

NEWSLETTER 2/2017 (March 2017)

With this newsletter we would like to inform you about recent legal developments in the United Arab Emirates (UAE) and Qatar.

United Arab Emirates

I. Dubai Health Insurance Law–Update

In our previous newsletter (Newsletter 01/2017) we pointed out that it remains unclear how the immigration department will consider cases of existing health insurance policies for which the employees have paid and not the employer.

The Government of Dubai recently published a statement, in which they clarified that the payment of an allowance to the employee and a subsequent conclusion of a health insurance by the employee does not satisfy the statutory requirements and hence, will also be considered as a breach of law and punished with a fine. The same applies for existing health insurances which may result in a double insurance for the employee.

Against this background all employers would have to review the employment contracts and amend the allowance clauses in accordance with the Dubai Health Insurance Law and the latest developments.

II. New Jurisdiction for the DIFC Courts

From now on, the DIFC Courts are also competent to hear labor cases of DIFC companies and their employees. Dubai Law No. 5 of 2017, which amends Dubai Law No. 12 of 2004, confers the exclusive jurisdiction for labor cases related to DIFC companies to the DIFC Courts.

Furthermore, the new law also amends the jurisdiction for the DIFC Court of Appeal, the court procedures and the jurisdiction of the DIFC Execution Judge. In particular, judgments of the DIFC Court of Appeal are final and binding and cannot be appealed any further.

III. VAT – Update

In view of the introduction of the VAT taxes in the UAE, new information has been published by the Ministry of Finance:

All six GCC member states agreed to collectively introduce and implement the new tax system which means that the tax will be implemented in all GCC states at the same time.

Before the actual tax implementation (presumably) on 01.01.2018, companies will have to register with the Ministry of Finance or the new incorporated Federal Tax Authority (the division of competences between the two authorities has not yet been decided). Registration procedures will start approximately 3 months before the introduction of the tax. Furthermore, the Ministry of Finance has announced that tax refunds can be applied for on a quarterly basis.

However, not all companies and establishments have to register with the competent authority. As of today, it is only known that the obligation whether or not to register with the competent authority will depend on the annual turnover of the companies and establishments. The thresholds remain unclear as conflicting figures have been published in this regard. Small companies which annual turnover do not reach the threshold and companies offering products or services which will not be levied with the VAT tax will not have to register with the competent authority. It should be noted that the exact requirements and conditions under which companies are obliged to register themselves have not yet been published.

Moreover, it remains unclear whether or not free zone companies and their products/services will be levied with taxes. Although the free zones offer a tax exemption for 50 years (with an option to renew), this is based on local law whereas the legislative competency for tax matters is with the federal bodies. This means that a VAT tax exemption for the free zones would require a decision on the federal level. If and how this will be implemented remains unclear.

Qatar

I. New Immigration Law

In December 2016 the new immigration law (Qatari Law No. 21 of 2015) has come into effect and regulates the entry and exit of expatriates.

In accordance with the old law, expatriate employees could only leave the country if the employer has granted them with a respective exit approval. With the introduction of the new immigration law it has been expected that also the employee could apply for an exit approval and therefore would not have to rely on his/her employer. However, the new law did not change the existing administrative practice. The only new introduction was a mediation committee before which expatriates can appeal against any refusal of the employer to issue an exit approval.

The new immigration law has introduced new regulations for changing the employer or for staying in Qatar on a cancelled residence visa. Pursuant to Art. 21 the employee is only able to change the employer with the approval of his/her current employer and the Ministry of Labour and Social Affairs. The approval of the current employer will not be required if a limited contract expires and will not be renewed or in case of an unlimited contract the employee worked for more than 5 years with the same employer.

In accordance with Art. 24 the employee is allowed to remain in the country for 90 days in case of his/her visa cancellation or expiry.

II. Arbitration Law

The Arbitration Law (Qatari Law No. 2 of 2017) has been adopted on 17.02.2017 but not yet published in the Official Gazette and hence did not come into effect yet. The new Arbitration Law integrates most of the UNCITRAL (United Nations Commission on International Trade Law) model law and regulates, inter alia, the requirements for a valid arbitration clause, the execution of arbitration awards, interim measures and the choice of court (Court of Appeal or Financial Court of First Instance).

The most important regulations of the new Arbitration Law are as following:

- the court is competent to decide whether it is competent to hear the arbitration case or not (so called competence-competence doctrine);
- only arbitrators listed with the Ministry of Justice can be appointed;
- arbitrators have been granted with an extensive immunity, except for cases of bad faith, collusion and gross negligence;
- arbitration awards are final and binding; only a month grace period for the annulment of the award has been provided for;
- arbitration awards are confidential, whereas a copy of the award has to be forwarded to the Ministry of Justice.

This newsletter constitutes a simplified and shortened description of some legal developments and in no way replaces legal consultation. The team at SCHLÜTER GRAF will gladly support you in case of any questions.

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