



GCC Tax & Other Regulatory Communique

January 2024



VAT IN UAE

UAE VAT UPDATES

VAT UPDATES

Update on EmaraTax Portal

The FTA of UAE has updated/enhanced the EmaraTax Portal for a better user experience. It is to be noted that major change/update has been done under “Registration Dashboard” section. Going forward, Registered persons would be able to see details of expired documents on dashboard and specific actions required for updating said details.

Further, going forward, please note that based on said update, a taxable person cannot proceed with the Corporate Tax Registration application if the Trade License and other mandatory documents (submitted during VAT Registration) pertaining to said taxable person are not updated on the Emara Tax Portal.



CORPORATE TAX IN UAE

UAE CORPORATE TAX UPDATES

CORPORATE TAX UPDATES

Corporate Tax Guides – Tax Groups

The Corporate Tax Guide was issued by the Federal Tax Authority to provide general guidance to Taxable Persons, helping them to understand the taxation of two or more juridical Resident Persons that form a Tax Group.

1. The Corporate Tax Law defines a Tax Group as two or more Taxable Persons treated as single Taxable Person according to the conditions of Article 40 of the Corporate Tax Law. Only Resident Persons can be a part of Tax Group.
2. A Tax Group for Corporate Tax purposes is distinct from a tax group for Value Added Tax purposes.
3. There are several benefits of forming a Tax Group, which includes, but not limited to:
 - The ability for the Parent Company to file a single Tax Return on behalf of all members of the Tax Group.
 - Forming a Tax Group also allows for the income and losses of the members of the Tax Group to be offset against each other.
 - Also, generally the transfer of assets and liabilities and other transactions and arrangements between members of the Tax Group are to be disregarded when determining the Taxable Income of the Tax Group.

UAE CORPORATE TAX UPDATES

CORPORATE TAX UPDATES

Corporate Tax Guides – Tax Groups

4. A Parent Company and one or more Subsidiaries can make an application to the FTA to form a Tax Group where all of the following conditions are satisfied:
- **Juridical Person condition** – The Parent Company and each Subsidiary are juridical persons;
 - **Resident Person condition** – The Parent Company and each Subsidiary are Resident Persons;
 - **Share Capital Ownership condition** - The Parent Company owns at least 95% of the share capital of each Subsidiary, either directly or indirectly through one or more Subsidiaries;
 - **Voting Rights condition** - The Parent Company owns at least 95% of the voting rights of each Subsidiary, either directly or indirectly through one or more Subsidiaries;
 - **Profits and Net Assets condition** - The Parent Company is entitled to at least 95% of each Subsidiary's profits and net assets, either directly or indirectly through one or more Subsidiaries;
 - **Exempt Person condition** - Neither the Parent Company nor the Subsidiaries are an Exempt Person;
 - **Qualifying Free Zone Person condition** - Neither the Parent Company nor the Subsidiaries are a Qualifying Free Zone Person;
 - **Financial Year condition** - The Parent Company and each Subsidiary must have the same Financial Year; and
 - **Accounting Standards condition** - The Parent Company and each Subsidiary must prepare their Financial Statements using the same Accounting Standards.

UAE CORPORATE TAX UPDATES

CORPORATE TAX UPDATES

Corporate Tax Guides – Tax Groups

5. If both or either of the Parent Company and the Subsidiaries meet the conditions only for part of a Tax Period, it is not possible to form a Tax Group in that period or if Tax Group already formed the Tax Group to exist in that Tax Period.
6. There is no limit to the number of members of a Tax Group. However, a juridical person can only be a member of one Tax Group at any given time. Further, if a Parent Company forms a Tax Group with one or more Subsidiaries, these are regarded as a single Tax Group. Thus, it is not possible for a Parent Company to form multiple Tax Groups with different Subsidiaries.
7. Once all the conditions are met, the Parent Company can form a Tax Group with its Subsidiaries. In such a case, the Parent Company and each Subsidiary seeking to become members of the Tax Group shall jointly make an application to the FTA. The application should also specify the intended first Tax Period of the Tax Group.
8. Once a Tax Group is formed, the Parent Company will be required to meet the ongoing Corporate Tax compliance on behalf of the Tax Group and represent the Tax Group. This includes:
 - In case a new Subsidiary wishes to join an existing Tax Group, the Parent Company and the respective Subsidiary should jointly apply to the FTA.

