President of the UAE issues the new Tax Procedures Law- will you be ready?

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On 31 July 2017, the President of the United Arab Emirates - His Highness Sheikh Khalifa bin Zayed Al Nahyan, has issued the new Tax Procedures Law (Federal Law No. 7 of 2017) ("TPL"). The TPL sets out the foundations for the impending UAE tax regime and aims to regulate taxpayer rights and obligations, administration and collection of taxes, and defines the role of the Federal Tax Authority (FTA). The TPL will come into force 30 days from the date of its publication.

The TPL defines a clear set of common procedures and rules to be applied to all taxes imposed in the UAE based on relevant tax, namely, VAT and excise taxes. It states the respective rights and obligations of the FTA and taxpayers. The TPL covers tax procedures including audits, objections, refunds, collection, and compliance requirements – which include tax registration, tax-return preparation, submissions, payment and voluntary disclosure rules – in addition to tax evasion and general provisions. Will your business be ready?

We have outlined below a summary of the main points, and an unofficial English translation of the TPL is available on the Ministry of Finance website (www.mof.gov.ae).

Documentation and Registration: The TPL specifies that any person conducting any business will need to keep business accounting records and commercial books including any tax related information required as per relevant tax laws. The format of these documents will be specified in the Executive Regulations (to be released).

Any tax related documents which are submitted to the FTA are required to be in Arabic. The FTA may accept documents in any other language, an accompanying set of the documents, translated in Arabic, must also be included (at the taxpayers expense and in accordance with the Executive Regulations).

The FTA may assess the tax due by the taxpayer, notably in case of invalid documentation or book-keeping within a time limit of 5 years after the relevant tax period. In the event of proven tax evasion or non-registration for tax purposes, the period of tax assessment may be increased to a period of up to 15 years.

Once registered for VAT, a registrant must include his tax registration number (TRN) in all correspondence and transactions with the FTA. The Taxpayer must also inform the FTA, by filing a form (to be released), of any circumstance that might require an amendment of information relating to his tax records within 20 working days from the date of that event.The TPL provides the requirements and duties of legal representatives and a tax agents. The Executive Regulations will specify the procedures for tax registration and de-registration.

Tax Obligations: Taxpayers are required to prepare and file tax returns and to settle the amount of tax due on a periodical basis. The FTA may refuse a submitted tax return if it is not made in accordance with the relevant tax law. If a taxable person becomes aware that he has submitted an incorrect tax return or refund claim (or if an assessment issued by the FTA is incorrect), a voluntary disclosure must be submitted within the time limit specified in the Executive Regulations. If a taxpayer has paid more taxes than are due, he may be eligible for a tax refund or may request the FTA to allocate the difference to a later tax period. When paying an amount to the FTA, a taxable person shall specify the type of tax and the relevant tax period for which the amount relates. The FTA will then allocate the payment accordingly.

The TPL specifies that the FTA may perform a tax audit on any person to ascertain the extent of that person's tax compliance. Further details on the procedure of a tax audit will be provided in the Executive Regulations.

Objections to the Committee: A Tax Disputes Resolution Committee ("TDRC"), will be formed to decide on any objections or requests for reconsideration on the FTA's decisions. The objection shall be submitted within 20 business days from the day of notification of the decision by the FTA. The TDRC will then review the dispute and come to a decision within 20 business days (this can be extended to 20 additional days) of from receipt of the objection. Once a decision is reached the TDRC must inform the taxpayer of its decision within 5 business days.

Collection of payable tax and administrative penalties: Where the taxpayer fails to settle the tax due within the legal deadline, the FTA shall issue a notice requiring payment of outstanding tax (including any administrative penalties) within 20 business days from the date of the notice. If a taxpayer fails to make payment within the abovementioned timeframe, the the Director General shall issue a notification demanding settlement of the outstanding tax within 5 business days. Notification by the Director General shall be treated as an executory instrument for the purposes of enforcement through the execution judge at a competent court. The TPL also gives guidance on special cases. For example, guidance on settlement in the event of taxpayer bankruptcy.

What to do next

The implementation of VAT in the GCC from 1 January 2018 is a significant change for all businesses with operations in the region. The TPL clarifies taxpayers rights and imposes strict opligations on businesses who will have to register and account for VAT in a very short timeframe. Your business should be prepared to comply with the requirements by the go live date. Our team can help you organise your business and align yourself with all requirements necessary for this implementation.

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