FOCUS

Quarterly Newsletter
Volume 102 Winter 2022

UAE 2022 Outlook: The V-shaped recovery to continue

The UAE economy is expected to grow 2.1% in 2021 vs. -6.1% in 2020. The economic recovery is largely led by spectacular inoculation drive (91% of population received at least one dose), DH 400 million worth of economic stimulus and vision of leaders of the UAE has driven recovery.

This growth will further expand to 4.2%, higher than earlier forecast of 3.8% by CBUAE. Expo 2020 has already started having a lasting impact on business environment, job creations and overall attractiveness of UAE as a center of global economy and trade. The entrepreneurs have already started reaping very positive benefits of Dubai Expo 2020.

Mega events such FIFA world cup, normalcy of relationship with countries such as Israel and Qatar, along with rebounding of travel industry will set key grounds for growth in 2022 and serve as prime growth engine for the UAE economy.

In the region overall, including travel and tourism which was worse hit hard in past, economic activity is reaching at pre-covid level. Dubai' flagship air is preparing ready with the heavy investment and recruitments for growth. Oil prices at also at their highest sustained level since 2014. As per IMF forecasts, GCC will return to fiscal balances in 2023 for the first time since 2014.

The V-shape recovery of the UAE economy is a sign of resilience and reflects long term vision of leadership across the emirates. As a silver lining to the crisis, Businesses as well as government services across the country now are more agile, digitized and prepared for any geo-political or economic crisis.

It is up to local and relevant international businessmen to identify the huge opportunity available for them to reap the reward. The leadership of the country is providing huge platforms for all.

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40 years in the U.A.E

Culture and Quality – if you are sceptical about this, please do not read further

That's great. It means we're on the same page. We both believe the right culture can help improve Quality, across all service lines.

Our Network's Culture

Culture is a critical component of our Network's ability to deliver high quality service in public interest. Our culture ought to have two main characteristics:

- **Independence** – A mindset rather than a compliance requirement.
- **Professional Scepticism** – The right people challenging others.

A cornerstone of being able to challenge effectively (the judgment and not a particular individual or team) is behavioural change.

The focus needs to be on the changing an individual's ability to exercise professional scepticism, rather than adopting mechanistic approaches.

Professional Scepticism has assumed utmost significance in the profession and is required to be exercised all the time while performing the duties with the clear public interest purpose of the engagement in mind.

This means not accepting the first response at the face value but making corroborative inquiries and not be satisfied with just assurance. Rather building a file with adequate independent supporting evidence, that helps support strong application of application Auditing Standards.

At all times, we need to remain independent and ensure the right subject matter experts are assigned. Developing a challenging mindset will help you exercise healthy professional scepticism. Only then truly do we have a winning shot at helping our clients make Smart Decisions that bring Lasting Value.

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VAT Recovery for Purchasing Goods or Services to be Used by Employees

Companies may purchase goods or services to be used by employees to perform their role, as part of a remuneration package, or as entertainment.

In case an employee uses goods or services purchased by the company for its personal benefit, the VAT incurred on related costs may not be recoverable by the company (albeit only in exceptional cases). The Federal Tax Authority ("FTA") has released two Public Clarifications (VATP005 and VATP0028) on recovery of VAT for businesses on costs when the sole business use can be questioned.

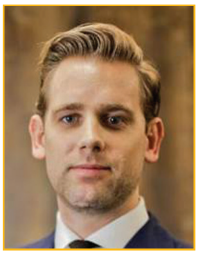
In our experience, the FTA is strict with approving the VAT recovery on purchase of goods and services to be used by employees. In many cases, the FTA requests for documented evidence of the sole business use of the company assets.

When a company purchases of goods or services to be used by its employees, different consequences for VAT recovery may apply:

- The goods or services provided purchased by the company are strictly used by its employee for business purposes. The VAT on costs associated with the goods or services can be recovered by the company (if input tax recovery conditions are met).
- The goods or services provided by the company may be used for the personal benefit of its employee. The VAT on purchases of goods or services is not recovered by the company.
- The VAT is recovered by the employer on purchased goods and services, but it has been used for the personal benefit of the employee. In such case the employer must account for VAT as a "deemed supply". In case of a deemed supply, 5% VAT should be accounted for by the company on the cost value of the goods or services as if a taxable supply is made.

Companies should consider the following points when purchasing goods or services to be used by its employees:

- Whether the goods or services provided to an employee without consideration can solely be used for business purposes, or also for private purposes. If there is a potential private use of company assets by the employee, then determine what is the impact on the input VAT recovery on related purchases.
- In case a company recovers VAT on company assets provided to employees, then ensure that a strict company policy is in place prescribing the sole business use.
- As part of the company policy as mentioned above, employers should include the repercussions of not abiding by the policy by employees. Also, the employer should retain proof of action taken against employees not complying with the documented policy.
- Employers should weigh the cost of implementing the company policies against the amount of recoverable VAT on goods or services purchased to be used by its employees.



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New Labor Law: Positive move to attract global talent

On 16 November 2021, significant changes were announced to the employment law in the UAE. A new UAE Labour Law (Federal Decree Law No. 33 of 2021) was introduced, and it will come in force on 02 February 2022.

One of the main goals of the new law is to ensure the efficiency of the labour market in the UAE, which contributes to the attraction and retention of best future talent and skills. Further, it also aims to enhance productivity, flexibility, sustainability, and security for both employer and employees. With the said objectives clearly reflected in the new law, UAE is very likely to create more confidence in the minds of the global investors and thereby attracting foreign direct investments.

