

# Konnect

Newsletter

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## Editorial

It now appears certain that Europe and USA will be passing through a long phase of slow growth rate. Though the so called 'fiscal cliff' has been averted temporarily in the USA, it remains to be seen as to how the political class agrees on a long term sustainable budget balancing either by way of increased taxes and/or reduced spending. Both the solutions for achieving sustainable balanced budget comes with its own fallouts. Germany, the engine of Euro economy also seems faltering with low growth rates.

Japan with its decade long recession also appears to be far from coming out of the woods in near future. Even amongst developing & emerging economies, the growth rates in India and China also seems to be faltering but still remain way above the developed economies' growth rate.

It is hence certain that in the foreseeable future, the Middle East and emerging economies will drive global growth. Amongst middle-eastern economies, UAE apart from Qatar, in particular, is showing signs of recovery. Although the recovery is confined to few sectors viz. tourism, trade, real estate but this instills confidence in the economy. This along-with the announcement of mega projects by Government of Dubai creates positive sentiment amongst the business community in UAE. Although execution of these projects may be few years away.

We thus feel that in coming few years, UAE should be on a growth path achieving more than 5% GDP growth. Businesses should hence plan for their future expansions & growth so that they can capitalize on the next wave of sustained growth.

We are at your disposal to assist & guide you in planning for future business expansions.

Vipul R Kothari  
Managing Partner



## Food for Thought



- Shareholding in UAE entity be held in the name of an offshore company in order to ensure continuity and smooth operations even on death of any of the individual director / ultimate beneficiary.
- Keep borrowing to below 75% of the net worth in order to avoid debt trap.

**China trade via JAFZA in 2012 expected to exceed Dh40bn**



China remains one of the top global trade partners for Jebel Ali Free Zone (JAFZA) with trade figures expected to cross Dh40 billion for the year 2012.

According to JAFZA, trade increased by 10% as compared to last year. With Chinese multi-nationals such as Sinopec Group, Sinochem International, China National Petroleum Corp., CSCEC, and China Railway Engineering Middle East having their base in JAFZA, Chinese companies in the free zone have more than doubled from 64 in 2007 to 130 till the end of the third quarter of 2012.

China's strong growth in JAFZA is reflective of the world's second largest economy's ever-increasing interest in the Middle East region for its non-oil exports. China's interest in the region was traditionally built and driven by oil as almost a quarter of China's daily oil requirement being derived from the Middle East's oil producers.



JAFZA's state-of-the-art facilities and advanced logistics capabilities serve the entire region most effectively and is one of the most influencing factors for the Chinese investors and entrepreneurs.

Over the past few months, JAFZA has witnessed five important trade delegations visiting the free zone to explore and develop new trade and investment opportunities.

JAFZA's outstanding infrastructure facilities cater to various multinationals in the oil and petrochemical sector in the entire Middle East and Asian markets. Considering the rising interest of Chinese businesses and investors in the Middle East, JAFZA expects a momentous boost in the number new Chinese companies joining the Free Zone this year.

**Australia-UAE Trade Ties Set To Strengthen**



With the advent of a recent high level business delegation, the existing strong trade and investment relations between Australia and UAE are envisaged to be further enhanced.

After visits to Jeddah and Riyadh, the Australia Gulf Council (AGC), a not-for-profit organization arrived in Abu Dhabi on 5th December 2012. The AGC endeavors to further strengthen the business relationship between Australia and the Gulf States. The focus was on developing greater trade ties in key sectors, involving 12 business leaders from some of Australia's top companies.



المجلس الأسترالي الخليجي  
AUSTRALIA GULF COUNCIL

The AGC functions in close conjunction with the Australian Department of Foreign Affairs and Trade (DFAT) and Australian Trade Commission (Austrade). UAE is acclaimed to be having a successful business association with Australia in general and AGC in particular. Testimony to this is the fact that in a time span of 15 years, the UAE has now become Australia's sixteenth largest trading partner.