UAE CORPORATE TAX UPDATES

CORPORATE TAX UPDATES

Corporate Tax Guides – Tax Groups

- The Parent Company shall prepare consolidated Financial Statements for the Tax Group in accordance with the applicable Accounting Standards.
- The Parent Company files a Tax Return on behalf of the Tax Group no later than 9 months from the end of the relevant Tax Period, or by such other date as directed by the FTA.
- The Parent Company will settle the Corporate Tax Payable on behalf of the Tax Group within 9 months from the end of the relevant Tax Period, or by such other date as determined by the FTA.
- The Parent Company may apply for a Corporate Tax refund on behalf of the Tax Group, if the relevant conditions are met.
- The Parent Company will register and deregister the Tax Group.
- The Parent Company is responsible for maintaining sufficient and adequate supporting documents related to the financial records, transfer pricing documentation, and submitting any clarification request to the FTA.

9. In a case where the Parent Company fails to settle the Corporate Tax Payable by the due date, Administrative Penalties can apply to the Tax Group. All members of the Tax Group shall be jointly and severally liable for any Corporate Tax and Administrative Penalties due for the Tax Group for the Tax Periods when they are members of the Tax Group, although a Tax Group can submit a request to the FTA to limit the joint and several liability to one or more members of the Tax Group.

UAE CORPORATE TAX UPDATES

CORPORATE TAX UPDATES

Corporate Tax Guides – Tax Groups

10. The Parent Company and each Subsidiary that wants to apply to form a Tax Group should have a Tax Registration Number for Corporate Tax purposes. Once the application for forming a Tax Group is approved by the FTA, that Tax Group will be issued a separate Tax Registration Number and this Tax Registration Number will be used for the Tax Group for Corporate Tax purposes.
11. A Taxable Person is required to file a Tax Deregistration application in case of a cessation of its Business or Business Activity. In the case of a Tax Group, the question of whether the Business or Business Activity has ceased should be assessed at the level of the Tax Group as a whole. In other words, where the Business or Business Activity of a member of a Tax Group has ceased, there is no requirement to deregister the whole Tax Group, unless the Business or Business Activity of the Tax Group as a whole ceases to exist.
12. The following changes can take place in relation to a Tax Group:
 - forming a Tax Group;
 - joining a Tax Group;
 - leaving a Tax Group;
 - replacing a Parent Company; and
 - ceasing to be a Tax Group.

UAE CORPORATE TAX UPDATES

CORPORATE TAX UPDATES

Corporate Tax Guides – Tax Groups

The timing of each of the aforementioned events as provided in the Corporate Tax Law, is summarized in the table below:

Sr. No.	Description	Timelines
1	An application to form a Tax Group, or to join an existing Tax Group, or to replace the Parent Company of an existing Tax Group	The application must be submitted to the FTA before the end of the Tax Period within which the formation or joining of a Tax Group is requested.
2	From which date is a Tax Group formed?	From the beginning of the Tax Period specified in the application submitted to the FTA, or from the beginning of any other Tax Period determined by the FTA.
3	From which date does a Subsidiary join a Tax Group?	From the beginning of the Tax Period specified in the application submitted to the FTA, or from the beginning of any other Tax Period determined by the FTA.
4	From which date does a newly establishment entity join a Tax Group?	From the date of its incorporation.

UAE CORPORATE TAX UPDATES

CORPORATE TAX UPDATES

Corporate Tax Guides – Tax Groups

Sr. No.	Description	Timelines
5	From which date does a Subsidiary leave a Tax Group in circumstances where an application was made to the FTA for the Subsidiary to leave the Tax Group?	From the beginning of the Tax Period specified in the application submitted to the FTA, or from the beginning of any other Tax Period determined by the FTA.
6	From which date does a Subsidiary leave a Tax Group in circumstances where it ceased to comply with the conditions for forming part of a Tax Group?	From the beginning of the Tax Period in which the conditions under Article 40(1) of the Corporate Tax Law are no longer met.
7	From which date do the relevant members leave a Tax Group where the Tax Group ceases to exist in circumstances where an application has been made to the FTA to cease the Tax Group?	From the beginning of the Tax Period specified in the application submitted to the FTA, or from the beginning of any other Tax Period determined by the FTA.
8	From which date do the members of a Tax Group leave the Tax Group in circumstances where the Parent Company ceases to comply with the requirements to form part of a Tax Group?	From the beginning of the Tax Period in which the conditions under Article 40(1) of the Corporate Tax Law are no longer met.

