Middle East Financial Services Tax Outlook 2021

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In brief

As we begin 2021, there have already been a number of significant developments in the tax space. Middle East financial institutions should be aware of what is coming over the next 12 months, and begin considering how they plan to respond to these developments.

This page contains at a high level our summary of a number of select key developments we want to bring to your attention. Over the next few pages, we have included our detailed bitesize insights and PwC recommendations on how financial institutions could approach each of these matters, if you have not already done so.

- **31 December 2020 (DAC6) -** the UK's tax authority, Her Majesty's Revenue and Customs ("HMRC"), has announced it is restricting the application of the DAC6 legislation to the 'D' hallmarks only, therefore reporting is required for reportable cross-border transactions with these hallmarks only.
- **27-29 January 2021 (BEPS 2.0) -** the OECD's inclusive framework / G20 are scheduled to meet between 27 and 29 January 2021 to discuss the progress on the Pillar I and Pillar II proposals, with there being less than six months left for the inclusive framework members to reach agreement on the final proposals.
- **31 January 2021 (UAE ESR) -** the UAE's Ministry of Finance announced an exceptional extension to the 31 December 2020 deadline to submit economic substance notifications and reports to 31 January 2021. It has been announced that businesses will attract penalties if filings are not made by this date.
- **31 January 2021 & 28 February 2021 (DAC6) -** DAC6 reporting deadlines for EU Member States are now approaching fast, businesses must be prepared to submit reports for both the 1 July 2020 go live period and transitional period or prepare to face penalties.
- **1 February 2021 (Oman VAT) -** the VAT registration window opens for taxpayers to register themselves for VAT in Oman. The registration will take effect in a phased manner.
- **31 March 2021 (FATCA) -** the reporting deadline under the FATCA US Treasury Regulations for countries that have not signed an Intergovernmental Agreement ("IGA") with the US is 31 March 2021 in respect of reporting year 2020 data.
- **Q2 2021 (TP) -** a majority of Middle East countries with transfer pricing documentation legislation in place (e.g. KSA, Egypt, Qatar) have deadlines for submission/preparation of transfer pricing documentation (Local file, Master file, disclosure forms and transfer pricing returns) between April and June 2021 in respect of reporting year 2020 data.
- **16 April 2021 (Oman VAT) -** the effective date of VAT in Oman. As per the Royal Decree issued by the Sultan of Oman in October 2020, VAT would be applicable in Oman on goods and services from such date. The standard rate of VAT would be 5%.
- **30 June 2021 (KSA VAT) -** the KSA Minister of Finance has issued a new Resolution aiming at extending the tax amnesty initiative launched earlier in 2020 for an additional six months.
- **Q2, Q3 2021 (FATCA/CRS) -** a majority of Middle East regional FATCA and CRS reporting deadlines are between May and July 2021, a number of governments have changed their reporting portals and methods to submit reports, so financial institutions must be up to date with the portal requirements and prepared to submit reports ahead of the deadlines set.
- **Q3 2021 (DAC8) -** the European Commission ("EC") has published a roadmap to extend the scope of the Directive on Administrative Cooperation ("DAC") to crypto-assets and other forms of electronic money, this is being referred to as "DAC8".
- **31 December 2021 (DAC7) -** EU Member States will be required to adopt DAC7 - in accordance to the proposed DAC amendment, EU Member States would begin to automatically exchange information regarding revenue made on digital platforms, such as online stores and marketplaces. Should the DAC7 proposed directive be accepted, it would go into effect 1 January 2022.
- **31 December 2021 (CbCR) -** the reporting deadline for CbCR filing in the UAE, KSA, Egypt, Qatar and Oman. The reporting deadline for CbCR notification is 31 December 2020 for reporting year 2020 in the UAE, Egypt, Qatar and Oman and 30 April 2021 in KSA.

