GULF COOPERATION COUNCIL (GCC)

VAT TAXATION

DISCUSSION AREAS

- Background of the GCC VAT reforms
- Basic VAT concept and Important definitions
- VAT Charging Mechanism
- Scope of VAT and what is zero-rated and exempt
- Place, time and value of supply in the KSA VAT law
- Type of Supplies
- Liability to pay VAT
- Tax reporting and compliance
- Refunds
- Transitional provisions

BACKGROUND OF THE GCC REFORMS

OUTLINE

The Gulf region (comprised of UAE, KSA, Oman, Qatar, Bahrain and Kuwait), has long been considered an attractive and non-tax environment. However, to keep up with the changing economic landscape and as part of wider development reforms, the Gulf Cooperation Council (GCC) member states signed a unified legal framework agreement ON 10th December, 2015 for the imposition of Value-Added Tax (VAT) at a standard rate of 5% levied on the import and supply of goods and services at each stage of production and distribution.

SETTING THE SCENE

Once the agreement is ratified, each member state must integrate the framework into local law and implement VAT by issuing domestic VAT regulations. Ministry of Finance in KSA & UAE has announced plans to implement VAT by 1st January 2018, while some member states have indicated an intention to implement VAT some where between 2018 to 2019. The framework allows for a basic rate of VAT on imports and supplies of goods and services of 5% as well as allowing certain supplies of goods and services to be zero-rated or VAT exempt depending ultimately on the domestic legislation of each country.

BACKGROUND OF THE GCC REFORMS *(CONT'D)*

APPLICABILITY OF THE LAW

VAT will ultimately impact every business that supplies goods or services in the GCC countries. In particular, businesses that make taxable supplies over the mandatory threshold must register with the relevant tax authority. There is scope for voluntary registrations and VAT registration requirements will apply to non-resident entities. Additionally, there is scope to register multiple entities as a single VAT group, subject to conditions to be set out in the domestic legislation of each GCC country.

BACKGROUND OF THE GCC REFORMS *(CONT'D)*

COMPOSITION OF THE GCC VAT AGREEMENT

This Agreement establishes a unified legal framework for the introduction of VAT in the GCC and contains 78 Articles, is divided into 15 Chapters.

These include:

- Definitions and general principles, including scope
- Supplies within scope, including supplies of goods and services and deemed supplies
- Place of supply of goods and services, including special cases
- Importation
- Due dates and calculation of taxable values
- Provision for exempt and zero-rate supplies
- Liability to pay VAT
- Input tax credits and VAT refunds
- VAT registration obligations
- Tax invoices and the record retention requirements
- VAT return completions and filing requirements
- Settlements or refunds
- Intra-GCC arrangements

BASIC VAT CONCEPT AND IMPORTANT DEFINITIONS

WHAT IS VAT ?

A tax, known as Value Added Tax (VAT), shall be imposed on the supplies of Goods and Services, and Imports, according to the provisions stated in the Agreement. The regulations reflect that Saudi Arabia has chosen a broad tax base: with VAT applying to almost all supplies of goods or services, subject to limited exceptions at a standard rate of 5%.

The Kingdom of Saudi Arabia has recently released draft VAT regulations for public consultation through the tax authority (GAZT) website. The draft VAT regulations consists of 77 Articles, is divided into 12 Chapters. Each Chapter deals with a particular subject.

CHAPTERS	TITLES
Chapter One	General definitions
Chapter Two	Imposition of Tax
Chapter Three	Taxable Persons
Chapter Four	Supplies of Goods and Services
Chapter Five	Place of Supply
Chapter Six	Exempt and zero-rated supplies
Chapter Seven	Taxable value
Chapter Eight	Imports
Chapter Nine	Calculation of Tax
Chapter Ten	Procedures and administration
Chapter Eleven	Penalties and Fines
Chapter Twelve	General Provisions

VAT CHARGING MECHANISM

- **Forward Charge Mechanism**

  Forward charge or direct charge is the mechanism where the supplier of goods/services is liable to pay tax. For instance, if a chartered accountant provides a service to his client, the service tax will be payable by the chartered accountant (CA).
  Under the current tax system, most transactions are covered under the forward charge mechanism

- **Reverse Charge Mechanism**

  In the case of a reverse charge, the receiver of services is liable to pay the tax.
  In the example of the chartered accountant (CA), the client would be liable, not the CA.
  The purpose of applying reverse charge is twofold creating check points, and to increase tax revenues.

