



GCC Tax & Other Regulatory Communique

February 2024



VAT IN UAE

UAE VAT UPDATES

VAT UPDATES

Public Clarification on "SWIFT Messages"

The FTA of UAE has issued a Public Clarification on "SWIFT messages". It clarifies the FTA's position on the acceptability of SWIFT messages for the purposes of documentation requirements and to support input tax recovery

As per said clarification, given the swift message contains sufficient information to establish the particulars of the supply, UAE financial institution are not required to issue a tax invoice to themselves in respect of interbank services received from a non- resident bank and for which such SWIFT communication is received.



CORPORATE TAX IN UAE

UAE CORPORATE TAX UPDATES

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Federal Tax Authority Decision No. 3 of 2024 – Registration Timeline for Corporate Tax

Federal Tax Authority Decision No. 3 of 2024 outlines the registration timelines for Corporate Tax. The decision has stipulated the timelines to Taxable Persons for obtaining registration under the UAE CT Law.

1. Timelines for the Corporate Tax Registration:

For juridical person that are *Resident Persons*, incorporated or otherwise established or recognised prior to the effective date of this Decision, the deadline for submission of Corporate Tax Registration application would be guided by the date of license issuance, in accordance with the following table:

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Date of License Issuance (Irrespective of Year of Issuance)	Deadline for Submitting a Tax Registration Application
1 January – 28/29 February	31 May 2024
1 March – 30 April	30 June 2024
1 May - 31 May	31 July 2024
1 June – 30 June	31 August 2024
1 July - 31 July	30 September 2024
1 August – 30 September	31 October 2024
1 October - 30 November	30 November 2024
1 December - 31 December	31 December 2024
When a person does not have a License at the effective date of the Decision	3 months from the effective date of this Decision

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Federal Tax Authority Decision No. 3 of 2024 – Registration Timeline for Corporate Tax

- Where the juridical person has multiple licenses, the license with the earliest issuance date shall be considered for determining the timeline.
- A juridical person that is a *Resident Person*, incorporated or otherwise established or recognised on or after the effective date of this Decision, shall submit the Corporate Tax Registration application, in accordance with the following table:

Category of Juridical Person	Deadline for Submitting a Tax Registration Application
Resident Juridical Persons, including a Free Zone Person	3 months from the date of incorporation, establishment or recognition
Foreign juridical person, effectively managed and controlled in the State	3 months from the end of the Financial Year of the person

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4. A juridical person, that *is a Non-Resident Person prior to the effective date of this Decision*, shall submit a Tax Registration application in accordance with the following table:

Category of Juridical Person	Deadline for Submitting a Tax Registration Application
A person that has a Permanent Establishment in the State	9 months from the date of existence of the Permanent Establishment
A person that has a nexus in the State	3 months from the effective date of this Decision

5. A juridical person, that is a *Non-Resident Person on or after the date of this Decision*, shall submit a Tax Registration application in accordance with the following table:

Category of Juridical Person	Deadline for Submitting a Tax Registration Application
A person that has a Permanent Establishment in the State	6 months from the date of existence of the Permanent Establishment
A person that has a nexus in the State	3 months from the effective date of this Decision

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Federal Tax Authority Decision No. 3 of 2024 – Registration Timeline for Corporate Tax

6. A **natural person** conducting a Business or Business Activity in the State shall submit a Tax Registration application in accordance with the following table:

Category of Juridical Person	Deadline for Submitting a Tax Registration Application
A Resident Person who is conducting a Business or Business Activity during the 2024 Gregorian calendar year or subsequent years whose total Turnover exceeds the threshold of AED 1 million.	31 March of the subsequent Gregorian calendar year
A Non-Resident Person who is conducting a Business or Business Activity during the 2024 Gregorian calendar year or subsequent years whose total Turnover exceeds the threshold of AED 1 million.	3 months from the date of meeting the requirements of being subject to tax

7. The aforesaid decision will be effective from 1st March 2024. Further, it is to be noted that non-compliance of the above-mentioned deadlines for submitting a Corporate Tax Registration Application will result into the penalty of AED 10,000, as mentioned in the Cabinet Decision No. 10 of 2024 will be effective from 1st August 2023.

