Middle East Tax and Legal Newsletter

In this edition, we highlight tax and legal updates as well as fiscal policy developments within the Middle East region over the last six months.

Introduction

Given the high level of two way investment between the Middle East and the United Kingdom and Europe, the recent 'Brexit' referendum is clearly a significant development. It is too early tell what the detail tax impacts will be, but not too early to reflect a new set of potential scenarios into planning.

In the Middle East we have now seen the GCC reach in principal agreement on VAT and Excise treaties. The continuing lower oil prices continues to add momentum towards fiscal reform in the region in the short term. With the megatrends facing the Middle East we believe fiscal reform will be on the agenda of governments regardless of oil price movements.

With this in principal agreement by the GCC on the VAT and Excise treaties, now appears a sensible time to mobilise teams and VAT implementation planning if you have not done so already. Egypt we also understand to be close to issuing legislation introducing VAT. Like with the GCC, these developments have been contemplated for some time, but reviewing potential business impacts, contract issues and similar are prudent activities to undertake even without the legislation.

Operational taxes such as customs and withholding taxes have also seen developments in UAE, KSA and Qatar in particular.

We hope you find this summary of key developments helpful.

Dean Kern
Middle East Tax and Legal Services Leader
T: +971 4 304 3575
E: dean.kern@ae.pwc.com

Country Updates

Bahrain

Increase in customs duties on alcohol and tobacco

In an apparent response to lower oil prices and the impact on budget deficits increased customs duty for alcoholic beverages to 225%, and for cigarettes the duty has been increased to 200%.

Egypt

New customs rates and import registration requirements

The Ministry of Trade and Industry in Egypt ("the Ministry") issued Resolution 43 of 2016 concerning the new rules of registering qualified foreign manufacturers prior to exporting their products to Egypt.

The new requirements mandate that foreign manufacturers and their authorized distributors or companies owning the manufacturer products' trademarks to register with the General Organization Export and Import Control ("GOEIC") in order to clear their products into Egypt for trading purposes. The new requirements are applicable for a wide range of products, including foodstuff, cosmetics, cutlery, steel bars, household appliances, furniture, clothes, shoes, toys, motorcycles, and other products.

The registration process can be conducted through a legal representative or an authorized agent in Egypt.

The resolution aims to protect trademark owners and ensure that Egyptian importers are trading with genuine manufacturers and are declaring the actual value of goods. Foreign manufacturers have been given a two-month notice period that ends on 16 March 2016 to comply with the new registration requirements. Non-compliant goods will be denied from entering into Egypt and will have to be re-exported back again.

Exchange of documents with banks

The Central Bank Instruction of 21 December 2015 stipulates that customs documents which are related to import transactions conducted through 'cash against documents' must only be exchanged between the importer and exporter's banks. Previously, customs documents were allowed to be sent directly from the exporter to the local importer or its representative in Egypt by mail, courier, etc.

This exchange of customs documents through banks aims to minimize the risk of interference with customs documents and in particular the manipulation of invoice values and the origin of goods.

The Instruction also increases the cash deposits that local banks are required to withhold on letters of credit opened to finance import transactions for trading purposes. Banks were required to withhold 50% of the value of the letters of credit – this amount has now been increased to 100%.

The purpose of this new measure is to enhance the foreign currency exchange position in Egypt by increasing the pressure on importers of foreign goods and imposing additional currency limitations. This Resolution is applied as of 21 January 2016.

Customs rate increases

The Egyptian Authorities through Resolution 25 of 2016 have increased the customs duty rate on 500 tariff items effective on 31 January 2016. The customs duty applied to these items has been increased by 10%, e.g. from 5% to 15%, from 30% to 40%, etc.

Some of the items subject to increased customs duties are clothes, cosmetics products, vegetables and fruits, furniture, toys and other goods.

Invoice attestation

The Egyptian Customs Authority issued Instruction 202 of 2015 enforcing the requirement for submitting attested invoices for import customs purposes. The attestation is only required at the level of the Chamber of Commerce in the exporting country. Although the Egyptian Customs Law and its amendments required the submission of authenticated customs documents already, the submission of an attested invoice was not being enforced at the borders. This Instruction is applicable as of 21 January 2016.

Both local importers in and exporters to Egypt should immediately review the new requirements in order to comply in a timely manner and to minimize the associated costs. Failure to meet the new requirements may lead to unnecessary costs and significant border delays which may lead to the denial of entry into Egypt for non-compliant shipment(s).

Introduction of VAT

Egypt is planning to adopt a fully-fledged VAT system in replacement of the current General Sales Tax ('GST') system. We understand that the VAT draft law has now been sent to Parliament for endorsement and we expect it will be released in the coming weeks; however, the Egyptian government has not yet confirmed when the system would be implemented.

It is expected that VAT would be applied on a wide range of services and commodities which are exempt under the current GST law (i.e., the number of exempt items under the new VAT law would be very limited).

The current GST rate of 10% is expected to increase when the VAT is applied; the VAT rate is expected to fall within the range of 12%-15%.

In addition, the threshold for registration for resident companies (which is currently an annual turnover of at least EGP 54,000 for manufacturers and suppliers of taxable services and an annual turnover of at least EGP 150,000 for retailers and wholesalers, respectively) is expected to increase to EGP 500,000. No threshold is expected to be applied at the point of import.

Similar to the GST filing requirements, the filing for the VAT returns would take place on a monthly basis, with the declaration deadline under VAT being shortened to one month instead of two months.

Non-residents providing taxable supplies in Egypt will be required to register in Egypt directly or through a fiscal representative who would be liable to comply with the VAT compliance requirements on behalf of the non-resident.

The new VAT law will also introduce the reverse charge mechanism. As a result the acquisition of services from a non-resident will be subject to VAT in Egypt. The recipient in Egypt will be liable for reporting VAT to the relevant tax authorities.

New regulations will also be introduced for the appeal process, once the VAT law is in place.

At this stage, we do not have clarity on how much time the companies will have to be ready and implement the changes required before VAT go-live date. However, we understand that this time might be very limited and would be compensated by a grace period, during which no penalties would be imposed on the miscalculation of the tax, or for late submission of VAT returns, etc.

Employee Social Insurance

According to the Egyptian social insurance authority, regular semi-annual updates are to take effect on the 'social insurance salary'. The variable social insurance salary will increase every January and basic social insurance salary will increase every July.