31 December 2020 (DAC6) - following the conclusion of the UK's Free Trade Agreement ("FTA") with the EU, the UK's tax authority, HMRC confirmed on 31 December 2020 that the UK will no longer be applying DAC6 in its entirety. Reporting will still be required for a limited time, but only for arrangements which meet hallmarks under Category D of the DAC6 legislation. HMRC has also confirmed that the change applies retrospectively and will thus apply to both the transitional period (25 June 2018 - 30 June 2020) and future period (1 July 2020 onwards) for reportable cross-border arrangements.

> ***PwC's recommendation -*** businesses must reassess their DAC6 approach in respect of the UK, businesses may find their reporting obligations have changed following this development and are likely to have reduced reporting obligations in the UK, but possibly increased reporting requirements as a consequence in other EU countries which are also relevant to the transactions under consideration.

27-29 January 2021 (BEPS 2.0) - the inclusive framework / G20 are scheduled to meet between 27 - 29 January 2021 to discuss the progress on the OECD BEPS Pillar I and Pillar II proposals, with there being less than six months left for the inclusive framework members to reach agreement on the final proposals. It is considered that if the inclusive framework members do not reach an agreement by mid 2021, then the EU is considered to accelerate the process to implement the proposals.

> ***PwC's recommendation -*** businesses should consider performing an impact assessment for the OECD BEPS Pillar I and Pillar II proposals. Pillar II, global minimum tax, is of particular importance to Middle East regional financial institutions, as the proposed global minimum tax is likely to have a profound impact on financial institutions that have an existing low global effective tax rate (i.e. less than the possible/suggested 12.5% ETR). Implementation of existing Pillar II proposals could mean an increase in that existing effective tax rate.

31 January 2021 (UAE ESR) - the UAE Ministry of Finance announced, on 31 December 2020, an exceptional extension to the 31 December 2020 deadline to submit economic substance notifications and reports. The deadline has been extended by one month to 31 January 2021. The UAE Ministry of Finance has informed businesses that failure to file by the extended deadline will result in penalties. They have also informed businesses they must have a Ministry of Finance account to access the Economic Substance Filing Portal.

> ***PwC's recommendation -*** businesses must have assessed their obligations under the UAE Economic Substance Regulations, particularly given the changing regulations and applicable exemptions. Businesses should also be prepared to submit notifications and reports by 31 January 2021.

31 January 2021 & 28 February 2021 (DAC6) - 31 January 2021 is the reporting deadline for DAC6 reportable cross-border arrangements in respect of the period 1 July 2020 - 1 January 2021, this time period is considered the "*go-live*" period and this deadline is effective for all EU Member States except for Austria, Germany and Finland. For these jurisdictions, the deadline for submission of reports with respect to reportable cross border arrangements with respect to the period 1 July 2020 onwards was 30 days from identification of the reportable cross border arrangement. With respect to the transitional period under DAC6 (25 June 2018 - 30 June 2020), these arrangements are reportable by 28 February 2021 for all EU Member States except for Austria, Germany and Finland. For these jurisdictions, the deadline for submission of reports with respect to the transition period was 31 August 2020.

> ***PwC's recommendation -*** businesses should by now have performed an impact assessment and identified reportable transactions under DAC6, if no reportable transactions, then evidenced their approach to DAC6 and analysis performed in case of any audit or investigation, particularly given the extensive penalties under the DAC6 regime.

1 February 2021 (VAT) - the Oman Tax Authority ("OTA") has released a guide on VAT registration and how to prepare for Oman VAT. The guide confirms that the go live date for VAT in Oman is 16 April 2021 and the VAT registration will take effect in a phased manner i.e. based on the revenue of the taxable person. Mentioned below are the details of the registration categories, registration timelines and effective date of registration. For taxpayers making annual supplies of more than OMR 1,000,000, the registration timeline would be 1 February 2021 to 15 March 2021. For all other taxpayers the dates are staggered over a period of one year on the basis of the specific revenue bracket that they fall in.

> ***PwC's recommendation -*** based on the revenue bracket, businesses should identify their registration timelines and apply for the VAT registration accordingly.

