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ALERT

Treasury Publishes Updated List of Boycotting Countries; Removes the UAE

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On April 8, 2021, the U.S. Department of the Treasury (Treasury), which administers an antiboycott law and associated guidelines in response to the Arab League's boycott of Israel, published an updated list of boycotting countries. Notably, Treasury removed the United Arab Emirates (UAE) from the list, a move that reduces reporting burdens and potential tax penalties for U.S. companies and their subsidiaries.

Treasury's antiboycott rules apply to U.S. taxpayers, including members of a controlled group, regardless of whether a transaction involves any U.S. goods or services. Treasury's requirements do not prohibit conduct, but rather impose reporting requirements on U.S. taxpayers and their related companies and deny certain tax benefits as a penalty for participating in or cooperating with an international boycott that is not sanctioned by the United States. Reports of operations in or related to boycotting countries, boycott requests, and boycott agreements must be filed on IRS Form 5713 and attached to the taxpayer's federal income tax return.

Treasury periodically publishes an official boycott list to alert the public to those countries that require or may require participation in, or cooperation with, an international boycott. Currently, Treasury views the following countries as boycotting countries:

- Iraq
- Kuwait
- Lebanon
- Libya

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The UAE, which has been designated as a boycotting country for quite some time, recently normalized its relations with Israel and canceled its boycott laws. Agreed to as part of the Abraham Accords, the UAE repealed Federal Law 15 of 1972, which had barred Emirati citizens and corporations from entering commercial, financial, and trade agreements with Israeli individuals and companies. Additionally, Emirati citizens are now permitted to export to Israel as well as import Israeli products, both of which were previously prohibited.

The UAE's removal from the boycotting countries list means that U.S. taxpayers generally will no longer need to report their operations in the UAE on their annual returns. Nor will they be subject to tax penalties simply for agreeing to comply with the general laws of the UAE or need to engage in delicate negotiations with UAE customers to modify these general compliance clauses so that they do not trigger Treasury penalties.

Nonetheless, companies should remain vigilant for any requests from the UAE that could be interpreted as official requests to participate in, or cooperate with, the boycott of Israel, as these types of requests may still raise issues under Treasury's rules. Also note that the U.S. Department of Commerce (Commerce) maintains separate antiboycott regulations that include both prohibitions and reporting requirements. Commerce does not publish an official boycotting country list and has received boycott reports with requests from a number of countries not included on Treasury's list (*e.g.*, Bangladesh).

U.S. antiboycott laws and regulations are complex and frequently become traps for the unwary. Therefore, it is important to screen transactions for antiboycott issues and carefully review and analyze such issues to determine whether regulatory requirements apply.

For more information, please contact one of the authors listed on this alert.