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European Union

EU May Remove UAE From Tax Haven Blacklist: Practitioners



By Matthew Kalman

The United Arab Emirates was wrongly included in a European Union blacklist of tax havens and will likely be removed, according to local practitioners.

The European Union flagged 17 countries considered "non-cooperative jurisdictions in taxation matters" in a list released Dec. 5. The list prompted a strongly worded official response. Blacklisted

countries could face sanctions in the future.

"It was very surprising to see the UAE on the list," said Shiraz Khan, a senior tax adviser at Al Tamimi and Co. law firm in Dubai. "The UAE has recently taken a number of measures to improve tax transparency and information exchange."

UAE 'Disappointed'

The EU said that the countries on the list "failed to take meaningful action to address deficiencies" in compliance related to tax transparency, fair taxation and the implementation of anti-BEPS measures, and didn't make a "commitment at a high political level" before Dec. 5 to address them.

The UAE was among several countries that made last-minute submissions to meet EU criteria for either bank information exchange or corporate tax reforms. Thus, officials were "surprised and disappointed" to see it wind up on the list, according to a Dec. 7 government statement.

"We have committed to a reform process which will be finalized by October 2018, and we are absolutely confident this will ensure the UAE is swiftly removed from the list," Younis Haji Al-Khoury, the Ministry of Finance undersecretary, said in the statement.

Steps to Improve

The UAE has "done enough to demonstrate that it is fully committed to compliance with international standards and regulations," including adopting the OECD's Convention on Mutual Assistance in Tax Matters, committing to sign the Multilateral Competent Authority Agreement on automatic exchange of financial account information, and signing double tax treaties with 25 of 28 EU member nations, Khan said by email on Dec. 20.

The EU has placed several dozen countries on a "gray list," a warning shot to governments it considers uncooperative. While the UAE is in the process of implementing the OECD's minimum base erosion and profit shifting (BEPS) standard, other countries at that stage weren't blacklisted, Khan said.

"Notorious tax havens have been omitted from both lists. I fully expect the UAE to be removed from this list in due course," he said.

The UAE's signature on the Convention on Mutual Assistance in Tax Matters hasn't yet entered into force, which remains "an important hurdle," said Thomas Vanhee, a founding partner at Aurifer tax advisers in Dubai.

The blacklisting has "no effect" on a European level "but on the individual member state level, some countries may no longer grant the benefits of the double income tax treaties to businesses in the UAE or make it more difficult to obtain these benefits," Vanhee said by email on Dec. 20.

Without a central company register, the country "barely has any information to exchange," said Vanhee, a situation which will change with registration for value-added tax, which begins on Jan. 1.

'Political Sentiment'

The exclusion of EU member nations from the blacklist suggests that it's not based solely on matters of transparency, said Sam Instone, CEO of AES International, a wealth management firm in Dubai.

Snapshot

- Practitioners echo government "surprise" at EU decision
- UAE committed to treaties and transparency despite low-tax regime

“That’s political sentiment, that people within the European Union don’t want assets flowing to other parts of the world,” Instone said Dec. 20. “I see a very well-governed financial system, very transparent,” he said. “I believe it will move very fast to bring itself into line.”

The EU is trying to “unilaterally impose their own rules,” said Sabah al-Binali, an Abu-Dhabi-based investor and former chief investment officer of SHUAA Capital.

“If the EU has trouble regulating its own citizens with respect to EU taxes then that is the responsibility of the EU, not the UAE. If the EU has problems with the UAE, then they should simply require the UAE and its citizens to refrain from investing and trading with the EU. I dare them,” al-Binali said by email on Dec. 19.

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