The new salary figures from January 2016 compared to July 2015 are:

Rates Allocation	July 2015	January 2016
Basic social insurance salary	*EGP 1,120*	*EGP 1,120*
Variable social insurance salary	*EGP 1,830*	*EGP 2,110*
Maximum social insurance ceiling	*EGP 2,950*	*EGP 3,230*
Employee social insurance share	*EGP 358.10*	*EGP 388.90*
Company social insurance share	*EGP 730.40*	*EGP 797.60*

Iraq

Changes to minimum salary levels for managers

The Iraqi Ministry of Finance ("MoF") has released new guidance setting out the minimum salary levels for general managers of representative offices, branches, and local companies in Iraq. The following schedule provides a summary of the new minimum salary levels:

Form of legal entity	Nationality of manager	Minimum salary level (IQD)
Representative office or branch	*Non-Iraqi*	*2,000,000 per month*
	Iraqi national	*1,500,000 per month*
Local company	*Non-Iraqi*	*1,000,000 per month*
	Iraqi national	*500,000 per month*

Increase in deductible annual allowances

Under Iraqi tax laws, deductible annual allowances have been increased by 25% for salaries received from the private sector, as follows:

Filing category	Deductible allowance (IQD)
Personal allowance for single person	*3,125,000 per year*
Personal allowance for married person	*5,625,000 per year*
Children under 18 (provided the child has no income and is engaged in full-time academic studies)	*250,000 per year*

In order to obtain these allowances, correct supporting documentation must be presented to the tax authorities, otherwise the authorities will treat the taxpayer as a bachelor ('single person') and grant the allowance indicated above.

Jordan

Updates to Jordanian income tax legislation

Several new updates to income tax legislation and instructions have been published in the last six months.

One such update is Legislation No.44 of 2016, which reduces the income tax burden in the least developed areas of Jordan, previously issued under the provisions of Article 5 of Investment Law No. 30 of 2014. Under the new legislation, the least developed areas in Jordan have been classified into four categories ('A,' 'B,' 'C,' and 'D') where:

- Activities in category A will be entitled to a 100% exemption from the due income tax;
- Activities in category B will be entitled to an 80% exemption;
- Activities in category C will be entitled to a 60% exemption; and
- Activities in category D will be entitled to a 40% exemption.

The above exemptions took effect on 1 January 2016 and will remain in effect for 20 years. However, the law stipulates that the total tax due after the aforementioned exemptions are applied shall not be less than 5% of the taxable income. Moreover, other requirements prescribed in the legislation must be met in order to benefit from the exemption.

Additionally, an exemption of export service profits from income tax starting from 2015 has been extended for ten years in accordance with Article No.4.A.12 of 2010. The services under the exemption's umbrella are:

- Computer services;
- Legal, engineering, accounting and auditing consulting services;
- Financial management consulting services;
- Production management consulting services;
- IT services;
- Services provided on the Internet to clients outside the Kingdom;
- Feasibility study services;
- General management consulting services;
- Human resources management consulting services;
- Pharmaceutical studies services;
- Outsourcing Services;
- Television and film production services (recently added to the above list).

Other updates include a publication from the government with respect to the extension of fully exempting the exports of goods from income tax till 31 December 2018 under certain conditions. Another publication, with respect to excluding certain goods from the withholding of 2% upon importation, has also been released and the Investment Committee has issued income and sales tax exemptions for the IT sector under certain conditions.

Sales tax legislation

From a sales tax perspective, the Prime Ministry issued a decision to reduce the general sales tax on Phosphoric Acid, a key component in the manufacturing of soft drinks, from 16% to 4%.

Social Security

The Social Security Corporation has announced that Social Security contributions will increase as of 1 January 2017. The announcement states that employees' contribution will become 7.5% (currently 7.25%) and employers' contribution will become 14.25% (currently 13.75%), equaling a

new total contribution of 21.75%. As for voluntary social security contributions, the rate will increase to 17.5% from 16.75%.

Property transfer taxes and fees cut

The office of the Prime Minister in Jordan has decided to reduce real property taxes and fees by 50%. The exact rate changes are as follows:

- Real property selling fee reduced to 2.5% from 5%;
- Real property selling tax reduced to 2% from 4%

We understand this development has been introduced by the government in order to boost commercial activity in the real estate market.

Kuwait

Executive Rule amendments concerning foreign investors

The key highlights of the amendments made to the Executives Rules ('ERs') in the Kuwaiti tax law concern the following:

Tax declarations to support tax exemption claims

In addition to the existing list of documents required to be submitted along with the tax declaration, the revised ER 8 also requires submission of the following documents by entities that have received exemptions under the New Direct Investment Law (Law No. 116 of 2013):

- Detailed analysis concerning the taxable amount and value of the exemption granted as per the controls determined under resolution of the Kuwait Direct Investment Promotion Authority ('KDIPA'); and
- Copy of the tax exemption certificate issued by KDIPA with the value of the exemption stated in accordance with the controls determined under resolution of KDIPA.

These changes are in line with the tax credit framework and the procedures being considered and adopted by KDIPA in granting tax benefits to foreign investors.

Exemptions for incorporated entities

In addition to the existing list of exemptions granted to foreign corporates, the revised ER 16 has been amended to clarify / confirm the following exemptions:

- *Exemptions granted to Arab or foreign airlines*

  Arab and foreign airlines are not taxed in Kuwait if their respective countries do not tax Kuwaiti airlines.

- *Returns from securities*

  Apart from the tax exemptions on profits from the disposal of securities issued by companies listed on the Kuwait Stock Exchange, the returns (including interest and dividends) on listed securities, bonds, finance, Sukuk, and all other similar securities shall be exempt, regardless of the issuer, in line with the tax benefits granted by the Capital Markets Authority "CMA" law No.22 of 2015. The new law will be effective from 10 November 2015.

Treatment of exempt incorporated entities

The revised ER 48 has abolished the below provisions regarding the carry-forward of losses by exempt entities:

- In case the tax payer accounts for any losses during the tax holiday period, such losses cannot be carried forward subsequent to the expiry of such period.
- If the activities of a tax payer cease, after their tax holiday period has started, due to situations beyond their control (i.e., due to force majeure) or an unpredictable sudden event, then the unexpired tax holiday period cannot be extended.

Based on the above changes, it appears taxpayers can now carry forward losses generated during the tax holiday period and also extend the tax holiday period in case the activities cease due to force majeure or an unpredictable sudden event. However, given that KDIPA is considering a tax credit framework, the implementation of these benefits should be further explored.