In the year 2011-12, two-way merchandise trade between Australia and UAE amounted to AU\$ 5.9 billion. Major export items included, passenger motor vehicles (AU\$199m), meat (excluding beef) (AU\$132m), uncoated flat-rolled iron and

steel (AU\$91m) and vegetables (AU\$87m). Major imports from the UAE to Australia included Crude petroleum (AU\$3,198m) and Liquefied propane and butane (AU\$218m).

Huge potential still exists for further growth between these two economies, which complement each other very well. Facilitating this growth, there are close to 100 flights per week between the two nations. This was AGC's third visit to the region since the previous highly successful one in 2010.

The management at AGC is highly committed to develop stronger and sustained linkages across the business and government communities as is evident from the mutually beneficial relationships established between the Gulf States and Australia not only through corporate partners, but also other commercial, government, non-government and diplomatic stakeholders. They expect to further strengthen the connections with the region and create new partnerships.

The focus was on sectors that had representation on this business mission which included agriculture, automotive, construction, engineering, education, financial services, food and beverage, telecommunications, transport and tourism.

**Business and Investment opportunities valued at \$70b in Qatar**



At the Country Focus Briefing: Qatar 2012, Hamad Buamim, Director General of Dubai Chamber of Commerce and Industry commented that Qatar needs a consortium of investments worth \$70 billion between 2014 and 2022 across all business sectors to boost its econ-

omy, which is growing rapidly in the region.



This will include infrastructure and hospitality amounting to \$25 billion, roads and transportation worth \$21 billion, \$10 billion towards logistics and \$4 billion in building stadiums. In addition, during this period the country needs to build 140 hotels with a capacity of 55,000 rooms. There exists a great opportunity for businesses to explore investment opportunities in Qatar and employ their experience in leveraging the nation hosting the FIFA World Cup in 2022. Qatar is well placed for a remarkable growth phase thereby attracting huge foreign investments and Gulf businesses, in particular.

The role of the private sector in achieving these targets cannot be undermined as such. Although the initial funding and resources will be found locally, the



private sector will need to play a key role in the country's future mega projects, without which the country will not be able to boost its economy during this critical developmental phase.

Huge investments have been assigned to infrastructure projects and in order to appeal to the private investors,

business-friendly measures have been adopted. The nation's diversified economy provides for investment in critical economic sectors and the role of the private sector is critical in developing a strong partnership between the public and private sectors.

Dubai has an important role to play in assisting Qatar with its own plans for economic diversification whilst also capitalizing on the investment opportunities that exist in Qatar. Dubai is renowned for its success in establishing other industries as drivers of economic growth and is now rightfully perceived as a global leader in sectors such as tourism, trade and logistics.

Trade between Dubai and Qatar was worth Dh7.8 billion in the last year and Qatar was 26th on the list of Dubai's largest trading partners. Imports amounted to Dh1.1 billion, whereas exports and re-exports totaled to Dh6.7 billion.

Although many UAE-based companies have a strong presence in Qatar and the opportunities that Qatar presents far outweigh the obstacles, impediments for enhancing businesses need to be eliminated. Bureaucracy and changing infrastructure continue to remain a challenge and the enormous quantum of paperwork at government entities leads to delays which in turn prove to be expensive. The work culture too is not yet calibrated as per the size of the market and the lack of urgency at the work system can prove to be detrimental to business prospects.

### MBR City expected to boost Dubai's tourism

The Mohammed Bin Rashid City (MBR City) is the largest joint venture in the region's real estate sector which was recently announced by HH Sheikh Mohammed Bin Rashid Al Maktoum, Vice President & Prime Minister of UAE and the Ruler of Dubai. Emaar Properties and Du-

bai Holding unveiled Dubai Hills, the first project in the City. This will not only create additional jobs for professionals in the construction industry but also give a boost to Dubai's tourism sector.



Located between Emirates Road and Al Khail Road, Dubai Hills will be a gated community offering ultra-luxury residences planned around an 18-hole championship golf course. Each villa will be built on lots differing in sizes ranging from 20,000 to 30,000 square feet. The residents will have an easy access to all the lifestyle amenities and facilities inside an integrated neighborhood.

