

## Saudi Arabia to apply Convention on Mutual Administrative Assistance in Tax Matters as of 1 January 2017

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### Executive summary

The Kingdom of Saudi Arabia (KSA) ratified the Convention on Mutual Administrative Assistance in Tax Matters (the MAATM Convention or convention) on 17 December 2015 and it entered into force on 1 April 2016, three months after submission of the ratification instruments. The convention will apply for the KSA starting from 1 January 2017.

This Alert provides background on the convention and its relevance to the KSA.

### Detailed discussion

#### MAATM background

The MAATM Convention was developed jointly by the Organisation for Economic Co-operation and Development (OECD) and the Council of Europe in 1988, and amended by a protocol in 2010. The amended convention<sup>1</sup> was opened for signature on 1 June 2011. The list of signatories currently includes 96 jurisdictions, including all G20 countries, all BRICS<sup>2</sup>, all OECD countries, all major financial centers and an increasing number of developing countries.<sup>3</sup>

The MAATM Convention is the most comprehensive multilateral instrument, providing for all forms of cooperation between tax authorities to tackle tax evasion and avoidance. The purpose of the convention is to facilitate international cooperation for better operation of national tax laws, while respecting the fundamental rights of taxpayers.

The amended convention provides for all possible forms of administrative cooperation between states in the assessment and collection of taxes. Such cooperation includes the exchange of information, recovery of foreign tax claims, simultaneous tax examinations, tax examinations abroad, assistance in recovery, measures of conservancy and the servicing of documents. It can also facilitate joint tax audits.

The convention provides for three types of information exchange: (i) upon request; (ii) automatically; or (iii) spontaneously.

The taxes covered by the convention include all forms of compulsory payments to the general government, except for customs duties. It applies to taxes on income, profits, capital gains and net wealth levied at the central government level. It also covers local taxes, compulsory social security contributions, estate, inheritance or gift taxes, etc. Therefore, it applies to a much wider scope of taxes compared with the conventions on avoidance of double taxation agreements (DTAs).

The most important provision of the convention relates to the exchange of information. According to the MAATM Convention, the KSA and other participating jurisdictions shall exchange information that is foreseeably relevant for the administration or enforcement of their domestic laws concerning the taxes covered.

### Relevance to the KSA

The KSA is currently a party to 34 DTA conventions and a number of transport tax treaties. Generally, tax treaties facilitate bilateral exchange of information between tax authorities with respect to all taxes and levies. With the ratification of the Convention, the KSA will expand its network of partners for the exchange of tax information and other forms of tax cooperation by more than 60 jurisdictions, including the United States and most commonly known "offshore" financial center jurisdictions, with which KSA has no tax treaties in force.

The convention expressly allows the sharing of information obtained with other authorities, for example, law enforcement authorities, subject to certain conditions. The MAATM Convention also allows for the automatic exchange of information according to Article 6. However, this article requires the competent authorities of the parties to the Convention to agree mutually on the scope of the automatic exchange of information and the procedure to be complied with before the exchange can actually take place

Against this background, the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (CRS MCAA) was developed to facilitate the automatic exchange of financial account information pursuant to the Common Reporting Standard (CRS).<sup>4</sup> As of 3 June 2016, the KSA has not signed the CRS MCAA.<sup>5</sup> However, the KSA is listed among the 46 jurisdictions that have made a commitment to the OECD to enter into the automatic exchange of information starting from 2018.<sup>6</sup> This means that the KSA intends to sign the CRS MCAA, after which it will be able to exchange information on financial accounts automatically among the participating countries from 2018.

## Implications

In view of recent base erosion and profit shifting (BEPS) developments and the ratification of the MAATM Convention, it is anticipated that there will be an increase in requests on information exchange. It is also likely that there will be more cross-border tax controversy arising from this.

Multinational companies (MNCs) with their headquarters based in the KSA, as well as high-net-worth individuals, especially Saudi nationals with dual residency, should be aware that the Saudi General Authority for Zakat and Tax (GAZT), by applying the Convention, may engage in the bilateral exchange of information under the MAATM Convention with more than 90 jurisdictions, including the known offshore financial centers. Accordingly, Saudi MNCs and individuals should continue to ensure that cross-border transactions and disclosures are consistent. With respect to other nonresident taxpayers doing business in the KSA through a permanent establishment, or receiving income from technical or consulting services in the KSA, the Saudi GAZT will be able to exchange information with their home country's tax authorities as well, depending on their needs.

## Endnotes

1. The amended Convention on Mutual Administrative Assistance in Tax Matters entered into force on 1 June 2011. URL: <http://www.oecd.org/ctp/exchange-of-tax-information/ENG-Amended-Convention.pdf>.
2. Grouping of fast growing countries including Brazil, Russia, India, China and South Africa.
3. Chart of participating jurisdictions. URL: [http://www.oecd.org/tax/exchange-of-tax-information/Status\\_of\\_convention.pdf](http://www.oecd.org/tax/exchange-of-tax-information/Status_of_convention.pdf).
4. For more information, see URL: <http://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs>.
5. Signatories of the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information and Intended First Information Exchange Date. URL: <http://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/MCAA-Signatories.pdf>.
6. AEOI: Status of Commitments (101 jurisdictions have committed) as of 9 May 2016. URL: <https://www.oecd.org/tax/transparency/AEOI-commitments.pdf>.

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