

GCC Indirect Tax Newsletter

July 2020 Edition

Insights
Tax and Legal Services
PwC Middle East



We are pleased to share the July 2020 edition of PwC's GCC Indirect Tax Newsletter on the latest developments in the GCC.

The United Arab Emirates (UAE)

Value Added Tax

Zero-rating of export of services (Public Clarification VATP019)

The FTA has published a new Public Clarification regarding zero-rating of export of services where it explains the application of the conditions prescribed in Article 31(1)(a)(1) of the UAE VAT Executive Regulations.

Namely, there are two main conditions which must be met to apply the zero-rate VAT as per Article 31(1)(a)(1) Executive Regulations:

- **Condition 1:** The recipient of the services should not have a place of residence in an Implementing State (*currently, the UAE does not recognize any other State as an "Implementing State" for the purposes of VAT, consequently, the term "Implementing State" should be read as the "UAE"*)
- **Condition 2:** The recipient of the services should be outside the UAE at the time the services are performed by the supplier.

The Public Clarification provides further explanation on the two conditions.

Condition 1. The recipient of services should not have a place of residence in an Implementing State.

The Public Clarification confirms the Clause (2) of Article 32 of the VAT Law remains effective, where the place of residence of a supplier/recipient of services is determined by the establishment that is most closely related to the supply.

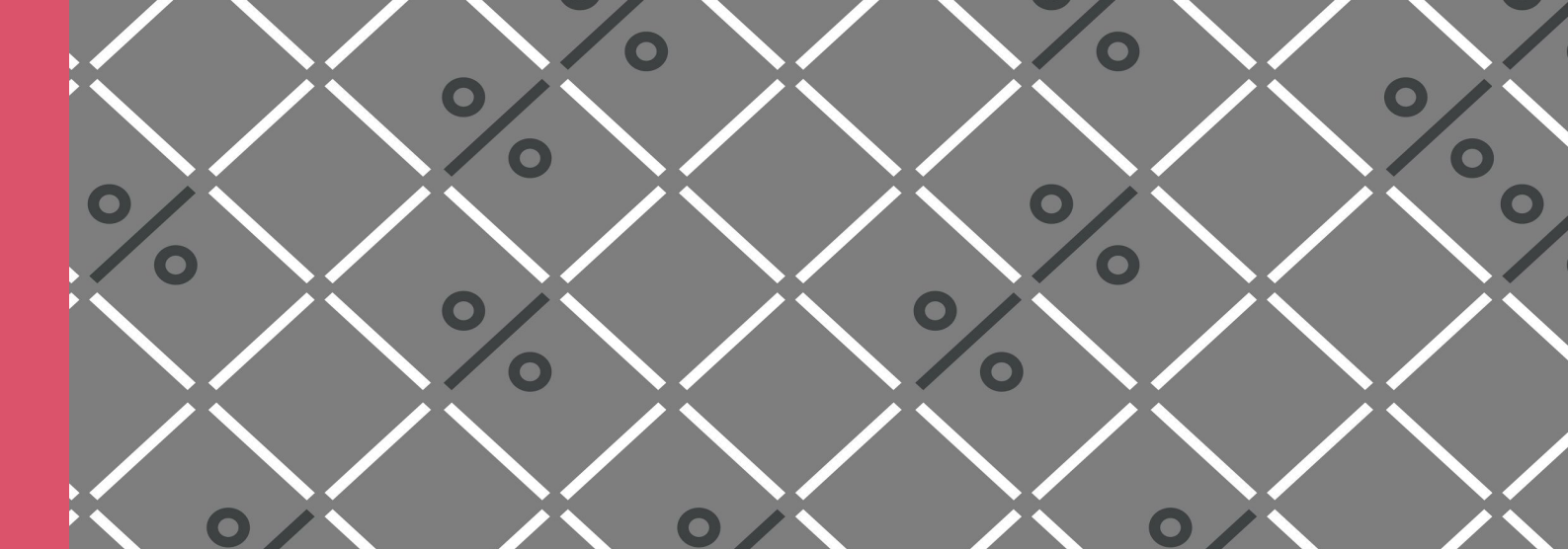
The following factors should be taken into consideration to identify the most closely related establishment:

- Which establishment is the contractual recipient of the supply
- Which establishment is actually benefiting from the supply
- Which establishment will receive the invoice and make the payment for the supply
- Which establishment provides instructions to the supplier
- Whether the services are related to the business being carried on by the recipient through an establishment in a particular country

Condition 2. The recipient of the services should be outside the UAE at the time the services are performed.

This requires consideration to the nature of the services supplied and the period or duration during which the services are performed by the supplier and consumed by the recipient.