Estimated to cost around £1.7 billion (\$2.74 billion), MBR City will feature four major portions. The first will concentrate mainly on family tourism. It will feature a park which is expected to be 30% larger than Hyde Park in London and capable of handling 35 million visitors. It will have a family-oriented leisure and entertainment center which will be the largest in the Middle East, Africa and the Indian subcontinent. The center will be created in partnership with Universal Studios and is expected include more than 100 hotel facilities.

The second component will focus on retail and will have the largest shopping mall in the world called 'Mall of the World'. It will have the capacity of receiving 80 million visitors a year. The third portion will feature the largest area of art galleries in MENA. The fourth component will concentrate on the development of a unique area offering a combined environment for entrepreneurship and innovation in the region. The residential section of the development is set to adhere to the green building standards with regards to energy consumption,

waste treatment and conservation of natural environment.

With the tourism industry in Dubai having an annual growth of 13% and the hotel revenue growth exceeding 22%, Dubai has managed to achieve and sustain the highest hotel occupancy rate globally in 2011 at 82%.

The third phase of development that is aligned to the 2030 Vision needs to be initiated so as to boost the UAE economy and facilitate it to enter a new era where it becomes the capital of entrepreneurship, arts, culture, and family tourism for over 2 billion people.

ting up an offshore company. Some of important ones include the reputation, political and economic stability of the country, the trustworthiness of its accounting and governmental mechanisms, the company formation bureaucratic requirements, its tax regime and its telecommunication & IT infrastructure.

Being a full member of the European Union, Cyprus has adopted a favorable international tax planning regime for non-residents. As a result, it is gaining popularity among foreign investors and entrepreneurs as a vehicle to maximize their profit and expand their corporate activities.

#### Cyprus companies

Cyprus is one of the top destinations for international company incorporations. It is also one of Europe's most advantageous tax planning locations. International investors are greatly attracted to this region because of its low tax rates. For both resident companies and international companies, the corporate taxation is limited to 10% making Cyprus the lowest taxed region in the European Union.



Cyprus has double tax treaties to prevent double taxation with more than 45 countries around the globe. Some of the countries are Azerbaijan, Armenia, Austria, Belarus, Belgium, Bulgaria, Canada, China, CIS (ex-USSR), Czech Republic, Denmark, Egypt, Germany, France, Greece, Hungary, India, Ireland, Italy, Kuwait, Kyrgyzstan, Lebanon, Moldova, Malta, Mauritius, Norway, Poland, Qatar, Romania, Russia, San Marino, Serbia and Montenegro, Seychelles, Singapore, Slovakia, Slovenia, South Africa, Sweden,

Syria, Tajikistan, Thailand, Ukraine, United Kingdom, United States, Yugoslavia, etc.

Some of the benefits that Cyprus boasts of are as follows:

- 100% tax exemption on profits of international businesses managed and controlled outside Cyprus
- Foreign investor's full anonymity through nominee services
- Tax free dividends
- 100% tax exemption on capital gains
- 100% income tax exemption for foreign employees of international business companies living and working outside Cyprus, if they are paid through a bank operating in Cyprus
- Creation of International (offshore) banking units and establishment of trusts
- No time restriction on carrying forward tax losses
- 100% exemption for profits from disposal of securities
- Duty free shopping for International companies situated in Cyprus
- Registration of ships under the Cypriot flag

#### Cyprus international trust

Cyprus is regarded as an established International business center, attracting foreign investors and entrepreneurs from around the globe, with various consulting firms offering first-rate corporate trust services.

A trust is established by an individual who is known as the Settlor, and is a means whereas the Trust Property can be held by one or more individuals known as Trustees, for the benefit of another or others known as the Beneficiaries. It is valid to say that the Settlor can be a Trustee and the Settlor and the Trustees or any of them respectively can be Beneficiaries. The benefits is that the Central Bank of Cyprus maintains utmost confidentiality regarding the personal details of the trustee, the settlor and the beneficiary and an International

## Jurisdiction - Cyprus



Cyprus is located in the north-eastern end of the Mediterranean Sea and is effectively a crossroads linking Europe, Asia and Africa. As a result, the island has turned into a major shipping, financial and International business center. Its capital is Nicosia. Cyprus has a pleasant climate with dry, hot summers and mild winters. The principal topographical features of Cyprus are the two mountain ranges running along the centre and north-east of the Island, separated by a wide and fertile plain.