Other procedural amendments

Some procedural amendments have also taken place in ER17 of 2016 regarding the issuance of residency certificates for all government and private incorporated bodies and persons including Kuwaiti residents, foreign residents, and other incorporated bodies. The following additional documents are required along with the ones specified in the previous ER (17) of 2013;

- Letter addressed to Director of Tax Liability and Planning Department along with an entry and exit permit from the ports department for the requested year to be submitted along with Application form No. (1); and
- Declaration form No.2 to be filled in by all government and private incorporated bodies and persons including Kuwaiti residents, foreign residents, and other incorporated bodies.

Foreign tax paid against Zakat

Claiming credits for foreign income taxes paid against a company's Zakat liability has not historically been accepted practice in Kuwait on the basis that Zakat is a religious tax, even where there is a double tax treaty in place granting such benefit.

ER 18, which dealt with the credit of foreign taxes, has been cancelled which confirms the practice historically adopted by the tax authorities.

The amendment of the ERs, however, is not in line with the tax treaties signed by Kuwait which include Zakat under the scope of "taxes" and allow for foreign tax credits against Zakat/Kuwaiti taxes.

Update on the proposed Business Profits Tax

In light of the declining trend in the oil prices, the State of Kuwait has been considering various fiscal reforms to bridge the budgetary gap between revenue and expenditure. The potential reforms being considered by Kuwait include introducing a business profits tax and a value added tax.

There has been media coverage in Kuwait citing possible draft legislation concerning the introduction of a business profit tax at 10% on the profit of local companies, individuals carrying on business, and foreign companies with a permanent establishment in, or earning certain income from, Kuwait.

We have summarised below certain features of the potential business profits tax based on our latest understanding of the reforms. However, there is no certainty that the reforms will be approved and ratified by the parliament in Kuwait and all of the details outlined below are subject to change.

The key highlights of the proposed tax laws are as follows:

Tax year

The draft tax law defines the tax year as the period from 1 April to 31 March. In case of Kuwaiti shareholding companies, the tax year is the year of their annual financial statements.

Tax rate and base

A tax rate of 10% has been proposed. Tax is calculated on the net profit of both foreign and local companies. In case of individuals carrying on business, the draft law taxes the portion of their net business profit exceeding KD 50,000.

Taxpayers

The legislation proposes taxing local companies, individuals doing business in Kuwait, and foreign companies with a permanent establishment in Kuwait or earning certain income from Kuwait.

Certain entities, such as charitable institutions, government authorities and the Central Bank of Kuwait, may be excluded from taxation.

Imposition of withholding taxes on non-residents

The proposed law provides for withholding tax at the rate of 10% on interest, royalties, technical fees, etc. and 5% on insurance premiums earned by non-residents from sources in Kuwait.

Kuwait Direct Investment Promotion Authority issues mechanism for granting tax exemptions

The New Direct Investment Law (Law No. 116 of 2013) was introduced with an intention to attract foreign investment in Kuwait by providing income tax and custom duties exemptions in addition to other non-tax benefits.

The Kuwait Direct Investment Promotion Authority ("KDIPA") in coordination with the Ministry of Finance has issued a detailed mechanism for the granting of an income tax exemption through its Decision No. 16 of 2016 dated 12 January 2016 ('Decision'). The previous tax benefit was based on a tax holiday of up to 100% of taxable profits, KDIPA has now linked tax benefits to the performance of the investor in relation to the tax exempted activity based on a prescribed criteria and an assigned multiplier factor (percentage/value).

The mechanism also provides a 10 year tax exemption from the effective start date of operations.

Eligibility process for claiming exemption

As part of the process for obtaining an Investment license from KDIPA, the investor has to submit an application along with a business study of the concerned project/activity in Kuwait and other information and documents, as per the prescribed guidelines.

This application also provides the ability to request a tax exemption, along with the expected date of commencement and date of effective operating of the investment entity/activity.

In addition to the approval for granting an Investment License, KDIPA will examine the application and business study and issue its decision on whether the activity is eligible for a tax exemption. KDIPA will also notify the Kuwait Tax Authority about its decision to grant an exemption to the investor in relation to the eligible activity.

The tax exemption can be provided to foreign investors for a new project or for the expansion of an existing project, subject to any conditions set forth by KDIPA. In case the investor is engaged in multiple activities, the exemption shall be granted only in respect of activity which has been approved by KDIPA and the investor will be required to maintain separate books of accounts for such activity.

Previously the tax benefit was based on granting a tax holiday for up to 10 years based on taxable profits. However, KDIPA has now changed the basis of computing the tax benefits and provided a detailed methodology for granting the tax exemption for eligible investor/activity.

Oman

Proposed changes to Oman income tax law

A joint session of the Majlis Al Shura and State Council, held on 26 May 2016, has approved:

- A proposed increase of the main corporate income tax rate from 12% to 15%, as well as the removal of the tax exemption for the first OMR 30,000 of a taxpayer's taxable earnings;
- The proposed introduction of a 35% income tax rate for LNG companies; and,
- The proposed introduction of a 55% income tax rate for other petro-chemical companies and export of non-oil natural resources.

These changes will only be effective if they are promulgated by Royal Decree, which may give effect to all, or only some, of these proposed changes.

Any changes are expected to have effect from 1 January 2016, although there may be a possibility that the effective date is delayed until 1 January 2017. We are expecting the Royal Decree, with final tax law amendments, to be issued in the coming months.

Unfortunately, no other details are available in connection with the higher rates of income tax that are being proposed, and there is no guidance on the criteria by which companies will be included in these higher tax rate sectors.

From an economic point of view, any increase in tax rates will only increase tax revenue collections in the subsequent year, i.e. a 2016 change will increase collection only in 2017.

Amendments are also expected to the scope of withholding tax, to add to the list of withhold-able payments. Here, also, there is currently no guidance, and we must wait until the tax law amendments are published to know exactly what those changes might be.

It is generally expected that fewer tax exemptions will be granted, and that existing tax exemptions, for specified industry sectors, may be removed from the income tax law.

The government also intends to target efficient collection of taxes, and faster completion of pending tax assessments.

New Corporate Governance Code

Oman's Capital Markets Authority published a Code of Corporate Governance for Publicly Held Joint Stock Companies in July 2015 ('the New Code'), which is due to come into force on 22 July 2016.

The new code will replace the 2010 Code of Corporate Governance for Public Listed Companies ('the Old Code'). As well as amending various rules in the Old Code, principles contained in the New Code expand on the role of the Board in relation to corporate governance and contain an example Code of Professional Conduct. All Boards of Muscat Securities Market listed companies ('MSM Listed') are required to draft their own internal Code of Professional Conduct which should be adhered to at all times.