- In case of continuously performed services, any presence of the recipient in the UAE before the completion of such services would result in the recipient being within the UAE "at the time the services are performed".

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- If the services are of a nature that are performed and consumed at the time that they are completed, then the location of the recipient at the time of completion of the services will determine whether the recipient is outside or inside the UAE at the time the services are performed.
 - A non-resident recipient of services (including a recipient which may already have a UAE establishment) may lose the ability to receive a zero-rated supply where they create a temporary presence in the UAE at the time the services are performed, which relates to the supply being made.
 - Any individual that is physically inside the UAE, he or she cannot be “outside the State”. This presence of the individual in the UAE at the time the services are performed would typically take away the ability of the supplier to zero-rate the supply to the individual.

The Public Clarification further explains the the term “outside the State” under 31.2 of the UAE VAT Executive Regulations as follows:

- The ability to zero-rate a supply is not unduly affected where the recipient has a UAE presence which is both short-term (i.e. less than a month) and is not effectively connected with the supply, and, as a consequence, this presence is unlikely to be known to the supplier of the zero-rated services.
- In order to ensure that the zero-rated treatment is not applied incorrectly, the supplier should consider all available facts and seek, if necessary, additional information from the recipient in order to identify the recipient’s residency status and the location at the time the services are performed. If the supplier is not able to establish the necessary facts to ascertain if the zero-rating conditions are met, the supplier must standard-rate the supply.

For completeness, the other conditions set by Article 31 of the Executive Regulation for the supply of services to qualify for zero-rate are as follows:

- The services should not be supplied directly in connection with real estate situated in the UAE or any improvement to the real estate or directly in connection with moveable personal assets situated in the UAE at the time the services are performed.
- The performance of the services should not be received in the UAE by another party who may be receiving the services in the course of making supplies for which input VAT is not recoverable in full.

The Kingdom of Saudi Arabia (KSA)

Value Added Tax

Practical updates – Contract reporting requirement and VAT Guides issued by the General Authority for Zakat and Tax (“GAZT”)

1. Contracts reporting requirement

GAZT has enabled an ‘e-services’ option on their portal for taxpayers to report contracts entered into between commercial establishments as well as Government authorities exceeding the threshold value of SAR 100,000. Such contracts are required to be reported within 3 months from the execution date.

Although there are specific provisions in the Saudi Income Tax law which govern this contract reporting along with consequential penalties, there are no specific provisions available covering this reporting in the VAT law and Implementing Regulations.

The guidance refers to Article 51 of the VAT law enabling GAZT to require taxpayers to submit contract related information. There are no specific penalties prescribed by GAZT, however we are of the view that GAZT may impose general penalties as per Article 45 of the VAT law in case of non-compliance.

GAZT issued a detailed guidance in this respect (available in Arabic) which can be accessed through the following link:

<https://gazit.gov.sa/ar/HelpCenter/guidelines/Documents/%D8%A7%D9%84%D8%AF%D9%84%D9%8A%D9%84%20%D8%A7%D9%84%D8%AA%D8%B9%D8%B1%D9%8A%D9%81%D9%8A.pdf>

A PwC news alert issued earlier on this development can be accessed here:

<https://www.pwc.com/m1/en/tax/documents/2020/saudi-arabia-contracts-reporting-requirement.pdf>

2. Amended VAT guides

GAZT continues to issue the amended guides explaining the impact of the VAT rate increase. As per the information available on the website, a new page has been added in the guides issued earlier to cater to the VAT rate increase (in both English and Arabic).

The guides can be accessed on GAZT’s website:

<https://gazit.gov.sa/en/HelpCenter/guidelines/Pages/default.aspx>

3. Individuals supplying Real Estate

GAZT issued a guide (available in Arabic) explaining the VAT implications on supply of real estate by individuals. GAZT has clarified that the supply of real estate is a VAT-able transaction in general unless it qualifies for conditional exceptions/ exclusions specified by GAZT. Exclusions mentioned in the guide are:

- Sale of residential property by the owner, spouse or one of the relatives of the second degree
- Transfer under inheritance
- Transfer of ownership to a licensed charitable organisation or to a party of public benefit
- Transfer of ownership in the implementation of a legal notarized testament
- Temporarily transferring ownership of the real estate for finance or credit guarantee purposes
- Any additional exclusion which is at the discretion of GAZT

For further details, please access the guide below:

<https://gazt.gov.sa/ar/HelpCenter/guidelines/Documents/%D8%AF%D9%84%D9%8A%D9%84%20%D8%B9%D9%82%D8%A7%D8%B1%D8%A7%D8%AA%20%D8%A7%D9%84%D8%A7%D9%81%D8%B1%D8%A7%D8%AF1.pdf>

Customs

Extension of the customs duty collection postponement initiative

Based on a Royal Decree issued on 02 July 2020, the KSA government has decided to extend a number of initiatives issued to reduce the financial and economic impact on the private sector due to the measures taken to address the COVID-19 pandemic.