UAE CORPORATE TAX UPDATES

CORPORATE TAX UPDATES

Corporate Tax Guides – Tax Groups

Sr. No.	Description	Timelines
9	From which date does a member of a Tax Group leave a Tax Group where such member becomes a resident for tax purposes in another country or foreign territory in accordance with a Double Tax Agreement?	The relevant member must be treated as leaving the Tax Group from the beginning of the Tax Period in which it became a resident for tax purposes in the other country or foreign territory.
10	From which date does a Subsidiary leave a Tax Group if the Subsidiary transfers its entire business to another member of the Tax Group and ceases to exist as a result of such transfer?	From the date it ceases to exist, on the basis that such Subsidiary must be deemed to remain a member of the Tax Group until the date it ceases to exist.
11	From which date does a Tax Group comprising two members cease to exist in circumstances where one member transfers the entire business to another member and then ceases to exist?	The Tax Group ceases to exist from the date that the transfer becomes effective.
12	Where a new Parent Company replaces an existing Parent Company without the discontinuation of the Tax Group.	The new Parent Company should meet the conditions specified in Article 40(1) of the Corporate Tax Law from the beginning of the relevant Tax Period.

UAE CORPORATE TAX UPDATES

CORPORATE TAX UPDATES

Corporate Tax Guides – Tax Groups

Sr. No.	Description	Timelines
13	Where a member of the Tax Group replaces an existing Parent Company without a discontinuation of the Tax Group, by way of the old Parent Company transferring its entire business to a member of the old Tax Group and ceasing to exist as a result of this transfer.	The old Parent Company shall be replaced by that other member as of the date the transfer is effective.

13. A Tax Group is treated as a single Taxable Person for the purposes of the Corporate Tax Law. As a result, the Tax Group has a combined Taxable Income, which is reported by the Parent Company. The Parent Company shall calculate the Taxable Income after consolidating the financial results, assets and liabilities with all Subsidiaries and eliminating transactions between the Parent Company and any Subsidiary or between the Subsidiaries that are a member of the Tax Group.

14. The requirement to eliminate intra-group transactions does not apply to transactions where a member has recognised a deductible loss in a Tax Period in respect of those transactions prior to joining or forming the Tax Group, until the deductible loss is reversed in full. In such cases, the transaction is not eliminated and income is included in the Taxable Income of the Tax Group up to the amount that was previously deducted prior to joining or forming the Tax Group.

UAE CORPORATE TAX UPDATES

CORPORATE TAX UPDATES

Corporate Tax Guides – Tax Groups

15. The requirement to eliminate transactions within the Tax Group generally also applies to transfers of assets and liabilities between members of the Tax Group. However, the gain or loss on such a transfer may need to be taken into account at the level of the transferor or the transferee, if either party leaves the Tax Group within 2 years from the date of the transfer.
16. The portion of the Taxable Income that is subject to the 0% Corporate Tax rate will be limited to AED 375,000 regardless of the number of entities that are included in the Tax Group.
17. To claim the Participation Exemption, other conditions specified in the UAE CT Law being constant, the Tax Group hold a 5% or greater ownership interest in the shares or capital is determined by combining ownership interests held by all members of the Tax Group as well as ownership interests held by other entities that are not part of the Tax Group but that belong to the same Qualifying Group with any of the members of that Tax Group or the acquisition cost of ownership interests held by all members of the Tax Group as well as entities who are not part of the Tax Group but are a member of a Qualifying Group with any of the members of the Tax Group, should be combined to determine whether the aggregated acquisition cost is equal to or exceeds AED 4 million.

UAE CORPORATE TAX UPDATES

CORPORATE TAX UPDATES

Corporate Tax Guides – Tax Groups

18. If a Tax Group makes an election for Qualifying Group Relief, it shall apply to all members of the Tax Group and the election would continue to apply to the members even after such members leave the Tax Group or after the Tax Group ceases to exist.
19. For the limitation of Tax Losses carried forward rule (i.e. the requirement to have continuous 50% ownership); when applying the ownership condition, only the ownership interest in the Parent Company of the Tax Group is relevant. The conditions in Articles 39(1)(b) and 39(2) of the Corporate Tax Law (i.e. the requirement to conduct the same or similar business if there is a greater than 50% change in ownership), are to be determined by reference to Business Activities of the Tax Group as a whole. In other words, if a substantial part of the Business of the Tax Group is operated by a particular Subsidiary, it is possible that the Business continuity condition in Article 39(1)(b) is not met in respect of a Tax Loss of the Tax Group after that Subsidiary leaves the Tax Group, which would prevent the carry forward and use of the loss, if there had been a change of ownership of more than 50% in the Parent Company.