The English law as practiced in the United Kingdom is its legal system and all statutes regulating business matters and procedures are based on this. Most laws are officially translated to English. Cyprus economy is based on the free enterprise system. The Government's role is limited to regulation, planning and the provision for public utilities. Greek, English and Turkish are the official languages however English is widely spoken and understood, particularly in commercial and government sectors.

There are various factors that need to be carefully considered when choosing a foreign jurisdiction for the purpose of set-

trust can be a valuable vehicle for tax planning, while its profits can be inherited, tax-free, to heirs or other named people.

For setting up an international trust or an International company in Cyprus, the settlor and the beneficiaries should be non-residents, one of the trustees should be a resident and the property must be located outside the island.

Common types of Cypriot international trusts include fixed trusts, protective trusts, purpose trusts, charitable trusts and discretionary trusts. Today, a very high proportion of tax saving schemes involves trusts as they have traditionally been very important tax planning devices.

Cyprus is a well-established and popular International (offshore) business center due to its economic stability, favorable international tax planning regime, participation in the Double Taxation Treaties, simple International (offshore) company set up procedures and excellent telecommunications infrastructure. The process of a company set up needs to be authorized and authenticated by the Cypriot government, requiring good practices driven business environment. Thus, a specialized consulting firm which can provide a full range of corporate trust services needs to be involved.

dle East, Africa, the Indian Subcontinent and the CIS countries. It has increasingly emerged as growth-driven emirate with an enhanced focus on manufacturing, services, real estate, construction and tourism.



Ras Al Khaimah is the fourth-largest emirate in the UAE, and is currently augmented by a rapidly growing economy. Much of this is attributable to the ambitious process of economic diversification adopted by the government which principally focuses on sectors of industry, trade & commerce, real estate and tourism. On the one hand, its favorable business policies have led to a rapid increase in foreign direct investments, while on the other this has also helped the emirate consolidate its global appeal as a high quality destination for business and leisure.

Topographically, Ras Al Khaimah consists of 65 kilometers of sun-kissed sandy beaches, the Al Hajar Mountain range, coupled with the enormous desert plains in the central region and the green belt in the southern region. These ancillary factors have aided the success of the emirate as a destination of choice.

The Emiri Decree No. (2)/ 2005 issued by H.H. Sheikh Saqr Bin Mohamed Al Qasimi, Supreme Council Member and Ruler of Ras Al Khaimah constituted the RAK Investment Authority (RAKIA). The mandate for RAKIA is to develop the investment climate in the emirate thereby promoting its various economic sectors.

The objective of transforming Ras Al Khaimah into a regional hub for industrial manufacturing, trade and commerce is ably led and guided under the auspices of H.H. Sheikh Saud bin Saqr Al Qasimi, Supreme Council Member and Ruler of Ras Al Khaimah. Testament to this is the

fact that RAK's GDP has increased significantly over the past few years. This growth is primarily driven by enhanced focus on manufacturing, construction, services, real estate and tourism.

RAKIA plays an integral role to further these developments. Established in 2005, it is a feature of the long-term strategy to promote sustainable social and economic development of Ras Al Khaimah. Diversification of the emirate's economy and ultimately transformation of Ras Al-Khaimah as a regional hub for industrial manufacturing, trade and commerce is a high level priority and a key component of this strategic direction. RAKIA has been successful in attracting approximately US\$ 1.2 billion worth of investment within a period of less than 2 years in diverse and strategic fields. Sectors under RAKIA include pharmaceuticals, renewable energy, tourism, heavy engineering, health & education, electronics, consumer products, automotive companies.