From a customs perspective, the Royal Decree grants an additional three months to "postpone the collection of customs duties for a period of 30 days". The measures announced allow importers to defer payment of custom duties for 30 days from the customs release date for the shipments imported during the three-month period between July, August and September.

The 30 day deferral for the collection of custom duties is granted with the condition that an importer provides a bank guarantee. Additionally, as an alternative to the bank guarantee, Saudi Customs provides qualified low/medium risk importers the option to opt for an electronic declaration undertaking to pay the customs duties and all other fees within the permitted payment period. Saudi Customs has issued a detailed guidance on this (available in Arabic): <https://www.customs.gov.sa/ar/CP>

The Kingdom of Bahrain (Bahrain)

Value Added Tax

NBR has released Arabic FAQs

The National Bureau for Revenue (NBR) has released General and Technical FAQs in Arabic on their website. These FAQs had previously been published in English.

The link to the Arabic FAQs on the NBR website is: <https://www.nbr.gov.bh/faq>

NBR has published the Digital Economy Guide in Arabic

The NBR has now released the VAT Digital Economy guide in Arabic. This had previously been published in English.

The link to the VAT Digital Economy Guide in Arabic is: https://www.nbr.gov.bh/vat_guideline



The State of Kuwait (Kuwait)

Customs

The new implementation of the personal imported goods

On 12 July 2020, The General Administration of Kuwait Customs (“Kuwait Customs”) issued Customs Notice No. 94/2020 on the implementation of the personal importation into Kuwait.

Kuwait Customs will exempt customs duties on goods imported into the country of a value of 100 Kuwaiti Dinars or less (approximately US\$322).

Key requirements introduced on the duty exemption by Kuwait Customs

- Imports should be of a personal nature and in non-commercial quantities.
- The personal goods shall not be imported under the name or on behalf of training companies.
- The personal goods shall not be imported under the name or on behalf of any company, whatever is its legal form.

The Customs notice can be accessed through the following link to the Kuwait Customs website:

https://www.customs.gov.kw/PdfViewer?FileName=CustomsAnnouncement%2F6678332600_pdfFile.pdf

The Sultanate of Oman (Oman)

Value Added Tax

Oman Tax Authority presented the draft VAT law ("as a matter of urgency") to the Economic and Financial Committee of the Shura Council and representatives from the Oman Chamber of Commerce and Industry (OCCI) and Public Authority for Consumer Protection (PACP) on Monday, dated 13 July 2020 for their review and deliberation.

On 21 July 2020, the Shura Council referred the VAT law to the State Council, with some amendments and recommendations for those with limited income and in line with the interests of the State and the citizens. The State Council would look at it in a fast track manner (within 15 days rather than the usual 45 days in a normal scenario). Once approved by both Councils, the Chairman of the State Council shall submit the VAT law to His Majesty the Sultan along with the opinion of both Councils for his consent and a formal announcement via a Royal Decree.

This accelerated approval process may result in the VAT law being finalised within a few months (tentatively by September/October 2020) with a possible implementation date in early to mid 2021. Although, to date there is no formal announcement on the timelines and the Tax Authority has maintained that it intends to give businesses at least six months to prepare for VAT.

Excise Tax Update

The Executive Regulations to the Excise Tax Law have been issued on 13 July by way of Ministerial Decision (MD 51/2020) in the official gazette of Oman, providing further legislative support on the rules and procedures for Excise Tax. The Executive Regulations are divided into twelve chapters, and include details relating to the procedures and conditions around the implementation of excise tax in Oman, such as:

- Procedure for registration and deregistration
- Computation of excise tax
- Provisions and conditions around the operation of an excise tax warehouse
- Tax suspension arrangements and exemption from payment of excise tax
- Conditions for the transfer of goods held under Customs suspension arrangements
- Procedure for filing of excise returns
- Provisions for the payment and refund of excise tax
- Conditions relating to the maintenance of records and accounting books
- Procedure for conducting assessments and appeals
- Levy of administrative penalties and fines

The link to the Excise Tax Executive Regulation is below for your reference (In Arabic)

<https://tms.taxoman.gov.om/portal/documents/20126/133849/اللائحة+التنفيذية+لقانون+الضريبة+الانتقائية.pdf/80e8c1a9-f286-dc97-fa79-3920798f330b?download=true>

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