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Corporate Tax Guides – Taxation of Partnerships

The Corporate Tax Guide was issued by the Federal Tax Authority to provide general guidance on taxation of partnerships.

1. A partnership may be an incorporated partnership or an Unincorporated Partnership. The key distinguishing factor between the two is that an incorporated partnership has a separate legal personality distinct from its partners whereas an Unincorporated Partnership does not. Incorporated partnerships are considered juridical persons for the purposes of the Corporate Tax Law.
2. List of entities considered as Incorporated Partnerships are:
 - Joint Liability Company
 - Limited Partnership Company
 - Civil Company
 - General Partnership
 - Limited Liability Partnership
 - Limited Partnership

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3. Unincorporated Partnership is defined as a relationship established by contract between two or more Persons, in accordance with the applicable legislation of the UAE. This can be to carry on a Business or a project and share its profits and losses, such as a partnership, trust, joint venture, consortium, association of persons, etc.
4. As per the UAE CT Law, an Unincorporated Partnership is not considered a Taxable Person in its own right. Instead, it “looks through” the Unincorporated Partnership and taxes each partner directly on their share of profits or gains. Such a partnership is considered to be “fiscally transparent”. The partners in an Unincorporated Partnership can make an application to the FTA for the Unincorporated Partnership to be treated as a Taxable Person in its own right. An Unincorporated Partnership treated as a Taxable Person is considered to be “fiscally opaque”.
5. An Unincorporated Partnership relationship can exist between a number of natural persons, a number of juridical persons or a combination of juridical persons and natural persons. The partners can be incorporated partnerships, residents and nonresident persons, UAE and foreign incorporated companies.

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6. An Unincorporated Partnership cannot become a partner in a partnership as it does not have a separate legal personality, even where the Unincorporated Partnership is treated as a Taxable Person in its own right.
7. An Unincorporated Partnership is the result of a contractual relationship between its partners. Thus, the Business of an Unincorporated Partnership and its owners or partners is considered to be the same, i.e. the partners are deemed to be conducting the Business of the Unincorporated Partnership and they remain jointly and severally liable for the Corporate Tax Payable for the Tax Periods when they are partners in the Unincorporated Partnership.
8. Generally, the distributive share of partners is defined prior to the commencement of Business or during the course of Business of the Unincorporated Partnership by way of a partnership deed or agreement. In case the distributive share of any partner in an Unincorporated Partnership cannot be identified, then the assets, liabilities, income and expenditure of the Unincorporated Partnership will be treated by FTA as allocated equally to each partner.

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9. UAE CT Law treats partners in an Unincorporated Partnership as conducting the Business of that partnership. Thus, for a natural person, when considering if they fall within the scope of Corporate Tax, they must consider the nature of the Business or Business Activity conducted by the Unincorporated Partnership and whether it would constitute Personal Investment or Real Estate Investment. If so, the income from such activities is disregarded by the natural person as it falls outside of the scope of Corporate Tax.
10. Where a Business or Business Activity is conducted by the Unincorporated Partnership, the natural person must include their distributive share of the Turnover of such partnership with any other Turnover of such natural person to determine whether it exceeds AED 1 million in a Gregorian calendar year.
11. A juridical person that is a Resident Person is subject to Corporate Tax in proportion to its distributive share in the fiscally transparent Unincorporated Partnership together with any other Business it conducts. However, whether or not it has a Corporate Tax liability will depend on multiple factors, including, whether it is eligible to make an election for Small Business Relief.

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12. A juridical person that is a Non-Resident Person will be subject to Corporate Tax on its distributive share in the fiscally transparent Unincorporated Partnership if the Unincorporated Partnership constitutes a Permanent Establishment in the UAE or nexus in the UAE. If not, the distributive share of that partner in the Unincorporated Partnership will be treated as State Sourced Income
13. The partners of an Unincorporated Partnership have the option to make an application to the FTA for the Unincorporated Partnership to be treated as a Taxable Person, i.e. fiscally opaque. If the application is approved by the FTA, the Unincorporated Partnership will be treated as a Taxable Person. It will be subject to Corporate Tax as a Resident Person. As a Taxable Person, it will determine its Taxable Income and pay Corporate Tax on its own profits, instead of the partners.