Types of Licenses Available include:

- Commercial
- Industrial
- Consulting/Service
- Media



RAKIA's mandate is to develop, manage and sustain the industrial parks which include the free zones as well as industrial zones in Al Hamra and Al Ghail areas of RAK. Regionally in the past, free trade zones have conventionally been perceived as real estate ventures, mainly issuing licenses. However, RAKIA's value-added services ensure that they are not only a provider of facilities, but

**UAE Free Zone - RAKIA**



The emirate of Ras Al Khaimah (RAK) has developed into a preferred destination for investors and holiday seekers alike. Aspects that work in favour of Ras Al Khaimah becoming a destination of choice include an excellent geographical location ideally positioned between the East and West, the first-rate infrastructure, excellent government support towards the private sector, and last but not the least, its pristine natural beauty. These factors lend Ras Al Khaimah a distinct advantage to service and access markets like the Mid-

also offer advisory services related to investments and equity participation on various projects. Benefits from these include inculcation of an atmosphere of trust among investors which leads to a solid network of opportunities. Consequentially, within a period of 3-4 years of its establishment, RAKIA has attracted over US\$2.5 billion in industrial investments alone and led to previously unseen surge in RAK's economic development making it one of the fastest growing emirate in the UAE and the region.

Beyond the region, RAKIA is now setting up an Industrial Free Zone in Georgia (Eastern Europe), under the sponsorship of a subsidiary company. This free zone is first of its kind in the Caucasus Region and its strategic location provides ease of access to the EU, Central Asia and Caucasus/ Eastern European markets. The free zone is being developed in the proximity of Poti Sea Port, which is also a subsidiary of RAKIA. The port is the largest sea port in the Black Sea region and provides a tremendous supply chain cost advantage for trade and easy movement of goods.

Some of the advantages of RAKIA free zone include:

- 100% foreign ownership.
- 100% export and import tax exemption.
- 100% repatriation of capital and profits.
- Transparent laws and regulations.
- No Foreign exchange controls.
- Easy Licensing Procedures.
- No restrictions on hiring expatriates.
- Relatively Low Cost Work Environment.
- Low Land cost and Long Term Concessional Lease.
- Power, Water & Gas at competitive Prices.
- Excellent Road & Port connectivity.
- Low cost of living.
- Proximity to Dubai (80 km) and Sharjah (55 km).
- Modern International airport connecting important destinations.
- Sea port capable of handling bulk and container cargo.
- State of the art telecommunications.

To operate in RAKIA, the applicant must hold a valid license from RAKIA along with a valid Lease for an operational premise.

License Type	Activities Covered
Industrial License	Manufacturing, processing, assembling, packaging, etc.
Trading License	Import, export, distribution, warehousing, trading (maximum 5 activities from similar product lines or 3 different activities from 2 different product lines)
General Trading	All kinds of trading, import, export, warehousing and distribution of goods.
Commercial License	Activities covering contracting, repairing, maintenance, renting, shops, restaurants, etc.
Consulting / Services License	Any type of management, business, industrial consultancy or professional services including real estate consulting.
Media License	All kinds of media and communication services.

Clients whose activities fall under different categories will be issued separate licenses for each category of activity (e.g. a licensee who is carrying out both trading and manufacturing will be issued two licenses one for the trading activity and the other for manufacturing. Whenever possible, a separate Lease will be drawn for each activity.

Documents Required For Registration of Free Zone Companies:

Single Owner (Establishment)	Two Or More Partners (FZ-LLC Company)	Branch (Foreign/ Local) Or If Owner Is A Corporate Entity
Application Form	Application Form	Application Form
Business Plan (For Industrial License)	Business Plan (For Industrial License)	Business Plan (For Industrial License)
Professional & Experience Certificate (For Professional /Consultancy/ Service Licenses)	Professional & Experience Certificate (For Professional /Consultancy/ Service Licenses)	Professional & Experience Certificate (For Professional /Consultancy/ Service Licenses)
Passport Copy With Visa Page of Owner/Manager	Passport Copy With Visa Page of Owners/Manager	Passport Copy With Visa Page of Manager
Personal Bank Statement Of Owner/Manager For The Last 3 Months Showing Minimum Balance Of AED 75,000/-	Personal Bank Statement Of Owners/Manager For The Last 3 Months Showing Minimum Balance Of AED 75,000/-	Personal Bank Statement Of Owner/Manager For The Last 3 Months Showing Minimum Balance Of AED 75,000/-
NOC For Owner/Manager If Holding Valid U.A.E. Residence Visa	NOC For Owners/Manager If Holding Valid U.A.E. Residence Visa	NOC For Manager If Holding Valid U.A.E. Residence Visa
Last Visit Visa/Tourist Visa Copy And Entry/Exit Stamp Page For Owner/Manager	Last Visit Visa/Tourist Visa Copy And Entry/Exit Stamp Page For Owners/Manager	Last Visit Visa/Tourist Visa Copy And Entry/Exit Stamp Page For Manager
		COI, MOA & AOA, Board Resolution And POA To Set Up Branch * (Attested & Notarized By UAE Consulate)