The New Code will have a direct effect on all MSM listed companies, potentially impacting the composition of the Board of Directors, the assessment of prospective

Board members, and the Code of Professional Conduct, as well as triggering a review of existing relationships and governance structures.

All MSM listed companies should:

- Obtain a clear understanding of the provisions of the New Code.
- Complete a comprehensive gap analysis in order to understand the current position and develop a governance framework under the New Code.
- Report on the findings of the gap analysis and recommend actions to be implemented.
- Prepare the requisite governance framework.
- Be in compliance with the New Code as of the 22nd of July, 2016.

Qatar

Qatar Tax Department

The Qatar Tax Department ("QTD") has recently undergone several developments including but not limited to the following:

a) Increased focus on training and development of the QTD's staff, with a view to increasing the knowledge base of the tax inspectors;
b) Adopting a more critical approach in reviewing tax returns in the past 12 months - sophisticated queries have been raised, which can take a significant amount of time to respond to and negotiate;
c) Increase in the level of challenges pertaining to related party transactions, mainly in respect of the deductibility and arm's length nature of expenses arising from related party transactions;
d) Increased focus on current and historical activities of foreign entities in Qatar with a view to collect outstanding taxes.

Mandatory TAS submission

The electronic tax administration system ("TAS") was introduced in September 2014 to increase operational efficiency of the QTD's functions. At the time of introduction of TAS, the QTD required taxpayers to submit all correspondence (e.g. tax returns, withholding tax ("WHT") statements, extension requests, tax card applications, objections, appeals etc.) through TAS with effect from 28 September 2014.

However, the taxpayers could not fully utilise TAS due to various technical issues in the system and the QTD has accepted hard copy submissions of certain correspondence.

Further to a notice issued on 17 March 2016, it is anticipated that the QTD may shortly deny submission of hard copies of the above correspondence and instruct taxpayers to fully utilize TAS.

Withholding Tax Refunds

Although Qatar has a growing treaty network which provides foreign companies from treaty countries with preferential WHT rates/ exemption to reclaim withholding taxes suffered, the process for seeking WHT refunds in Qatar has historically taken up to almost 2 years in part due to resourcing issues at the QTD.

Recent experience has demonstrated that there has been encouraging improvement in the duration for processing such claims, if all relevant supporting documentation is submitted; we have assisted clients in successfully obtaining refunds in less than 6 months in some instances.

Saudi Arabia

Saudi Department of Zakat and Income Tax introduces new electronic filing system

The Department of Zakat and Income Tax ("DZIT") earlier in the year implemented a requirement that all tax, withholding tax ('WHT'), Zakat returns, as well as the returns subject to both tax and Zakat (i.e., mixed entities) to be filed on Erad.

At the same time the tax/Zakat Forms were also changed significantly.

Saudi Arabia to implement VAT

The GCC Member States are in the process of approving the long anticipated common framework for the introduction of a VAT system in the GCC. The common VAT framework will form the basis for the introduction of a national VAT system by each Member State.

The Saudi Minister of Finance, Ibrahim Al-Assaf, has stated that the Kingdom of Saudi Arabia is to introduce Value Added Tax (VAT) on 1 January 2018.

The minister stated, on 4 May 2016, that the decision to introduce VAT had been agreed at the 102nd meeting of GCC Finance Ministers in Riyadh. The decision was based on an agreement taken by the Supreme GCC Council earlier this year to introduce VAT in the six GCC countries. The Kingdom of Saudi Arabia has agreed that VAT would be introduced by 2018.

In January, Deputy Crown Prince Mohammed bin Salman, Second Deputy Premier and Defense Minister, indicated that besides VAT, no other income, or wealth taxes would be introduced.

VAT is expected to be introduced at a rate of 5% with some limited exceptions including basic food items, healthcare and education.

Full implementation of the Integrated Customs Tariff

After the successful execution of the pilot phase at the Riyadh dry port, the new Integrated Customs Tariff has been fully implemented within all Saudi borders as of 10 January 2016. KSA Customs has added four digits to the eight digit codes set by the Unified GCC Customs Tariff to classify goods for customs purposes.

All importers and exporters in KSA are required to apply the new Integrated Customs Tariff in all their customs transactions, i.e. the Unified GCC Customs Tariff will no longer be valid to complete the tariff classification of goods for customs purposes.

Harmonized System and Unified GCC Customs Tariff

The Harmonized System ('HS') is a multipurpose international product nomenclature developed by the World Customs Organization (WCO). It comprises about 5,000 commodity groups; each identified by a six digit code.

The HS is used by more than 200 countries and economies as a basis for their Customs tariffs and for the collection of international trade statistics. Over 98% of the merchandise in international trade is classified in terms of the HS.

As members of the WCO, the GCC countries have agreed to use a common system based on the HS: the Unified GCC Customs Tariff, which sets eight digit codes to classify goods for customs purposes (the first six digits correspond to the HS).

KSA Customs Initiative

As a member of the GCC, KSA Customs applied the Unified GCC Customs Tariff. Importers and exporters in KSA were required to identify their goods using an eight digit code as applicable to each category of goods.

As a result of the continuous industrial and technological development, changes in trade patterns, and other local considerations, KSA Customs have ruled that the

Unified GCC Customs Tariff is no longer adequate to classify and differentiate the range of products that are traded today.

To overcome those impediments, KSA Customs initiated the development of a new Customs tariff in April 2012, obtaining feedback and technical information from several customs departments and the private sector.

The new system consists of 12 digit codes compared to the eight digit codes of the current Unified GCC Customs Tariff. With the application of the Integrated Customs Tariff, KSA Customs have refined the tariff classification in the Kingdom, allowing a more accurate and detailed classification for the hundreds of thousands of different goods imported to and exported from KSA.

A significant number of the HS codes used by importers and exporters in KSA will no longer be valid according to the new Integrated Tariff System. A review of the current HS codes used for import/export purposes based on the new tariff is highly recommended to avoid any delays during the customs clearance process due to non-compliance with the new system.

Importers and exporters are additionally recommended to provide clear instructions to their customs agents to comply with the new system.

The use of incorrect HS codes may lead businesses to declare products for entry into the Kingdom without the applicable import permits or certificate of conformity; furthermore it may lead to the assessment of the wrong customs duty rates, underpaying or overpaying customs duties to KSA Customs.