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Corporate Tax Guides – Taxation of Partnerships

14. Taxability of Income Received by the Unincorporated Partnership and/or its partners.

Item	Fiscally transparent Unincorporated Partnership	Fiscally opaque Unincorporated Partnership
Income from investments made by the Unincorporated Partnership	<p>If the person is a juridical person – Income in nature of dividends or other profit distributions will pass directly to partners in their profit share and will be taxable in the hands of partners. Such income will be exempt from Corporate Tax or as per the provisions of Participating Interest as the case may be in the hands of the partners.</p> <p>If the person is a natural person – Income earned will be treated as Personal Investment income if the same is on their personal account and is neither conducted through a license or requiring a license from a Licensing Authority in the UAE. If the income received is in course of Business Activity, such receipts will need to be considered in the determination of taxable income of the natural person.</p>	Any income received by a fiscally opaque Unincorporated Partnership will be treated for Corporate Tax purposes as income in the hands of the partnership and not in the hands of the individual partners.

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Item	Fiscally transparent Unincorporated Partnership	Fiscally opaque Unincorporated Partnership
Share of Profits in the partnership received by the partners	Income from the Business of the Unincorporated Partnership is subject to Corporate Tax in the hands of the partners in accordance with their distributive share taking into consideration whether the partner is a natural person or a juridical person.	Any income received by a partner (natural or juridical person) will not be considered when determining the Taxable Income in the hands of the partners, on the basis that the income is already taken into account in the determination of the Taxable Income of the fiscally opaque Unincorporated Partnership.
Gain or loss on transfer, sale or disposal of partner's distributive share in the partnership	The Unincorporated Partnership does not have a separate legal personality distinct from its partners. Hence any gain or loss on transfer, sale or other disposal of a partner's distributive share in the Unincorporated Partnership will be treated as Business income, subject to Corporate Tax in the hands of the partners.	Any gain or loss on transfer, sale, or other disposal of a partner's distributive share in the Unincorporated Partnership, or part thereof, is not subject to Corporate Tax in the hands of the partners, provided that the distributive share meets all the conditions of the Participation Exemption. The FTA will apply the Participation Exemption even though the Unincorporated Partnership itself is not a juridical person.

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15. Implications on Interest paid to partners on their capital contribution.

Item	Fiscally transparent Unincorporated Partnership	Fiscally opaque Unincorporated Partnership
Interest paid to partners on their capital contribution by the Unincorporated Partnership	<p>Implications for the Unincorporated Partnership - Not applicable as the fiscally transparent Unincorporated Partnership is not treated as a Taxable Person.</p> <p>Implications for the Partners – Interest expenditure on a capital contribution must be disregarded by such partners in the determination of their Taxable Income to the extent of their distributive share.</p> <p>If the partners receive Interest on their capital contribution, the same will be treated as Interest income i.e. taxable receipt, and must be considered in the determination of the Taxable Income of the partner</p>	<p>Implications for the Unincorporated Partnership - Interest paid by a fiscally opaque Unincorporated Partnership to its partners on their capital contribution is treated as a profit distribution or benefit of a similar nature. Hence it will not be allowed as a deduction in determining the Taxable Income of the fiscally opaque Unincorporated Partnership.</p> <p>Implications for the Partners – Interest on capital contribution received by partners in a fiscally opaque Unincorporated Partnership will be excluded from the Taxable Income of the partners on the basis that such income has already been subject to Corporate Tax at the level of the partnership.</p>

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16. Implications on Interest paid to partners on loans advanced by partners.