In case of more information, please feel free to contact us. We can assist you with all your company incorporation requirements in RAKIA Free Zone.

## The International Financial Reporting Standards for Small and Medium-sized Entities



The International Financial Reporting Standards (IFRSs) are applicable to the general purpose financial statements and other financial reporting of all profit-oriented entities. It is aimed at catering towards the common information needs of a wide variety of users, such as shareholders, creditors, employees and the public at large. The objective of financial statements is to provide information about the financial position, performance and cash flows of an entity which aids in making sound economic and business decisions.

The International Financial Reporting Standard (IFRS) for Small and Medium-sized Entities (SMEs) was published by the International Accounting Standards Board (IASB) in July 2009. The IFRS for SMEs is applied to the general purpose financial statements of entities not having public accountability. Those entities which have public accountability are outside the scope of the IFRS for SMEs. Public accountable entities also consists of those entities whose shares or debt instruments are traded in a public market, banks, credit unions, securities brokers/dealers, mutual funds and insurance companies.

### Need for a global financial reporting standard for SMEs

When applied consistently, the global financial reporting standards enhance the comparability of financial information. Accounting differences can distort the comparisons that investors, lenders and others make. By presenting useful financial information (i.e. information that is relevant, reliable, comparable, etc.), high quality global financial reporting standards improve the efficiency of the allocation and pricing of capital. This benefits not only the debt or equity capital providers but also those entities seeking capital since it reduces their compliance costs and removes uncertainties which affect their cost of capital. Global standards have been improving consistency in audit quality alongwith facilitating education and training.

The benefits of global financial reporting standards are not limited only to entities whose securities are traded in public capital markets. In the IASB's judgment, SMEs and those who use their financial statements can also benefit from a common set of accounting standards.

### Different users' needs and cost-benefit considerations

The primary objective of financial statements is to provide lucid and transparent information about the financial position, performance alongwith changes in financial position of an entity that is useful to a wide range of users in taking economic decisions. The main groups of external users of SMEs financial statements include:

- Banks that make loans to SMEs.

- Vendors that sell to SMEs and use SMEs' financial statements to make credit and pricing decisions.
- Credit rating agencies and others that use SMEs' financial statements to rate SMEs.
- Customers of SMEs that use SMEs' financial statements to decide whether to do business.
- SMEs' shareholders that are not managers of their SMEs.

Tax laws are specific to each jurisdiction and the objectives of general purpose financial reports differ from the objectives of reporting taxable profit. Thus, financial statements prepared in accordance with the IFRS for SMEs are unlikely to comply fully with all of the measurements required by a jurisdiction's tax laws and regulations. A jurisdiction may be able to minimize the 'dual reporting burden' on SMEs by structuring tax reports as reconciliations from the profit or loss determined in accordance with the IFRS for SMEs and by other means.

In the coming issues, we will touch upon IFRS standards for SMEs in detail.

## Maldives to establish an offshore financial centre



Finance Minister of Maldives, Mr. Abdulla Jihad has announced that the Finance Ministry plans to establish an Offshore Financial Centre (OFC) in Maldives. The plan to establish an OFC in Maldives was revealed while presenting the estimated State budget for next year.



According to Mr. Jihad, the main purpose of introducing OFC to Maldives is to generate a source of revenue for the State without being heavily dependent on the Tourism industry. With large banks around the world having their interest in Maldives, offshore financing can be successfully implemented in small island nations such as the Maldives.

