ensure that intercompany transactions comply with arm's length principles as mandated by the TP regulations.

During an audit, tax authorities may review related party transactions to determine if they were conducted at arm's length. Non-compliance may result in the authorities mandating TP adjustments and adding differential value to the transaction.

Key considerations: Businesses should analyze the VAT implications of any additions to transaction values resulting from TP adjustments and determine whether Voluntary Disclosure requirements would apply.

Closing remarks on the evolving tax landscape

By proactively addressing these challenges, companies can better align their tax strategies with regulatory requirements in the UAE, minimize the risk of non-compliance, avoid costly disputes with the FTA, and ensure a streamlined approach to tax planning. As ever, staying informed and seeking expert guidance will remain crucial as the UAE continues to progress its tax policies.

The issues discussed in this article represent key considerations related to the interplay between VAT, CT, and TP. However, this is not an exhaustive list, and other factors may also influence these areas. Readers are encouraged to seek professional advice to address their specific circumstances and to ensure compliance with all applicable UAE tax legislation.

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Addressing Challenges in Intercompany Financial Transactions

Globalization has increased intercompany financial transactions within MNEs, posing compliance challenges, especially in the UAE, since transfer pricing regulations are now enforced

Intercompany Financial Arrangements

- Corporate Loan
- Guarantees
- Treasury functions
- Cash pooling

These transactions frequently escape notice due to a lack of formal documentation or recognition within the group

Key Challenges

- Undocumented Transaction
- Operational Silos
- Compliance Difficulties
- Economic and Tax implications

Action Points

- Proactive management
- Formalization of agreements
- Adherence to arm's length principles

Sustainable compliance and business integrity

Strategic Responses

Formalization:
Establishing clear T&Cs for all essential transactions

Systematic Management:
Adopt a centralized management framework

Technology Integration:
To streamline processes

Ongoing training and education:
To enhance staff awareness

Practical Steps

Accurately delineate each transaction, assessing its contractual terms, economic substance, and commercial rationale

Evaluate the debt capacity of the borrowing entity, its creditworthiness, and ensure arm's length pricing

Conduct internal periodic reviews and audits to identify and rectify gaps in compliance

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The Evolving Tax Landscape in the GCC - Why Technology Matters

Over the past seven years in the GCC, I've witnessed big changes in tax the tax landscape—ranging from VAT and e-invoicing to corporate tax and accompanying measures such as economic substance rules, and Pillar Two. The drivers behind these developments have also matured, progressing from revenue diversification to alignment with international frameworks and best practices. This evolution has created a regulatory environment in which taxpayers face higher scrutiny and complexity, fueled by tax authorities' growing capabilities in data collection, auditing, and enforcement.

We're now at an intriguing inflection point. It's not just the regulatory environment that's changing; the technology landscape is in the spotlight as well—especially with AI dominating conversation throughout 2024. We foresee some significant shifts in the tax technology space, along with certain trends we think are overhyped. With that in mind, we've gathered our perspectives on tax technology as we move into the new year.

Evolving the Tax Function

Tax teams in the GCC have undergone a dramatic transformation. Not long ago, a single individual or an external advisor often handled all tax matters, typically reporting to the CFO. Today, these functions have grown into multi-capability teams that manage everything from day-to-day compliance and operations to strategic planning and decision support at the board level. Along the way, tax professionals have had to build out skills in financial modelling, governance, data management, analytics, and process design—no small feat given the relentless pace of legislative change and the scarcity of local specialists with deep expertise.

Seven years ago, tax technology was a niche conversation. Now, demands for automation, advanced research, richer insights, tighter risk controls, and consistent compliance have made "tax technologists" a critical part of the landscape.

Areas of Change

Automation

Tax teams often perform repetitive tasks: gathering data from ERP/ accounting systems, juggling spreadsheets. verifying external data sources, and building complex calculations under tight deadlines (e.g. monthly VAT filing date looms, repetitive manual work is not only time-consuming but prone to error. E-invoicing, which demands near real-time accuracy, will only amplify these demands. Typical finance modules in ERPs rarely address the granular or rapidly changing nature of tax rules-further fueling the needs for dedicated tax automation tools

Governance

Multinational teams juggling multiple taxes, jurisdictions, and deadlines need strong governance, software that manages tasks, deadlines, and documentation to strengthen oversight and reduce risk. This goes beyond classic project management: tax professionals multi track changing obligations across multiple regimes. The right mix of software, training, and processes can provide the clarity (and peace of mind) needed for better risk management.