UAE CORPORATE TAX UPDATES

CORPORATE TAX UPDATES

Corporate Tax Guides – Tax Groups

20. As the Tax Group determines its Taxable Income on a consolidated basis, 195 all members of the Tax Group would need to follow the same accounting basis in calculating the Taxable Income. If a Tax Group prepares its Financial Statements on an Accrual Basis of Accounting, the Tax Group can make an election during its first Tax Period to take into account gains and losses on a realisation basis (in respect of either all accounting gains or losses or only gains and losses on assets and liabilities held on capital account), provided the relevant conditions are met. If the Tax Group makes the election for realisation basis, it would make the specified adjustments to its Taxable Income in respect of assets and liabilities held by each member of the Tax Group.
21. If a member of the Tax Group leaves the Tax Group or the Tax Group ceases to exist, the relevant former members of the Tax Group are required to prepare their standalone Financial Statements on the same accounting basis as applied by the Tax Group and to adopt the values of the relevant assets and liabilities as recorded by the Tax Group as the opening value of those assets and liabilities in the standalone Financial Statements.

UAE CORPORATE TAX UPDATES

CORPORATE TAX UPDATES

Corporate Tax Guides – Tax Groups

22. In the case of Tax Groups formed in the first Tax Period following the introduction of Corporate Tax, the opening balance sheet of a Tax Group is the consolidated (aggregated) balance sheet of each member of the Tax Group on the last day of the Financial Year that ends immediately before the beginning of the Tax Group's first Tax Period. Any election in respect of transitional rules needs to be made by the Tax Group and will continue to apply to any members of the Tax Group after they leave the Tax Group or the Tax Group ceases to exist. In the case of Tax Groups, when determining whether these assets were owned prior to the first Tax Period, ownership of the asset by all members of the Tax Group should be considered.
23. Profit distributions from Subsidiaries to other members of the Tax Group (the Parent Company or other Subsidiaries) should be eliminated in the computation of the Taxable Income of the Tax Group.
24. A Tax Group is required to calculate the Taxable Income attributable to one or more of its members in the following situations:
- A member of the Tax Group has unutilised pre-Grouping Tax Losses.
 - A member of the Tax Group has earned income for which the Tax Group can claim a Foreign Tax Credit.
 - A member of the Tax Group benefits from any Corporate Tax incentives as specified under Article 20(2)(g) of the Corporate Tax Law.
 - A member of the Tax Group has unutilised carried forward pre-Grouping Net Interest Expenditure.

UAE CORPORATE TAX UPDATES

CORPORATE TAX UPDATES

Corporate Tax Guides – Tax Groups

25. The attribution of Taxable Income to individual members of the Tax Group should be calculated in accordance with all provisions of the Corporate Tax Law, including the arm's length standard.
26. Where a Tax Loss has been transferred to a Taxable Person (including a Tax Group), that Tax Loss can only be utilised by such Tax Group after utilising its own Tax Losses and any pre-Grouping Tax Losses, to the extent the conditions of utilisation of Tax Loss are met. If a Subsidiary joins a Tax Group, its existing unutilised Tax Losses become pre-Grouping Tax Losses that can only be offset against the Taxable Income of the Tax Group insofar as this income is attributable to the relevant Subsidiary. Existing unutilised Tax Losses of an existing Tax Group cannot be used against the Taxable Income of a Subsidiary that has joined the existing Tax Group after the Tax Losses were incurred.
27. If the calculation of the Taxable Income of the Tax Group results in a Tax Loss, this is a Tax Loss of the Tax Group and not a Tax Loss of any member of the Tax Group. If a Subsidiary subsequently leaves the Tax Group, such a Tax Loss will remain with the Tax Group. If a Tax Group ceases to exist, such Tax Loss shall remain with the Parent Company.