Item	Fiscally transparent Unincorporated Partnership	Fiscally opaque Unincorporated Partnership
Interest paid to partners on loans advanced by partners	<p>Implications for the Unincorporated Partnership - Not applicable as the fiscally transparent Unincorporated Partnership is not treated as a Taxable Person.</p> <p>Implications for the Partners – If the Unincorporated Partnership obtains a loan from any of the partners for the purposes of the Business, and Interest paid on such loans is at arm's length, the Interest expenditure will be deductible while determining the Taxable Income of the partners.</p> <p>For the partner (or partners) receiving such interest income, it must be taken into account when determining the Taxable Income of the partner.</p>	<p>Implications for the Unincorporated Partnership - Interest paid by a fiscally opaque Unincorporated Partnership to its partners on loans advanced by the partners will be deductible while determining the Taxable Income of the partnership if the Interest paid on the loans was incurred wholly and exclusively for the purposes of the Business of the partnership and is at arm's length.</p> <p>Implications for the Partners – Interest income received by the partners on loans advanced to the partnership will be Taxable Income in the hands of the partners and will be taken into account while determining the Taxable Income of the partners.</p>

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17. Implications on Salary paid to partners by the Unincorporated Partnership.

Item	Fiscally transparent Unincorporated Partnership	Fiscally opaque Unincorporated Partnership
Salary paid to partners by the Unincorporated Partnership	<p>Implications for the Unincorporated Partnership - Not applicable as the fiscally transparent Unincorporated Partnership is not treated as a Taxable Person.</p> <p>Implications for the Partners that is a natural person – Any salary received by the partners (natural persons) will be treated as an amount withdrawn from the Business and hence the same will be non-deductible while determining the Taxable Income of the partners.</p> <p>The partner receiving such amount must include such amount in the determination of its Taxable Income</p>	<p>Implications for the Unincorporated Partnership – Where in a fiscally opaque Unincorporated Partnership salary is paid to a partner, the same will be treated as profit distributions or benefits of a similar nature paid to the owner, i.e. the partner (natural person). Hence such salary will be non - deductible for Corporate Tax purposes for the partnership.</p> <p>Implications for the Partners that is a natural person– A salary received by the relevant partner will be excluded from the Taxable Income of such partner on basis that such income has already been subject to Corporate Tax at the level of the partnership.</p>

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18. Implications on Payment to partners for services provided to an Unincorporated Partnership.

Item	Fiscally transparent Unincorporated Partnership	Fiscally opaque Unincorporated Partnership
Payment to partners for provision of services	<p>Implications for the Unincorporated Partnership (Expenditure) - Not applicable as the fiscally transparent Unincorporated Partnership is not treated as a Taxable Person.</p> <p>Implications for the Partners that is a natural person – Services are for the business and payment is at arm’s length, the payment for services will be deductible while determining the Taxable Income.</p>	<p>Implications for the Partnership (Expenditure) – If a partner renders certain services to a fiscally opaque Unincorporated Partnership not in their capacity as a partner (or employee), but as a service provider, payment for such services should be allowed as a deduction in determining the Taxable Income of the Unincorporated Partnership, provided that payment meets the arm’s length standard and is incurred wholly and exclusively for the purpose of the Business of the Unincorporated Partnership.</p>
	<p>Implications for the Partners (Income) - Any income received by a partner for the services rendered will be taken into account in that partner’s Taxable Income, separate and in addition to the partner’s income from the partnership and accordingly will be included in determining that partner’s Taxable Income. If the income is received by a partner who is a juridical person, it would generally be part of their Taxable Income for Corporate Tax.</p>	

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19. Reimbursement of Expenditure to Partners