Planning & research

Traditionally, planning & research were considered the bedrock of a tax function-drafting structures, and supporting new regulations, and supporting the business in real time. But with frequent legislative changes, the old stack of law books and spreadsheets is insufficient. More firms now leverage tools that provide ready access to updated legislation, automated modeling, or scenario analyses-allowing tax teams to shift from reactive to proactive.

Looking Ahead: Our Predictions for E-Invoicing & Beyond

E-Invoicing & VAT

Starting in 2026, the UAE's phased introduction of e-invoicing will be a watershed moment. Much like we saw in other regions, once e-invoicing becomes mandatory, taxpayers will realize that manual or partly digital processes are no longer sustainable. In theory, there will be many solutions that comply by allowing an invoice to pass from seller to buyer. However, only a few providers will offer the richer features—validations, content, integrations, and controls—that enable broader benefits beyond simple checkbox compliance. As a result, we expect heightened interest from taxpayers in selecting the right software, assessing how well each solution can integrate with their data sources, provide real-time checks for accuracy, and maintain robust oversight.

Once e-invoicing is in place, businesses will face real-time (or near real-time) invoice validation, especially when tax authorities expand their audits and penalties. This mandatory shift creates a prime opportunity for organizations to address data integrity issues at the source, moving away from manual fixes and late-stage reconciliations.

Although the GCC introduced VAT in 2018, taxpayer adoption of VAT-specific software in the region has been modest—often because VAT complexity here remains more manageable, and many businesses have taken the most basic compliance approach. However, with e-invoicing, organizations will likely invest in solutions that automatically check calculations and streamline submission. As penalties become more visible and the complexity of legislation grows, it's natural that more CFOs and tax directors will see the business case to justify these investments.

Corporate Tax and Transfer Pricing

Corporate tax, introduced last year in the UAE, currently sees limited technology adoption. While many taxpayers plan to rely on advisors or manual methods for their first filing, the rapidly evolving landscape—particularly around Pillar Two and Transfer Pricing—will soon demand more sophisticated tools. Over the coming years, managing these complex obligations will increasingly require specialized software for calculations, compliance, and scenario modelling. A "white-knuckle" approach may suffice for now, but as risk and complexity intensify, taxpayers will invest in more robust platforms for provisioning, planning, and oversight.

AI in tax

A couple of years ago, research from OpenAI suggested that tax preparers would be among the most affected professional roles as AI matures. That may well be the eventual outcome—artificial intelligence has the potential to automate many aspects of tax practice, from data analysis to return generation. However, the current reality is more measured:

- The tax technology market—particularly in this region—isn't yet large enough to sustain rapid, transformative AI adoption. Many solutions are still relatively narrow, focusing on automating discrete workflows rather than overhauling the entire profession.
- Rather than overnight disruption, we'll likely see an "outside-in" progression: AI use cases that start as cognitive helpers for tasks taxpayers already perform, gradually permeating more advanced forms of automation and insight. Over time, these capabilities may become more radical, but only once vendors and taxpayers alike are ready to invest in truly AI-driven systems.

Consequently, while we may see incremental steps—like AI-driven analytics or advanced search tools for legislative updates—a sweeping AI transformation of the tax function remains down the road.

Tax data

As tax authorities collect more data—VAT, corporate tax, e-invoicing, transfer pricing, customs, and so forth—they are increasingly harnessing analytics to perform targeted audits and shape new policies. As such, we can expect them to keep pushing digital reporting across multiple taxes, leaving businesses little choice but to keep their own data infrastructure up to standard.