SCOPE OF THE TAX

WHAT ARE TAXABLE SUPPLIES?

Taxable supplies include all goods and services subject to either the basic VAT rate of five percent or the zero rate, including:

- All goods and services (sales, transfers of ownership, disposals, leases, rentals and construction) used in business
- Transfers of goods and services from and to other GCC countries
- Transfers of goods and services from and to the rest of the world
- Deemed supplies
- The importation of goods and most services

WHEN DOES VAT APPLY?

VAT shall be imposed on the following transactions:

- Taxable Supplies by a Taxable Person in the Member State Territory.
- Receipt by a Taxable Customer of Goods or Services supplied to him by a Non-Resident and non-Taxable.
- Person in the Member State in instances where Reverse Tax Mechanism applies.
- Importation of Goods by any Person.

SCOPE OF THE TAX *(CONT'D)*

WHAT COULD BE VAT ZERO-RATED?

Zero-rated supplies include:

- Medicines and medical supplies (a common list will be proposed by the committee of Health Ministers and endorsed by the Financial and Economic Cooperation Committee)
- Certain foodstuffs (a common list will be ratified across the GCC by the Financial and Economic Cooperation Committee)
- The oil sector and the oil and gas derivatives sector (at the discretion of each member state)
- International and intra-GCC transport
- Means of transport (at the discretion of each member state)
- Supply outside the GCC (for example, exports)
- Supply of precious metals for investment (gold, silver and platinum)

Additionally, each member state can zero rate or VAT-exempt:

- The educational sector
- The medical sector
- The real estate sector
- The local transport sector

SCOPE OF THE TAX *(CONT'D)*

WHAT COULD BE VAT EXEMPT?

Exempt supplies include:

- Financial services sector (at the discretion of each member state)

WILL THERE BE SPECIAL TREATMENT OF VAT FOR SPECIFIC CATEGORIES?

The framework agreement allows discretion for member states to provide special VAT treatments to certain categories of person, applying exemptions or refunds on tax incurred supplying:

- Government organizations
- Charitable organizations and public utility establishments
- Companies hosting international events (exempted by agreements)
- Citizens of a member state building their homes for personal use
- Farmers and fishermen not registered for VAT

PLACE, TIME AND VALUE OF SUPPLY IN THE KSA VAT LAW

WHAT IS THE PLACE OF SUPPLY?

The place of supply determines where a supply takes place and therefore which member state's local VAT law is relevant.

- Where goods are placed at the disposal of the customer; place where goods are placed
- Where goods are provide with transport; place where the transport starts
- Where supply is to a VAT registered entity in another member state, special rules for certain intra-GCC supplies
- Where services are rendered; where supplier is resident (General Rule)
- Where services are rendered between taxable persons; where customer is resident
- Special provisions apply in case of supplies of;
    - oil, gas, water and electricity,
    - hiring means of transport,
    - transport services for goods and passengers,
    - services to real estate properties,
    - supply of telecommunication and electronically-provided services
    - supplies by restaurants, leisure and cultural facilities and sporting events

PLACE, TIME AND VALUE OF SUPPLY IN THE KSA VAT LAW *(CONT'D)*

WHEN IS VAT CHARGED? WHAT IS THE TIME OF SUPPLY?

Generally, the time of supply for VAT purposes is the earlier of the date of:

- The supply of goods or services
- The issue of a tax invoice
- Receipt of a partial or full consideration (Pro-rata)

WHAT IS VALUE OF SUPPLY?