United Arab Emirates

Authorized Economic Operator ('AEO') update

Dubai Customs announced the introduction of the AEO programme in September 2015 in line with Dubai Customs' vision to be the leading customs administration in the world supporting legitimate trade. The AEO is one of the pillars of the WCO SAFE Framework of Standards to Secure and Facilitate Global Trade (SAFE Framework), aimed at enhancing the security in the international supply chain while facilitating global trade.

An effective AEO programme requires a true partnership between the customs administration and all agents in the international supply chain. The rationale of the AEO programme lies in the voluntary compliance with the applicable customs rules and regulations, and WCO supply chain security standards, in return for being granted a number of advantages and incentives. With the AEO introduction, Dubai will join other major trade partners such as the European Union, China, Korea, Singapore and the United States, who already apply similar programmes.

Dubai Customs is the first customs administration in the UAE that introduces an AEO programme. It is expected that other Emirates will follow with the support of the UAE Federal Customs Authority and the WCO.

Who can benefit?

Dubai Customs has announced that all parties in the international supply chain (both onshore and offshore) who interact with Dubai Customs may apply for and benefit from the advantages granted under the AEO programme. This includes importers, exporters, customs brokers, freight forwarders, shipping companies, etc.

Based on our discussions with the AEO team at Dubai Customs, there will be four main conditions to access the AEO:

1. Record of compliance with customs regulations – no infringements in the last 3 years, no criminal records, etc.

2. Adequate systems (including IT system) for managing commercial records, which allows for satisfactory customs controls.
3. Proven financial solvency, including no outstanding debts with Dubai Customs.
4. Compliance with security and safety standards as per WCO or equivalent rules (cargo, conveyance, personnel, premises, trading partners, etc.).

Application procedure

According to Dubai Customs the AEO certification process will consist of the following main steps:

1. Application form – AEO candidate will submit an application form along with the required initial documents, such as, license, overview of entity's activities, etc.
2. Self-assessment questionnaire – once the application form is evaluated by Dubai Customs, the candidate will have to self-assess its level of compliance against the conditions and standards required to become an AEO. Dubai Customs has created a self-assessment questionnaire that is being tested in the pilot programme.
3. Audit – Dubai Customs will conduct an onsite audit to ensure all criteria are met. The self-assessment questionnaire will serve as a basis for the audit.
4. Certification – upon satisfactory finalisation of the onsite audit, the candidate will be granted AEO status, and will start enjoying the benefits of the programme.
5. Monitoring – Dubai Customs will monitor the compliance of the AEO standards on a periodical basis to ensure AEO partners maintain the required levels of customs compliance, and security and safety to continue enjoying the benefits.

The AEO programme is expected to bring considerable benefits to businesses engaged in international trade activities in Dubai, and will contribute to the enhancement of their supply chain security and to the facilitation of their customs transactions in Dubai.

We recommend that importers and exporters in Dubai initiate internal discussions in preparation for the introduction of the AEO programme, which is expected to take place in the coming months.

Expected introduction of VAT in the UAE

The UAE Ministry of Finance has confirmed its intention to implement VAT in the FAQs recently published on its website. The information in the FAQs confirms some of the previous communications made by the UAE Minister of State for Financial Affairs, His Excellency Obaid Humaid Al Tayer, such as that VAT is likely to be introduced across the UAE on January 1 2018 at a rate of 5%. It also provides some general information about VAT, how it will work and how it will impact individuals and businesses. Whilst it states that only businesses will be required to register for VAT if they meet a certain minimum annual turnover (which is yet to be determined), it does clearly state that businesses who do not think they need to register for VAT will still be required to maintain financial records to establish that they are below the threshold. The website states that it anticipates that more information will be available during the summer of 2016.

Deadline extension provided for the compulsory changes required to memoranda and articles under the UAE Companies Law

Following the adoption of the new Commercial Companies Law on 1 July 2015, all UAE companies are required to amend their existing memoranda and articles of association to mirror and comply with the changes introduced in the New CCL. The original deadline for these compulsory changes was 30 June 2016, however, the deadline has now been extended to 30 June 2017.

Regional indirect tax updates

GCC

GCC achieve in principle agreement on VAT and Excise Tax treaties

The Gulf Co-operation Council (GCC) Finance Ministers held an extraordinary meeting on Thursday 16 June in Jeddah to discuss the Value Added Tax (VAT) and Excise Tax treaties. Although these treaties have been approved in principle, certain administrative matters still need to be resolved, notably the tax collection mechanism related to intra-GCC trade. The GCC Committee has been tasked to provide its recommendation by the end of summer in view of the formal announcement of the treaties expected shortly afterwards.

With the expected start date for VAT in a number of GCC countries expected to be January 2018, and Excise Tax in January 2017, businesses should now start adopting VAT and Excise Tax compliant strategies to ensure a smooth transition at a later stage.

The expected introduction of VAT and Excise Tax constitutes an important policy reform aiming to help GCC Governments achieve medium to long term social and economic policy goals, and reduce reliance on hydrocarbon revenues.

The VAT and Excise Tax treaties constitute the common framework for the introduction of these taxes in the GCC which is expected to occur by 1st of January 2018 and 1st of January 2017, respectively. The treaties will form the basis for the issuance of national VAT and Excise Tax legislation by each GCC Member State.

Upon the ratification of the treaties, each Member State will need to issue its own national VAT and Excise Tax legislation based on the agreed common principles. This will entail the issuance of national VAT and Excise Tax laws along with the implementing regulations in accordance with each Member State's national legislative process. This should happen ahead of the expected go live date, allowing sufficient time for businesses to get ready.

The formal announcement of the GCC common VAT and Excise Tax treaties is now expected in the last quarter of this year and this will pave the way for the adoption of the new tax systems by GCC Member States by the expected dates.

Business implementation

Businesses need to start preparing in advance to be able to comply with the new tax obligations including charging, collecting and paying VAT and Excise Tax to the Tax Authority in a timely manner. It is the right time to start creating awareness and increase knowledge throughout the organisation, as well as start assessing the potential impacts of the new taxes on the business, including impact on margins and cash flow. It is also essential to ensure the right systems and processes are in place to apply the tax correctly and generate the required reporting and documentation.

An important activity is to ensure all business units are trained and ready: supply chain, logistics, procurement, finance, tax and accounting.

Businesses will need to:

- Create a project team to manage implementation.
- Undertake an initial review; i.e., how VAT will impact the business.
- Determine strategy.
- Prepare an implementation plan and timeline.
- Start now.