Item	Fiscally transparent Unincorporated Partnership	Fiscally opaque Unincorporated Partnership
Reimbursement of Expenditure to Partners	<p>Implications for the Partnership - Not applicable as the fiscally transparent Unincorporated Partnership is not a Taxable Person and is not subject to Corporate Tax.</p> <p>Implications for the Partners – When expenditure incurred for partnership is reimbursed to the partner in the accounts of the Unincorporated Partnership, such reimbursed cost would be deductible by the partners in proportion to their distributive share.</p> <p>In case of reimbursement, such partner is effectively entitled to the deduction of such expenditure to the extent of the reimbursement</p>	<p>Implications for the Partnership – If a expense incurred for partnership is reimbursed to the partner, then the partnership can claim the reimbursement as a deduction when determining the Taxable Income of the Unincorporated Partnership subject to the general deductibility rules.</p> <p>Implications for the Partners – The partner would similarly set – off the expenditure incurred against the reimbursement received in the determination of its own Taxable Income separate from that of the partnership, if applicable.</p> <p>Incase where reimbursement received is part of the incurred amount, deduction cannot be claimed against any other taxable Business the partner is conducting.</p>

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20. The Corporate Tax Law allows a Taxable Person to reduce its Taxable Income by offsetting part of the Tax Loss accumulated in previous years. A Taxable Person can use a Tax Loss up to an amount of 75% of the Taxable Income (before any Tax Loss relief) for the relevant Tax Period. An unutilised Tax Loss can be carried forward and utilised in subsequent Tax Periods indefinitely subject to the fulfilment of one of the conditions of Continuity of Ownership and Continuity of Business.
21. The partners of an Unincorporated Partnership can file an application with the FTA for the Unincorporated Partnership to be treated as a Taxable Person in its own right. Where the application is approved, the Unincorporated Partnership will be treated as a Taxable Person from:
 - The beginning of the Tax Period during which the application was filed by the partners,
 - The beginning of a future Tax Period, or
 - Any other date determined by the FTA.
22. An application by the partners for the Unincorporated Partnership to be treated as a Taxable Person, once approved by the FTA, is irrevocable. Once the FTA approves the application for an Unincorporated Partnership to be treated as a Taxable Person, the Unincorporated Partnership is required to notify the FTA within 20 business days from the time any partner joins or leaves the Unincorporated Partnership.

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23. The partners of a fiscally transparent Unincorporated Partnership are required to appoint one of the partners as an authorised partner to act on behalf of all the partners in any tax obligations and procedures. The authorised partner is required to submit an application to the FTA for registration of the Unincorporated Partnership for Corporate Tax purposes and obtain a Tax Registration Number, which will not be active. Obtaining the Tax Registration Number does not make the fiscally transparent Unincorporated Partnership a Taxable Person subject to Corporate Tax, but is a compliance requirement.
24. If an Unincorporated Partnership is treated as fiscally transparent, it is not required to file a Tax Return. The partners of the Unincorporated Partnership are required to file their individual Tax Return for their distributive share in the Unincorporated Partnership by the normal deadline of 9 months from the end of the relevant Tax Period. However, the partners of the fiscally transparent Unincorporated Partnership must appoint one of the partners as an authorised partner to act on behalf of all partners in relation to any tax obligations and procedures.
25. If an Unincorporated Partnership is treated as a Taxable Person, i.e. fiscally opaque, it is required to file its Tax Return by the normal deadline of 9 months from the end of the relevant Tax Period.

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26. The FTA can request any Taxable Person to submit the Financial Statements used to determine the Taxable Income for a particular Tax Period in the form and manner and within the timeline prescribed by the FTA. Where the partners of an Unincorporated Partnership have made an application to the FTA to treat the partnership as a Taxable Person, the FTA can request Financial Statements directly from the Unincorporated Partnership.
27. In the case of a fiscally transparent Unincorporated Partnership, the FTA can request the authorised partner to provide Financial Statements showing the total assets, liabilities, income and expenditure of the Unincorporated Partnership along with each partner's distributive share in the Unincorporated Partnership's income, expenses, assets and liabilities
28. A Foreign Partnership is a relationship established by contract between two or more Persons, such as a partnership or trust or any other similar association of Persons, in accordance with the laws of a foreign jurisdiction.
29. A Foreign Partnership is treated as a fiscally transparent Unincorporated Partnership for the purposes of the Corporate Tax Law provided it satisfies all of the following conditions:
 - The Foreign Partnership is not subject to tax under the laws of the foreign jurisdiction where it is established.