31 March 2021 (FATCA) - the reporting deadline under the FATCA US Treasury Regulations for countries that have not signed an Intergovernmental Agreement ("IGA") with the US is 31 March 2021 in respect of reporting year 2020 data. This will impact jurisdictions in the Middle East region such as Lebanon, Jordan and Oman. Businesses should already be reviewing their account holder information and beginning to compile their reports of reportable persons. As a reminder, reports for non-IGA jurisdictions must be submitted in the XML format and encrypted using the private and public keys.

> ***PwC's recommendation -*** businesses should be preparing the population of reportable persons with respect to calendar year 2020 and getting prepared to report. PwC has a managed service solution to support businesses with data processing of information into XML. Please contact us if this is of interest to your business so we can seamlessly convert your data into XML and encrypt it so you only need to submit the final file to the IRS.

Q2 2021 (TP) - a majority of Middle East countries with transfer pricing documentation legislation in place (e.g. KSA, Egypt, Qatar) have deadlines for submission/preparation of transfer pricing documentation (Local file, Master file, disclosure forms and transfer pricing returns) between April and June 2021 in respect of reporting year 2020 data. Financial institutions might face penalties if not in compliance with each country requirements. The documentation requirements in each country are enlisted below:

- **KSA:** (i) Controlled Transactions Disclosure Form ("CTDF") and certification of the CTDF by licensed auditor to be submitted by 120 days following the end of fiscal year, (ii) Local and Master file to be submitted upon request from GAZT (from 120 days after fiscal year end) and applicable if threshold of SAR 6 million (aggregate value of intercompany transactions) is exceeded.
- **Egypt:** (i) Local file to be submitted no later than two months following the submission of corporate income tax return and (ii) Master file to be submitted in line with the parent entity's corporate income tax return filing date.
- **Qatar:** Announced requirements for preparation and filing of transfer pricing form, Local and Master file, however detailed transfer pricing guidance is yet to be released by the local tax authority.

> ***PwC's recommendation -*** businesses must reassess their transfer pricing compliance with local country requirements as there have been significant changes in the region over the last years, non-compliance might lead to high penalties.

16 April 2021 (VAT) - His Majesty, the Sultan of Oman, Sultan Haitham bin Tariq bin Taimur, issued Royal Decree No.121/2020 in relation to the implementation of VAT in Oman. Following the introduction of VAT in the KSA, the UAE and Bahrain, Oman is the fourth GCC country to implement VAT in the region. The VAT Law will set out the general principles for the application of VAT in Oman in line with the Unified GCC Agreement for Value Added Tax (VAT). The VAT Law was published in the Official Gazette on 18 October 2020 with an effective date for the introduction of VAT on 16 April 2021. The Executive Regulations that would provide more details on the specific provisions of the Law are expected to be published by end of January or February 2021.

> ***PwC's recommendation -*** businesses with activities in Oman will need to consider the implications of the introduction of VAT on their transactions and ensure that they are ready to comply with the new VAT requirements by April 2021. Given the relatively short implementation timeline and the fact that the Executive Regulations may be published later in February, it is crucial that businesses start to plan for implementation as soon as possible and assess the impact to the IT systems on the basis of the Law and Executive Regulations.

30 June 2021 (KSA) - the KSA Minister of Finance has issued a new Resolution aiming at extending the tax amnesty initiative launched earlier in 2020 for an additional six months. This would provide taxpayers with a full or partial waiver of Corporate Income Tax, Withholding tax, Value Added Tax and Excise tax penalties up until 30 June 2021. The waiver percentage (i.e. 100%, 75% or 50%) to be applied depends on the time the tax due is paid in full. The waiver applies to the following types of penalties: Late payment penalties (all taxes) and tax return correction penalties (VAT only). It is not clear however whether the waiver of late payment penalties apply as well to the Real Estate Transaction Tax that has been recently introduced on 4 October 2020.