The formal announcement of the GCC common VAT and Excise Tax treaties is expected in the last quarter of this year and this will pave the way for the adoption of the new tax systems by GCC Member States by the expected dates.

Businesses should start adopting VAT and Excise Tax compliant strategies now to ensure a smooth transition at a later stage.

Base erosion and profit shifting ("BEPS")

Status update

The OECD released most of its final recommendations on anti-BEPS measures in October last year, which has since then resulted in behavioural changes of tax authorities worldwide and even new and/or amendments to existing tax laws have been made. The publication of the final reports did not only impact the domestic legislative framework, but they also increased the willingness of tax authorities to co-operate with each other in efforts to boost transparency. The signing of the Multilateral Competent Authority Agreement (MCAA) for the automatic exchange of Country-by-Country reports by 39 countries is one of the prime examples of this new trend.

As we now enter into the second phase of the BEPS project, the OECD has agreed a new framework that will allow all interested countries to work jointly, and more importantly, on an equal footing with OECD and G20 countries, for the implementation of the BEPS Action Plan. All interested countries, including developing economies (including from the Middle East), can now express their interest in joining this inclusive framework. The first meetings of the Committee on Fiscal Affairs, including the new countries, will be held early this summer. For developing countries, practical toolkits that address the top priority issues identified will be developed and provided by the OECD.

The BEPS project is far from finalized and the OECD is continuously reviewing implementation of the four BEPS minimum standards (harmful tax practices, tax treaty abuse, County-by Country reports and cross border tax dispute resolution). Additionally, the OECD is finalizing the remaining work on BEPS standards, such as issuance of specific rules for the banking and insurance sector with respect to interest deductibility limitations and transfer pricing aspects of financial transactions.

Implementation and impact on the Middle East

Saudi Arabia is a G20 member and, in principle, is committed to the implementation of the BEPS measures. Many other countries in the region, particularly GCC countries, have also participated in OECD proceedings as observers. The ongoing BEPS developments have been closely monitored and it can be expected that the recommendations are likely to be adopted by many Middle East countries in the short to medium term.

For example, the tax authorities in Egypt have verbally committed to implementation of Action 13 of the BEPS Action Plan and changes to domestic tax laws are expected in the medium term. The Ministry of Finance in Egypt has held high level meetings with the OECD to discuss potential cooperation and support from the OECD in terms of providing training to the Egyptian tax authorities as well as data support in developing a framework for implementation of Action 13 BEPS.

Another example is the draft Income Tax Law submitted by the Kuwait Ministry of Finance to the Parliament earlier this year, which introduces a Business Profit Tax in Kuwait. The draft law includes provisions which show the intention to align with the BEPS standards, including items such as artificial avoidance of permanent establishment status and harmful tax practices.

Against the backdrop of sustained lower oil prices and economic diversification, many GCC governments have been considering tax reform as a way to raise revenues. We expect this trend to accelerate. Not only have we seen GCC countries considering

proposals to introduce VAT, but also note a shift in the behaviour of tax authorities in their position on various tax matters such as virtual/digital tax presence as a direct outcome of the BEPS project. For example, the Egyptian tax authorities have announced this year to impose a corporate withholding tax on app-based car services, aiming to accurately tax privately owned cars used for commercial reasons.

Besides measures announced for digital businesses, other areas most likely to be impacted by the BEPS agenda in Middle East countries include financial payments, tax treaty access, intellectual property, permanent establishments and additional documentation requirements.

Action 4 – Financial payments

In terms of financing, the OECD has defined best practice rules to prevent base erosion through the use of interest expense by limiting an entity's net deductions for interest and payments economically equivalent to interest to a percentage of its EBITDA. The report suggests a range of acceptable fixed ratios between 10% and 30%, with factors identified for countries to determine their appropriate fixed ratio. In addition, the OECD has defined best practice rules under which deduction for payments on hybrid instruments are denied.

The focus on interest deductions shows developing countries are more concerned about interest deductibility than developed countries, particularly given the lack of capacity insofar as transfer pricing and thin capitalization is concerned. The measures in Action 4 will most likely have a profound effect on the current limitations on interest deductibility (or lack thereof) in some of the Middle East countries.

The OECD still needs to work on specific rules for the banking and insurance sector and it needs to look at transfer pricing aspects of financial transactions. This project is expected to be completed by the end of 2017.

Action 6 – Treaty abuse

The OECD recommends a minimum standard for treaties, comprising a Limitation on Benefits ("LOB") clause plus anti-conduit rules, a principle purpose test ("PPT") or a LOB in combination with a PPT. It also proposes a number of additional targeted rules dealing with specific circumstances. As these changes will be made directly in the OECD Model Convention and (through a multilateral instrument) in existing tax treaties, these are very likely to affect all of the Middle East countries in the short to medium term.

An Ad Hoc group comprising 96 countries (including Middle East countries such as Lebanon, Qatar and Saudi Arabia) was established with the objective of developing a multilateral instrument to modify existing bilateral tax treaties in order to swiftly implement the tax treaty measures developed in the course of the BEPS project (mostly in relation to hybrid mismatch arrangements, treaty abuse, permanent establishment and dispute resolution). The Ad Hoc Group aims to conclude its work and open the multilateral instrument for signature by 31 December 2016.

Action 7 – Permanent establishment status

In terms of permanent establishment ("PE"), the OECD recommends a broader permanent establishment concept with a lower threshold. Most of the Middle East countries (including Saudi Arabia, Egypt, Qatar and Oman) have permanent establishment concepts in their domestic tax law. Also, as these changes will be made directly in the OECD Model Convention and (through the multilateral instrument) in existing tax treaties, these are very likely to affect all of the Middle East countries in the short to medium term. In fact, denial of tax treaty access and crystallization of more PEs (i.e. taxable presence) are the two areas which have already started to manifest themselves since the commencement of the BEPS project. This trend is likely to accelerate.

Action 8 – Transfer pricing and intangibles

For intellectual property ("IP"), the OECD has recommended changes to its transfer pricing guidelines that will broaden the definition of intangibles and divide them into several broad categories. This is a risk because it broadens the scope for tax authorities to infer or characterize IP transactions and reallocate taxable income. It may be an opportunity, however, as it may open up possibilities for more transfer pricing planning around IP.

The OECD also released recommendations in respect of hard-to-value intangibles, which describes situations in which it is acceptable to judge the transfer pricing on the basis of ex-post outcomes, rather than the contemporaneous expectations and forecasts. This recommendation may make tax planning for IP tougher in the future and may render any past planning unsustainable.