UAE CORPORATE TAX UPDATES

CORPORATE TAX UPDATES

Corporate Tax Guides – Tax Groups

28. Pre-Grouping Tax Losses have to be utilised before Tax Losses of the Tax Group are utilised. If there are multiple pre-Grouping Tax Losses, the Parent Company shall determine the order in which they are utilised. The Tax Losses of the Tax Group should be utilised in the order they were incurred. After utilisation of pre-Grouping Tax Losses and Tax Losses of the Tax Group, the Tax Group can utilise any Tax Losses that were transferred to it under Article 38 of the Corporate Tax Law.
29. The General Interest Deduction Limitation Limit is calculated at the Group Level for the Tax Group. Even if a member of the Tax Group has insufficient EBITDA to utilise its Net Interest Expenditure, the 30% restriction on Interest deduction under the General Interest Deduction Limitation Rule does not apply provided the Tax Group as a whole has sufficient EBITDA to utilise the Tax Group's Net Interest Expenditure. However, if the Tax Group has combined Net Interest Expenditure exceeding AED 12 million and the Tax Group has insufficient EBITDA to utilise its Net Interest Expenditure, the 30% restriction on Interest deduction will apply, even if there are members of the Tax Group that on a standalone basis would have had sufficient EBITDA to utilise their Net Interest Expenditure.

UAE CORPORATE TAX UPDATES

CORPORATE TAX UPDATES

Corporate Tax Guides – Tax Groups

30. Where a member of a Tax Group has foreign source income for which a Foreign Tax Credit can be claimed, the Taxable Income attributable to that member of the Tax Group shall be calculated separately on a standalone basis. Accordingly, the amount of Foreign Tax Credit should be calculated at the level of the member of the Tax Group that has received the relevant foreign source income. The amount of Foreign Tax Credit due to a member of a Tax Group reduces the Corporate Tax due for the Tax Group.



VAT IN BAHRAIN

BAHRAIN VAT UPDATES

VAT UPDATES

User Manual on Change of VAT Return Filing Frequency

The National Bureau for Revenue ('NBR') in Bahrain has updated the "[Vat Return Filing Frequency Manual](#)". Said manual provides VAT payers with an overview of the VAT rules and procedures in the Kingdom of Bahrain in relation to the process of changing VAT filing frequency between monthly, quarterly, and annually.

Said manual aims to provide VAT payers with the necessary guidance required to navigate the NBR online portal and [process to be adopted by the VAT payers to change the filing frequency](#).



VAT IN KSA

KSA VAT UPDATES

VAT UPDATES

Tax Bulletin on VAT treatment of Private Educational Services

The ZATCA of KSA has issued a Tax Bulletin on the “VAT Treatment of Private Educational Services”. Said bulletin provides information and guidance on the tax treatment of private educational services provided to citizens of Saudi Arabia.

Said bulletin also highlights the responsibilities of Private Educational Service providers while issuing tax invoices to Saudi citizens. It includes verifying citizens' identities, storing their national identity information etc.



KSA OTHER REGULATORY UPDATES

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OTHER REGULATORY UPDATES

Bonded Zones Rules in KSA

The ZATCA of KSA has issued “**Bonded Zones Rules**”. Said rules aim to outline the legal requirements for licensing bonded zones and for practicing the activities within said zones.

Said rules has also clarified the procedure for licensing and activities of the Bonded Zones, the conditions for applying for licenses, as well as the requirements, specifications and obligations etc.

KSA OTHER REGULATORY UPDATES

OTHER REGULATORY UPDATES

Guideline on Taxation of Software Payments

The ZATCA of KSA has issued a new guideline on “Taxation of Software Payments in the context of domestic Income Tax Law”. Said guideline provides information and guidance about the tax treatment of different software payments resulting from transactions taking place between non-residents and residents in the KSA.

Said guidelines also provides guidance in the context of cross border transactions whereas resident of the Kingdom or a PE of a non-resident is making payments in relation to software products or access to database to a KSA non-resident company.



THANK YOU

VISIT :

www.tmslglobal.com for more info or

drop us an email at info@tmsl.in

OFFICE ADDRESS

Office No.501, Al Moosa Tower 1,
Sheikh Zayed Road, Trade Center 1, PO
Box: 77016 Dubai, United Arab
Emirates.

CONTACT US

Pratik Shah:

+971 55 957 8232 / +91 98335 32232

<https://wa.me/919833532232>

Sanket Shah

+91 98204 44889

<https://wa.me/919820444889>

Piyush Baid:

+971 54 449 5785 / +91 97405 55590

<https://wa.me/971544495785>