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- Each partner in the Foreign Partnership is individually subject to tax on their distributive share of any income of the Foreign Partnership as and when the income is received by or accrued to the Foreign Partnership.
- The Foreign Partnership submits an annual declaration to the FTA to confirm that it has met the conditions (a) and (b) listed above.
- There are adequate arrangements for cooperation between the UAE and the foreign jurisdiction under whose applicable laws the Foreign Partnership is established, for the purpose of sharing tax information of the partners in the Foreign Partnership.
- If a Foreign Partnership does not meet the conditions specified above, then it will be regarded as a fiscally opaque entity for Corporate Tax purposes.

30. Incorporated partnerships which are treated as juridical persons as per the respective Free Zone laws could be treated as a Free Zone Person.

31. If the Unincorporated Partnership is fiscally transparent, the Free Zone partner would have to evaluate how it is subject to Corporate Tax on its distributive share from the Unincorporated Partnership depending on whether it is a Qualifying Free Zone Person earning Qualifying Income.

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32. If the Unincorporated Partnership is treated as a Taxable Person (i.e. fiscally opaque), the partnership itself would be subject to Corporate Tax. The tax treatment for a Free Zone Person, that is a partner in a fiscally opaque Unincorporated Partnership, is the same as for any other type of partner.
33. Since an Unincorporated Partnership (whether fiscally transparent or opaque) is not a juridical person, even if it sets up a branch in the Free Zone, it will not be eligible to benefit from the Free Zone Corporate Tax regime.
34. For a fiscally transparent Unincorporated Partnership, the gain or loss made on the disposal of the partner's distributive share will be considered for the determination of the partner's Taxable Income, if the partner is a Taxable Person.
35. For a fiscally opaque Unincorporated Partnership, any gains or losses on the transfer, sale, or other disposal of the distributive share in the Unincorporated Partnership, or part thereof, would not be subject to Corporate Tax in the hands of the partners

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36. For Unincorporated Partnerships, partners shall be treated as Connected Persons and any payment between such partners should be in accordance with the arm's length standard. The same applies to any Related Party of a partner in an Unincorporated Partnership. In an Unincorporated Partnership, all transactions with and between the partners should be in accordance with the arm's length standard.

Further, a payment or benefit provided by a Taxable Person to its Connected Person is deductible only to the extent it is at Market Value and incurred wholly and exclusively for the purpose of the Taxable Person's Business.



VAT IN Kuwait

KUWAIT VAT UPDATES

VAT UPDATES

VAT may not be implemented in Kuwait in near future

Based on media reports, it is to be noted that VAT may not be implemented in Kuwait in near future. However, the Government of Kuwait aims to introduce Excise tax and Corporate tax within next three years.

Further, it is pertinent to note that Qatar and Kuwait are yet to implement VAT out of six GCC countries and Oman became the latest country in GCC to implement VAT.



KSA OTHER REGULATORY UPDATES

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OTHER REGULATORY UPDATES

Tax Rules for Regional Headquarters

The ZATCA of KSA has recently published “Tax Rules for Regional Headquarters”. Said rules provide the terms and conditions that multinational companies are willing to establish their Regional Headquarters in KSA. It is to be noted that the said decision is effective from 16 February 2024.

It is to be noted that the following tax incentives will be granted to Regional Headquarters if they meet the qualification criteria set by the relevant authority:

1. Zero percent (0%) income tax on qualifying income
2. Zero percent (0%) withholding tax on qualified payments made by the Regional Headquarters to non-resident persons

KSA OTHER REGULATORY UPDATES

OTHER REGULATORY UPDATES

Invoice Number (020) in Payment Operations

The ZATCA of KSA has requested the taxpayers and customers to use invoice number '020' in payment operations through all payment systems, while paying Zakat, Tax, and Customs dues, stating that the invoice number '030' previously allocated to customs services has been canceled.

The Authority has further instructed all beneficiaries of its services to ensure that only the invoice number (020) is used to ensure that Zakat, Tax and Customs dues are paid correctly.



THANK YOU

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