In terms of operating models, the OECD has recommended changes to its transfer pricing guidelines that will mandate that transactions be recognized on the basis of economic substance, with much less respect given to the legal form where the two differ. For IP and financial transactions, this means that the income from IP will be taxable where the development, exploitation and protection of that IP occurs, not necessarily where it is held legally. And financial income will be expected to be recognized where the relevant risks are controlled. This change heralds the end of so called "cash box" IP and holding companies and financing companies in low or no tax jurisdictions. At most, such entities will earn a risk-free return on their committed capital. This change will affect Middle East-headquartered companies that use IP holding company and financing structures. It will also affect foreign companies that have chosen to use a Middle East jurisdiction for any IP holding companies.

Since the OECD Transfer Pricing Guidelines inform the practice of transfer pricing in most countries, the effect will be global, and not dependent upon the implementation of legislation.

Action 13 – Transfer pricing documentation

The OECD has recommended a three pillar approach to transfer pricing documentation consisting of a master file, a local documentation file and the country-by-country ("CbC") report. Broadly, the new documentation will provide tax authorities with much more information about the operations of the consolidated business, and the division of income, people, functions, and assets within the corporate group.

Many European countries have (partially) implemented Action 13 through final legislation (France, Italy, Ireland, Luxembourg, Netherlands, Spain, and UK), released draft legislation or made public announcements for implementation (Belgium, Germany, Liechtenstein, and Switzerland). Other major markets such as Canada, China, India, South Africa and the USA have also proposed CbC reporting legislation.

The implication for large Middle East-based corporate groups is that they will have to prepare to comply with CbC reporting regardless of whether it is implemented immediately in Middle East countries. Furthermore, aside from CbC reporting, reporting requirements worldwide are in flux, requiring taxpayers to pay close attention to the new regulations and legislation.

The MCAA for exchange of CbC reports has now been signed by 39 countries, allowing countries to bilaterally and automatically exchange CbC reports with each other. Not a single Middle East countries has so far signed the MCAA, however Middle East multinational groups need to be aware that an obligation may exist to file a CbC report in a given country which may automatically, or upon request, be shared with other tax authorities worldwide.

Brexit

PwC helping clients understand and adapt to new market conditions and opportunities

On June 23rd, the United Kingdom held a public referendum on whether to leave the European Union – a process that has now become known as 'Brexit.' The outcome of the referendum revealed 17.4 million Britons voting to leave the EU, about 1.3 million more than the 16.1 million who voted to remain.

Although the extent of the political and economic impact of this referendum will largely depend on the actions of the UK Parliament in the coming months and future negotiations with the EU on the terms of Britain's exit, we anticipate that Brexit will have a significant impact on global business and our clients throughout the Middle East region.

In response to Brexit's recent and ongoing developments, PwC has created a focus group comprised of our leading tax and legal experts in the Middle East region to help our clients navigate any potential changes to the political and economic landscapes of the UK and Europe.

Our focus group will also serve as a central point of contact for our clients in the region and will aid in our ability to deliver considered, consistent information on Brexit's impact on the Middle East region going forward.

Any member of our Brexit focus group can be contacted as per the details below:

Dan Axelsen
Partner, Transfer Pricing
+971 2 694 7563
dan.axelsen@ae.pwc.com

Mohammed Serokh
Partner, Transfer Pricing
+971 4 304 3956
mohammed.serokh@ae.pwc.com

Jochem Rossel
Partner, International Tax
+971 4 304 3445
jochem.rossel@ae.pwc.com

Sajid Khan
Partner, International Tax
+974 4419 2803
sajid.khan@qa.pwc.com

Jonathan Gibson
Partner, PwC Legal
+971 4 304 3424
jonathan.s.gibson@pwclegal.co.ae

To help our clients better understand Brexit and its potential impact on the global political and economic environment, we have created a ***PwC EU Referendum Website*** as well as a short but informative webcast, ***Navigating a Path through the EU Referendum Result***.

Please keep in touch to stay apprised of all of the latest developments surrounding Brexit and its impact on business in the Middle East region.

Common Reporting Standard ("CRS") update

Background

The Organisation of Economic Cooperation and Development ("OECD") released the Common Reporting Standard ("CRS") for Automatic Exchange of Financial Account Information in Tax Matters ("AEOI") in July 2014. About 100 countries have committed to the implementation of the standard.

Under the CRS, financial institutions ("FIs") will be required to:

- Establish the country or countries of tax residence of their new and existing customers through performing enhanced due diligence procedures; and

- Report the customers' financial account information to the FIs' local government which will then exchange this information with the governments of countries where the customers are resident.

Failure to comply will subject the FIs to fines and sanctions as provided for in the domestic legislation.

Middle East impact

A number of Middle East countries have now committed to undertaking exchanges of information from 2018. These include Bahrain, Kuwait, Lebanon, Saudi Arabia and the United Arab Emirates. Domestic legislation implementing CRS in these Middle East countries has yet to be published.

Under the CRS, information on an individual's foreign financial affairs will be shared automatically every year to the taxing authorities of the country where a person is resident. This also potentially places their structures, investments and businesses under the spotlight.

For FIs based in Middle East countries there will be a need to establish due diligence and reporting mechanisms to comply with the CRS. Assessing the extent their existing FATCA/AML/KYC compliance and reporting systems can address these new requirements is a natural starting point.

Double tax treaty updates

The following double tax treaties have been signed, ratified or brought into force since 1 January 2016:

Countries	Dates	Key information
Bahrain – Cyprus	Signed on 9 March 2015. Ratified by Bahrain on 28 February 2016. Entered into force on 26 April 2016.	The treaty generally follows the OECD model and includes provisions related to the exchange of information. The treaty states that dividends, interest, and royalties are taxable only in the recipient's state of residence. It will apply from 1 January 2017.
Bahrain – Egypt	Signed on 26 April 2016. Pending ratification. Will enter into force following ratification.	A new tax treaty between Bahrain and Egypt was signed on 26 April 2016. The new treaty will replace the existing treaty which has been in effect since 1 January 2000.
Bahrain – Portugal	Signed on 26 May 2015. Ratified by Bahrain on 11 May 2016. Will enter into force on 30th day after exchange of ratification	The treaty generally follows the OECD model and includes provisions related to the exchange of information. It also includes an Article on Limitation of Benefits. The treaty provides a maximum dividend withholding tax rate of 10% if the beneficial owner is a company (other than a partnership) that directly holds at least 25% of the capital of the payer company. A 15% rate applies in other cases. Interest is subject to a maximum rate of