Following are some of the newly introduced articles / provisions:

- The employment contract is specified to be a period not exceeding three years and, by agreement of the parties, may be subject to renewal or extension. Therefore, the unlimited contracts have been discontinued on a going forward basis.
- As a step towards recognizing the need for flexible working structures, various models of work have been introduced (including but not limited to full-time, part-time, temporary, flexible).
- Another welcoming move are provisions related to anti-discrimination, harassment, and equality. It emphasizes on equal opportunities, access to jobs, and treatment of working women. It has specific provisions against the use of force, sexual harassment, and bullying against the employee or among employees.
- Non-compete clause is now more elaborated than the erstwhile provisions.
- New leave types have been introduced thereby entitling the employee to mourning, parental and study leaves. As the next steps, the authorities are expected to issue the Executive Regulations to provide clarity around various aspects of the new law (specially for the transition / implementation period).

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Changing Phase of the UAE Employment Markets

Equality
The new labour law focuses on ensuring on establishing equality and opportunities for all. Further, to establish equality in the workforce, female employees shall be subjected to all provisions and shall receive same wage as men. In addition, the new law prohibits employment of minors i.e., persons who have not attained the age of 15. The law permits employment of juveniles subject to certain restrictions to safeguard their interest.

Types of Contracts
There has also been an introduction of various models of work contracts that have been classified into full time, part time, temporary, flexible work and any other model specified by the Executive Regulations of Decree Law.

Depending on the model of work, the contract between the employer and the employee would have to be finalized and for the template of the contract, one would have to refer to the Executive Regulations of the decree.

Probationary Period
The probation period of an employee has been restricted to not exceed 6 months from the date of commencement of service, while the arrangement could be terminated by the employer with a written notice of not less than 14 days during such period.

However, should an employee during his ongoing probation, desire to resign and move to another employer in the UAE he would have to serve a written notice of a month but a foreign employee desirous of leaving UAE, would have to serve a written notice of 14 days.

Non-Compete Clause
The new law protects employer confidentiality by insertion of the Non-Compete Clause, whereby an employee who has access to his business secrets and clients may not establish himself in competition for a period of 2 years from the termination of contract.

We have only briefly covered few aspects of the updated law. Once the executive regulations are published, there would be greater clarity on each of the aspects within the law.

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Pillar-Two Model Rules for the Domestic Implementation of the Global Minimum Tax Released by the OECD

On 20 December 2021, the OECD released a set of rules that is aimed at assisting in a global reform of the international tax system. The Pillar-Two model rules will provide governments with a template for the implementation of the Two-Pillar solution, which is designed to oppose the tax challenges arising from digitalisation and globalisation of the economy. The Two-Pillar solution was formally agreed in October 2021 by 137 countries and jurisdictions under the OECD/G20 Inclusive Framework on BEPS.

The Pillar-Two model rules clarify the mechanism for the Global Anti-Base Erosion (Globe) rules under Pillar Two, which will introduce a global minimum corporate tax rate set at 15%. The minimum tax will apply to MNEs with a revenue above EUR 750 million and is estimated to generate around USD 150 billion in annual additional global tax revenues.

Moreover, the Globe rules will also include a so-called “top-up tax” that will be applied to profits in any jurisdiction whenever the effective tax rate is below the minimum 15% rate. This will, in the OECD’s view, foster a coordinated system of taxation which will force large MNE groups to pay a minimum level of tax on income arising in each of the jurisdictions in which they operate.

As part of an effort to assist countries in the implementation of the Globe rules into their domestic legislation in 2022, the Pillar-Two model rules:

- Define the MNEs within the scope of the minimum tax;
- Set out a mechanism for calculating an MNE’s effective tax rate on a jurisdictional basis, and for determining the amount of top-up tax payable under the rules; and
- Impose the “top-up tax” on a member of the MNE group in accordance with an agreed rule order.

Soon after the release of the Pillar-Two rules by the OECD, on 22 December 2021, the European Commission issued a proposal for a Council Directive concerning a global minimum level of taxation for multinational groups (“Council Directive”). The Council Directive follows closely the OECD’s Two-Pillar rules and sets out how the principles relating to the 15% effective tax rate will be applied within the EU. Special attention is paid to the principles regulating the calculation of the tax rate, particularly with reference to the so-called “top-up tax”. Such a tax is applied irrespectively of whether the subsidiary is located in a country that has signed up to the international OECD/G20 agreement or not, and is composed of an “Income Inclusion Rule” and a backstop rule named “Undertaxed Payment Rule”.

As of May 2018, the UAE has been an official member of OECD BEPS project. As such, following the 8 October 2021 statement, the UAE agreed to implement the OECD’s Two-Pillar approach to reform its International Tax framework and to implement a minimum Corporate Tax rate of 15% starting 2023. The implementation of a Global Minimum Tax at 15% will without question heavily impact the UAE, effectively neutralizing the tax benefits of the UAE as a country. Moreover, relevant MNEs should evaluate the potential impact of the global minimum tax on intra-group transactions and contracts, as well as the possible additional costs to their business.

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For more information
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About Us

Crowe UAE provides audit, tax, advisory, risk, human capital, and intellectual property services with global reach and local expertise. We are an independent member of Crowe Global, the eighth largest accounting network in the world. With exceptional knowledge of the business environment, our professionals share are committed to building value for our clients and to deliver service excellence.

While placing great emphasis on establishing professional relations with each of our clients. This enables to work in an atmosphere of openness and trust. Our broad technical expertise and deep market knowledge means we are well placed to offer insight and pragmatic advice to all the organisations and individuals with whom we work. Close working relationships are at the heart of our effective service delivery.