> ***PwC's recommendation -*** The extension of the tax amnesty initiative provides an opportunity for taxpayers to correct legacy tax positions, amend tax returns with no penalties, improve their cash flow position and obtain a waiver for penalties yet unpaid. Businesses should make effective use of this amnesty scheme.

Q2, Q3 2021 (FATCA/CRS) - a majority of Middle East regional IGA FATCA and CRS reporting deadlines are between May and July 2021 (many TBC), a number of governments have changed their reporting portals and methods to submit reports, so businesses must be up to date and prepared to report. Businesses should already be reviewing their account holder information and beginning to compile their reports of reportable persons for calendar year 2020. Our information looking back to 2020 for calendar year 2019 reporting suggests that XML submissions must be made in Bahrain, Egypt, Lebanon, Jordan, Oman and KSA for FATCA and Bahrain, Kuwait, Oman, Qatar and KSA for CRS.

> ***PwC's recommendation -*** businesses should be preparing the population of reportable persons with respect to calendar year 2020 and getting prepared to report. PwC has a managed service solution to support businesses with data processing of information into XML. Please contact us if this is of interest to your business so we can seamlessly convert your data into XML so you only need to submit the final file to the tax authority.

Q3 2021 (DAC8) - the European Commission ("EC") has published a roadmap to extend the scope of the Directive on Administrative Cooperation ("DAC") to crypto-assets and other forms of electronic money, this is being referred to as "DAC8". The feedback period for this legislation has now passed (23 November 2020 - 21 December 2020), feedback has been received by various parties. The DAC8 public consultation is scheduled for Q1 2021, adoption of the proposed legislation is expected Q3 2021.

> ***PwC's recommendation -*** the proposed amendment to the DAC has been published and therefore businesses can begin to assess the impact of this proposal. The proposed legislation impacts businesses operating as e-money institutions and those that deal in crypto (digital) assets, and therefore Middle East institutions that operate in this space may come under scope of this legislation and may have reporting obligations. Therefore we recommend businesses get up to speed on the DAC8 proposed legislation and how it may impact them.

31 December 2021 (CbCR) - the reporting deadline for CbCR filing in the UAE, KSA, Egypt, Qatar and Oman. The reporting deadline for CbCR notification is 31 December 2020 for reporting year 2020 in the UAE, Egypt, Qatar and Oman and 120 days from the last day of fiscal year in KSA.

> ***PwC's recommendation -*** *businesses must reassess their transfer pricing compliance with local country requirements as there have been significant changes in the region over the last years, non-compliance might lead to high penalties.*

31 December 2021 (DAC7) - the European Commission has proposed an amendment to the 2011/16/EU directive concerning administrative cooperation in the field of taxation. In accordance to the amendment, EU Member States would begin to automatically exchange information regarding revenue made on digital platforms, such as online stores and marketplaces. This would allow Member States to more effectively identify deficiencies in the taxation of digital platforms. 'Digital platforms' are defined in the DAC7 directive as all software, web pages and mobile applications that allow Sellers to either directly or indirectly carry out reportable activities. An activity is reportable if it concerns the sale of goods or services, rental of immovable property, rental of any mode of transport or crowdfunding. Should the DAC7 proposed directive be accepted, it would go into effect 1 January 2022.

> ***PwC's recommendation -*** the proposed amendment to the DAC has been published and therefore businesses can begin to assess the impact of this proposal. The proposed legislation obligates reporting from Foreign Platform Operators, and therefore Middle East institutions that meet the definition of a "digital platform" under the proposed rules may come into scope for reporting. Middle East businesses that operate "digital platforms" in an EU Member State would come into scope of reporting, therefore it is imperative to assess the impact of the proposed DAC7 amendments on your business.

Key takeaway

From significant developments for both VAT and tax information reporting, to proposed new legislation on digital platform operators (DAC7) and reporting on crypto assets (DAC8), the rate of change from domestic, regional Middle East, EU and supra national tax authorities and regulators has not slowed down. We trust this alert highlighted these developments so your business can prepare and react accordingly.

Please contact us to discuss the impact of these developments on your business.

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Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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