Generally, the value of supply is:

- Sales tax invoice amount
- Where taxable supplies for reduced Consideration is the Fair Market Value of those Supplies at the time of the Supply, inclusive of any other taxes, levies and charges on that transaction but exclusive of the VAT

Registration and VAT grouping

The draft VAT implementing regulations clarify the requirements for mandatory and voluntary VAT registration for persons meeting an annual taxable turnover SAR 375,000 and SAR 187,500 respectively. It also includes the procedures and information required for registration, deregistration and cases where GAZT can unilaterally register businesses (when a registration application is not submitted). It is expected that registration will start in KSA in September 2017.

The regulations also stipulate the criteria, procedures and information required for VAT group registration. Mainly, VAT grouping will apply when two or more legal persons:

Are related persons under common control: one of them in holding directly or indirectly more than fifty percent (50%) of the capital, or owning more than fifty percent of the voting rights or value of the other

Are resident in KSA and carry an economic activity

At least one of them is a taxable person eligible to register for VAT in its own rights

TYPE OF SUPPLIES

Exempt Supplies

Regulations shall specify the Supplies of Goods or Services which are Exempt Supplies and which are treated as not being subject to Tax, in addition to the terms and limitations in respect of Supplies that are Exempt under this Law.

Zero-rated Supplies

Regulations shall specify the Supplies of zero-rated Goods or Services, on which Tax is levied at a rate of zero per cent, in addition to the terms and limitations in respect of zero-rated Supplies under this Law.

Deemed Supply of Goods

Without prejudice to the provisions of the Law, a Taxable Person is deemed to have Supplied Taxable Goods in the Kingdom where Goods were transported to a place outside the Kingdom by the Person himself or by the Customer or by another Person on their behalf, but the Person has failed to provide proof of the transport taking place within the time limits specified.

CORE CONCEPTS

REGISTRATION

- If the person is resident
- Supplies exceed mandatory threshold of CU 375,000
- Non-resident should be registered if providing taxable supplies
- Person providing zero rated goods may opt for registration
- Voluntary registration threshold is 50% of compulsory registration threshold i.e CU 187,500
- Authority may register Compulsoraliy

TAX GROUP

- 50% common control
- Group member must be a member of the same state
- At least one of the group member is a taxable person
- Persons registered as a group to be treated as a single VAT person
- Joint and Severe liability of all VAT group members
- Authority can restructure a group or dis-regard the group

DE-REGISTRATION

- Person should De-register, if the regulations require
- If the person turnover reduces below voluntary registration threshold
- If the person is non-resident and has not made any taxable supplies
- De-registration shall not effect the rights and liabilities of the person

PLACE OF SUPPLY

- In case of supply of goods WITHOUT transportation the place at which the goods are placed at customer disposal
- In case of supply of goods with transportation, the place where transportation commences
- For Oil, Water and Electricity through distribution system shall be the place where the recipient is located.
- For services, the place of supply shall be supplier’s residence.
- For services between taxable persons, the place of supply shall be customer’s residence.

TIME OF SUPPLY

- For installment payment mechanism each installment shall be considered a separate supply on the due date of payment.
- Time of supply shall be earlier of
  - Issuance of invoice
  - Receipt of payment
  - Supply of goods

EXEMPTION

- Financial Services means
  - Issuance or transfer of money
  - Provision of credit guarantee
  - Operation of bank account
  - Issuance of financial instruments

- Lease or License of Residential Real Estate means
  - Dwelling designed for human occupation
  - Immovable property intended to be used as a home
  - Other real estate used for residential purposes
  - Accommodation for students or school pupils

ZERO RATING

- Export of goods from KSA/GCC countries
- Services provided to non GCC-residents (Export of service)
- International transport of goods outside KSA/GCC countries
- Medicines and Medical Equipment
- Qualifying metal (E.g Gold, silver, Platinium)

ADJUSTMENT

- **Adjustment to a taxable supply can be made in the following manner**
  - **Total or partial cancellation**
  - **Reduction in supply value**
  - **Total or partial non-collection of of consideration (Bad Debts)**