A major pain point is data. Tax teams need granular, accurate, and often real-time data. With speed and quality challenges intensifying, investments in data warehousing and better data pipelines will be essential. Tax might be the "test case" that prompts CFOs to build or upgrade data infrastructures. As e-invoicing and complex compliance expand, the need for a single "source of truth" will become non-negotiable.

The "not yets"

Despite plenty of media attention, blockchain adoption at scale for taxation remains limited in the near term. While certain proofs-of-concept may emerge, taxpayers are generally more concerned with meeting mandatory obligations—like e-invoicing—than experimenting with new technology. Similarly, advanced analytics—beyond the top tier of heavily digitized taxpayers—will likely remain a niche undertaking as mid-sized and smaller taxpayers prioritize immediate operational demands over deep data modeling.

Traditional Robotic Process Automation (RPA) also seems set to decline, replaced by more modern, integrated solutions—often delivered as managed services. Document-processing tasks may still benefit from RPA, but many taxpayers find that "service-led architectures" reduce errors, lower maintenance, and are simpler to scale.

Although professional qualifications like ACA and CIMA increasingly include data and analytics in their curricula, most GCC practitioners are not ready to implement advanced analytics this year. With day-to-day demands from e-invoicing, corporate tax, and Pillar Two, tax teams remain focused on foundational issues. Ultimately, advanced use cases—such as optimization and augmented decision-making—will only become mainstream once taxpayers have established robust underlying data structures, standardized processes, and a culture of continuous improvement. While the trend toward analytics is clearly underway, it will take time before these capabilities are deeply integrated into daily practices.

Conclusion

The GCC tax landscape is undergoing a period of accelerated digital transformation. Over the next year, mandatory changes like e-invoicing will spark new technology investments, and a gradual but steady rise in VAT and corporate tax software deployments is likely. Although AI garners headlines, any sweeping AI-driven disruption to core tax-preparer roles still seems further off—particularly given market size and the incremental nature of vendor offerings.

As compliance demands intensify, technology will shift from a nice-to-have to a must-have—a reality taxpayers in the GCC can no longer afford to ignore.

Bilal Mansoor
Director
Tax Technology

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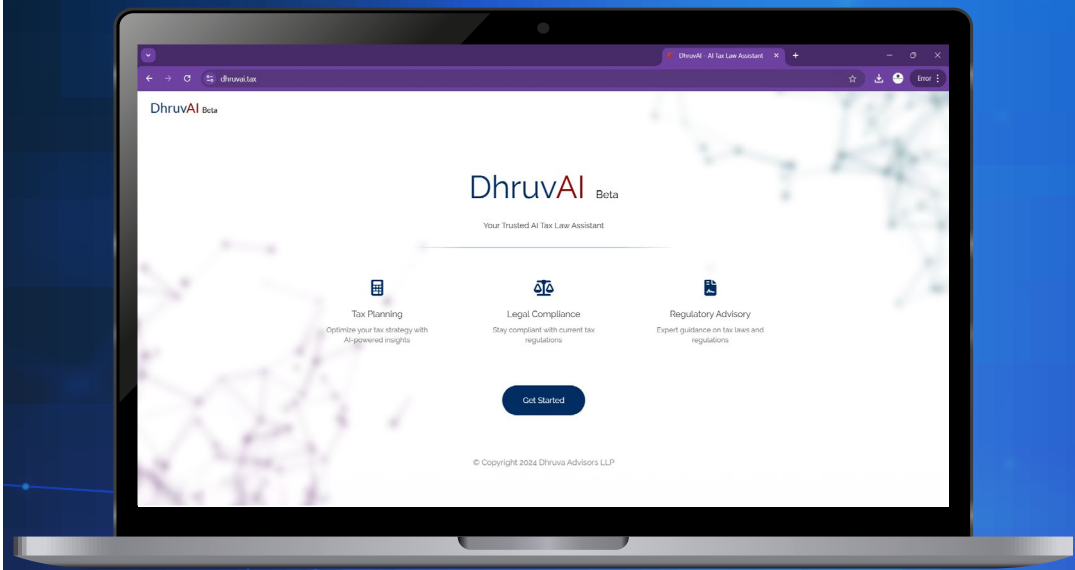

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