Countries	Dates	Key information
	instruments.	10%; royalties 5%. It will apply from 1 January of the year following entry into force.
Bahrain – Tajikistan	Signed on 28 May 2014. Ratified by Bahrain on 1 February 2016. Entered into force on 10 February 2016.	The treaty generally follows the OECD model and includes provisions related to the exchange of information. It stipulates a maximum withholding tax rate of 8% applies to dividends, interest, and royalties. It will apply from 1 January 2017.
Egypt – KSA	Signed on 8 April 2016. Pending ratification. Will enter into force following ratification.	A tax treaty between Egypt and Saudi Arabia was signed on 8 April 2016 in Cairo and is now pending ratification. The treaty is expected to promote Saudi investment in Egypt.
Egypt – Kuwait	Signed on 16 December 2014. Ratified by Egypt on 17 February 2016. Will enter into force following final ratification.	A new tax treaty between Egypt and Kuwait will enter into force after ratification by both countries. The new treaty will replace the existing treaty signed on 16 February 2004.
Jordan – UAE	Signed 6 April 2016. Pending ratification. Will enter into force after ratification.	The Jordanian government announced on 6 April 2016 that Jordan and the United Arab Emirates have signed a double tax treaty. The treaty will enter into force after it has been ratified by both countries.
Oman - Estonia	Authorised for signing by Shura Council of Oman 25 January 2016.	Treaty details not yet available.
Oman - Portugal	Signed on 28 April 2015 Ratified by Oman 2 July 2015 Approved by Portuguese Council of	The maximum withholding tax rates are: - 10% for dividends if the beneficial owner is a company owning at least 10% of share capital, 5% for certain state-owned institutions or banks, and 15% otherwise. - 10% for interest, 0% for certain state-owned institutions and other specified entities.

Countries	Dates	Key information
	Ministers 17 March 2016; awaiting National Assembly approval	- 8% for royalties.
Oman-Switzerland	Signed on 22 May 2015 Ratified by Oman 14 July 2015 Approved by Swiss Parliament 6 March 2016 (approved by Federal Council 14 October 2015)	The maximum withholding tax rates are: - 5% for dividends if the beneficial owner is a company owning at least 10% of the dividend payer's capital, 0% for certain state-owned institutions or pension funds, and 15% otherwise. (0% DWHT under Oman tax law) - 5% for interest, 0% for certain state-owned institutions and other specified entities. - 8% for royalties.
Qatar – Nigeria	Signed 28 February 2016. Pending ratification. Will enter into force after final ratification.	The treaty generally follows the OECD model and includes an article on the Exchange of Information. The treaty provides for a maximum withholding rate of 7.5% on dividends, interest, and royalties.
Qatar – South Africa	Signed 6 March 2015. Ratified 24 June 2015. Entered into force 2 December 2015.	The treaty which entered into force on 2 December 2015 applies from 1 January 2016, according to a notice released by the South African Revenue Service on 11 February 2016.
UAE - Jersey	Signed on 20 April 2016. Pending ratification.	The tax treaty between UAE and Jersey was signed on 20 April 2016 and is now pending ratification. The treaty is expected to enhance economic and financial cooperation between the two countries.

Further information

Please follow the link to PwC's Middle East Tax and Legal news webpage to access all the latest updates and webcasts.

Our services

PwC helps organizations and individuals create the value they're looking for. We're a network of firms in 157 countries with more than 195,000 people who are committed to delivering quality in assurance, tax and advisory services.

Established in the Middle East for 40 years, PwC has firms in Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Oman, the Palestinian territories, Qatar, Saudi Arabia and the United Arab Emirates, with over 3,000 people.

We provide a comprehensive set of services covering

- Assurance and Audit
- Consulting
- Deals
- Family business
- Tax and Legal

PwC Tax and Legal

The Middle East Tax practice offers expertise in jurisdictions across the region with over 500 staff. We can provide assistance with the following areas:

- Indirect taxation (VAT, customs and international trade) and fiscal reform
- International taxation
- Global mobility and Human Resource Services
- Legal services
- Mergers and acquisitions / private equity
- Services for U.S. citizens and Green Card holders
- Tax and Zakat advisory
- Tax compliance, management and accounting services
- Transfer pricing

Let's talk

For a deeper discussion of how any of these issues might affect your business, please contact:

PwC's Middle East country leaders

Ken Healy, *Bahrain*
+973 3840 0897
ken.a.healy@bh.pwc.com

Russell Aycock, *Oman*
+968 2455 9122
russell.aycock@om.pwc.com

Abdallah El Adly, *Egypt*
+20 2 2759 7700
abdallah.eladly@eg.pwc.com

Wael Saadi, *Palestinian territories*
+970 532 6660
wael.h.saadi@ps.pwc.com

Stephan Stephan, *Iraq & Jordan*
+962 6 500 1300
stephan.stephan@jo.pwc.com

Neil O'Brien, *Qatar*
+974 4 419 2812
neil.obrien@qa.pwc.com

Sherif Shawki, *Kuwait*
+965 2227 5777
sherif.shawki@kw.pwc.com

Mohammed Yaghmour, *Saudi Arabia*
+966 2 667 9077
Mohammed.yaghmour@sa.pwc.com

Nada El Sayed, *Lebanon*
+961 7110 0866
nada.elsayed@lb.pwc.com

Jochem Rossel, *United Arab Emirates*
+971 4 304 3445
jochem.rossel@ae.pwc.com

Husam Elnalli, *Libya*
+218 21 3609830/32
husam.elnalli@ly.pwc.com

PwC's Middle East specialist network leaders

Darcy White, *Energy leader*
+971 4304 3113
darcy.white@ae.pwc.com

Dennis Allen, *HRS / Global Mobility*
+ 974 4419 2830
dennis.allen@qa.pwc.com

Jeanine Daou, *Indirect tax / Fiscal Reform,* Customs
+971 4 304 3744
jeanine.daou@ae.pwc.com

Jochem Rossel, M&A / *International Tax*
+971 4 304 3445
jochem.rossel@ae.pwc.com

Jonathan Gibson, *Legal*
+971 4 304 3424
jonathan.s.gibson@pwclegal.co.ae

Mohamed Serokh, *Transfer Pricing*
+971 4 304 3956
mohamed.serokh@ae.pwc.com

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