BASIS OF ACCOUNTING

- INVOICE BASED ACCOUNTING FOR VAT
  - Input and output are both accounted for on the basis of actual invoices issued by a person in a tax period
- CASH BASED ACCOUNTING FOR VAT
- Authority may allow any person having annual turnover of less than 5 Million Riyal to apply for adopting cash based accounting for VAT

PERSONS LIABLE TO PAY TAX

- **GENERAL PRINCIPAL**
- **Every person stating a tax amount on an invoice issued by him is liable to deposit VAT.**

- **REVERSE CHARGE**
- **If the supplier is non-resident and VAT is charged then customer is liable to deposit VAT.**

- **IMPORTS**
- **Importer is liable to deposit VAT.**

INPUT TAX ADJUSTMENT

- Input tax deduction allowed for supply in the same state (Unified VAT Agreement)
- No input tax deduction allowed for goods/services purchased for
  - Other than economic activity
  - Procurement of prohibited goods
- Proportionate Deduction
- No input allowed for loss, damaged, stolen goods
- No input allowed for gifts etc
- For Capital asset input adjustment period is
  - 6 years for movable assets
  - 10 years for immovable assets
  - If life of the asset is less than the above the input will be allowed on the life of the asset

TAX INVOICES

- Tax invoice is to be issued upon
  - Supply of goods or services
  - Full or partial receipt of consideration
- Tax invoice must be issued by 15th day of the month following the month in which supply took place
- Contents of tax invoice in Arabic as well as any other language
  - Date of issue
  - Unique serial number
  - TIN (Tax Identification Number) of Supplier
  - Name and address of the supplier and customer
  - Quantity and nature of goods or services supplied
  - Date of supply
  - Taxable Amount
  - Tax rate
  - Tax Amount
  - Exception reporting

TAX INVOICES contd.

- A Simplified Tax invoice may be issued if value of supply is less than SAR 1,000
- Contents of a simplified tax invoice
  - Date of issue
  - Name, Address and TIN of the supplier
  - Description of goods or services supplied
  - Consideration payable
  - Taxable payable

TAX PERIODS

- Tax period Shall not be less than one month
- For persons whose annual turnover exceed SAR 40 Million tax period shall be monthly
- For all other persons tax period shall be three months
- A person may opt for using monthly tax period if his turnover does not exceed SAR 40 Million.
- For a person who uses monthly tax period for two years may submit an application to use three monthly tax period

TAX RETURNS

- To be filed by the registered person or his agent
- To be filed by the last day of the month following the tax period to which the return relates
- To be filed on self assessment basis
- Best judgment assessment powers to be vested with authorities if a persons fails to file his return.
- Contents of a tax return
  - Total value of Goods or services rendered
  - Total goods or services supplied to taxable persons
  - Total value of goods or services supplied under reverse charge mechanism

TAX REFUNDS

- Refund can be claimed in 5 years
- Authority may adjust the refund instead of cash payment
- No refund in case of any non-compliance in last 12 months
- Authority may demand additional documents
- Refund to be released within 60 days of the completion of refund procedure

ASSESSMENT AND APPEALS

- Tax assessment allowed for a period of 5 years
- In case of non-registration or breach of provisions of law tax assessments can be framed upto 20 years
- 20 days prior notice is required before assessment
- Assessment to be performed at registered person premises
- Appeals can be made to Competent Judicial authority
- Minister of Finance can form Dispute resolution/mediation commitee

TRANSITIONAL PROVISIONS

- Registration shall be applied on the basis of estimated turnover commencing from 1st Jan 2018
- Authority may register a person who is expected to be compulsorily registered.
- All contracts involving supply of goods or rendering of services shall be treated as zero rated till the earlier of
  - The contract Expires
  - Contract is renewed
  - 31st December 2018
  - The contract should be signed before 30th May 2017
  - Input tax is admissible on the goods or services
  - Registration shall be applied on the basis of estimated turnover commencing from 1st Jan 2018

THE END