## India may be top recipient of remittances in 2012



According to a World Bank report, India is predicted to be the top recipient of remittances in 2012. According to the study, the country is estimated to receive about \$70 billion by the end of 2012, with China coming second with remittances of \$66 billion. Next on the list were Philippines and Mexico, with \$24 billion each, and Nigeria with \$21 billion. The other large recipients include Egypt, Pakistan, Bangladesh, Vietnam, and Lebanon.

Over the years, remittances by NRIs have been a steady source of foreign exchange resources for India. They are permanent inflows as compared to the capital inflows that are volatile in nature. Together with NRI deposits, the Indian Diaspora has brought in nearly \$135 billion this year. Outstanding NRI deposits are estimated at \$35 billion. However, unlike remittances, most NRI deposits are reversible.

Even during the global financial crisis of 2008 that resulted in a global slowdown, remittances to India were not hit. Migrant workers exhibited tremendous resilience in the face of the continuing economic crisis in advanced countries.

## Claiming tax relief under Double Taxation Avoidance Agreement for NRIs

Double Taxation Avoidance Agreements

In recent times, there has been a surge in the number of employees & businessmen moving from one country to another. These employees & businessmen are driven by factors such as opportunities beyond the home country, leveraging on cost and other benefits of being employed in different economies of the world. These significant

movements give rise to issues such as double taxation on account of personal tax implications in multiple countries.

Prior to the recent amendments to the Indian tax law, Non Resident taxpayers were not obliged to obtain and/ or furnish proof of being tax resident of a tax treaty country. As per the recent amendments, vide Finance Act, 2012, it is now mandatory for Non Resident taxpayers to obtain Tax Residency Certificate (TRC) in order to claim benefits under the Tax Treaty.



The tax status of a tax payer is considered as Non Resident (derived from the definition of a resident as per the Indian Income Tax Act 1961) in India if his/her physical stay in India is:

- Less than 182 days in a FY; or
- Less than 60 days in a FY and 365 days during preceding 4 FYs. (The 60 days may be extended to 182 days in cases where an Indian citizen in going abroad for employment or an Indian citizen/ person of Indian origin visiting India).

As a mechanism of providing tax relief in order to avoid double taxation, various countries enter into Double Taxation Avoidance Agreements (Tax Treaty). An exemption from tax in the source country where the income is accrued or received is one of the ways to avoid double taxation. From an India perspective, a tax resident of a tax treaty country (for example UAE) can claim tax exemption on his income in other state / country. Earlier last year, an amended double taxation avoidance agreement (DTAA) between the UAE and India

closed the loopholes in a previous agreement that enabled tax authorities in India to sometimes unnecessarily go after non-resident businessmen and individuals for alleged tax evasion.

The previous DTAA was non-operative as NRIs in the UAE aren't subject to income tax and, as a result, couldn't furnish proof to the Indian tax authorities of any tax deductions in the UAE. However, last year India and the UAE signed agreements to amend the double taxation avoidance treaty for greater sharing of tax-related information.

Under the Income Tax Act 1961 of India, there are two provisions, Section 90 and Section 91 that provide specific relief to taxpayers thereby saving them from double taxation.

Section 90 is for taxpayers who have paid the tax to a country with which India has signed DTAA, whilst Section 91 provides relief to taxpayers who have paid tax to a country with which India has not signed a DTAA.



With a DTAA in place, capital gains arising from the sale of shares are taxable in the country of residence of the shareholder and not in the country of residence of the company whose shares have been sold. Therefore, a company resident in the UAE selling shares of an Indian company will not pay tax in India. Since there is no capital gains tax in the UAE, the gain will be free from all tax.

On a lighter note



1. What seven-letter word has hundreds of letters in it?
2. If you had a ton of feathers and a ton of stones which would be heavier?
3. Tom's mother has three children. One is named April, one is named May. What is the third one named?
4. Two women apply for a job. They are identical and have the same mother, father and birthday. The interviewer asks, "Are you twins?" to which they honestly reply, "No". How is this possible?
5. You are standing outside a closed door. On the other side of the door is a room that has three light bulbs in it. The room is completely sealed off from the outside. It has no windows and nothing can get in or out except through the door. On the outside of the room there are three light switches that control each of the respective light bulbs on the other side of the door. Your assignment is to determine which light switch controls which light bulb. You are allowed to enter the room only once, and once you come out, you must be able to state with 100% certainty which light switch controls which light bulb.
6. If a bottle and a cork cost a dollar and a nickel (5 cents), and the bottle costs a dollar more than the cork, how much does the cork cost?
7. A boat has a ladder that has six rungs. Each rung is one foot apart. The bottom rung is one foot from the water. The tide rises at 12 inches every 15 minutes. High tide peaks in one hour. When the tide is at its highest, how many rungs are under water?
8. You have a lighter and two fuses that take exactly one hour to burn, but they don't burn at a steady rate. For example, one fuse could take 59 minutes to burn the first inch and then burn the rest of the fuse in the last minute. How would you use these two fuses to measure 45 minutes?
9. A man can make perfect counterfeit bills. They look exactly like real ones, they're made of exactly the same materials, made the same way, everything. So perfect, one could pretty much call them real bills. One day he successfully makes a perfect copy of another bill. However, he gets caught when he tries to use the copy. How is this possible?

10. A prisoner is told "If you tell a lie we will hang you; if you tell the truth we will shoot you." What can he say to save himself?

Answers:

1. Mailbox
2. Neither. They both weigh a ton.
3. Tom
4. They are triplets
5. Turn one light switch on, wait a few minutes, then turn it off and turn another light switch on. Go into the room and feel the light bulbs. The one that's still warm is connected to the switch that you first turned on, the one that is on was the second switch you turned on, and the last bulb is controlled by the switch that you didn't touch.
6. Most people guess 5¢, but \$1 more than 5¢ is \$1.05, and if the bottle cost \$1.05, the bottle and the cork would be \$1.10, not \$1.05. The cork actually costs 2½¢ and the bottle costs a dollar more, or \$1 and 2½¢, making the total \$1.05.
7. None. The boat is floating on the water, so as the tide rises, so does the ladder.
8. Light the first fuse on both ends and the second fuse at only one end. When the first fuse burns out you know 30 minutes have passed. Light the other end of the second fuse and when it burns out, 45 minutes have passed.
9. He made a perfect copy of a counterfeit bill.
10. You will hang me. If they hang him, then the statement was true and they could only hang him for telling a lie. If they shoot him, then it makes the statement a lie and they were only to shoot him for telling the truth. An alternate solution is to say, "You will not shoot me," leading to the same quandary for the killers.

Words of Wisdom

*"Be the change you wish to see in the world."*

- Mahatma Gandhi

*"Optimism is the faith that leads to achievement. Nothing can be done without hope and confidence."*

- Helen Keller

*"One who understands much displays a greater simplicity of character than one who understands little."*

- Alexander Chase



**Kothari**  
auditors & accountants

Global Business Services (GBS), an associate of Kothari Auditors & Accountants, was established to offer company incorporation services in various onshore and offshore jurisdiction around the world.

GBS is dedicated to provide advisory on corporate formation, legal structuring, double tax avoidance treaties and assistance for formation of companies in various jurisdiction.

GBS has associated with various service providers across major jurisdiction worldwide and endeavors to provide every solution in identifying the right destination suitable to clients needs and to present expert insights & assistance with respect to setting up a business entity.

Our team of professionals include experts in the international business structuring, tax consultants, finance & law.

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- Company Management and Administration
- Corporate Structuring and Re-Structuring
- Branch Registration of Foreign Corporations
- Establishments of Trusts and Foundations
- Trusteeship and provision of Foundation Councils
- Corporate Tax Planning
- Accounting

Kothari Auditors and Accountants is a professionally managed accounting, auditing, management and financial consulting firm established in October 1992.

The firm is registered with the UAE Ministry of Economy & Commerce having offices in Dubai and Sharjah.

The firm excels in offering accounting, audit services that include: statutory, internal and management audit and a host of consultancy services. It offers professional guidance that leverages formalities needed to set up businesses in the industrial, trade or services sector either offshore, local, or in any of the free zones in the UAE.

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