GCC Indirect Tax Newsletter

January Edition

Insights
Tax and Legal Services
PwC Middle East

The United Arab Emirates (UAE)

Value Added Tax

Practical updates

1. Public Clarification (VATP023): Temporary Zero-rating of Certain Medical Equipment

The Federal Tax Authority (FTA) of the United Arab Emirates (UAE) published a VAT Public Clarification - Temporary Zero-rating of Certain Medical Equipment (VATP023) which explains the temporary application of VAT at the 0% rate on certain supplies and imports of medical equipment following the Cabinet Decision No. 9/12 O of 2020 ("Cabinet Decision") and Ministerial Decision No. 380 of 2020 ("Ministerial Decision") issued by the Minister of Health and Prevention on 6 December 2020.

Details of the Public Clarification are summarized as follows

- The zero-rating of supplies and imports under the Cabinet Decision (No. 9/12 O of 2020) is separate, and in addition to the zero-rating of any other medical equipment in accordance with Cabinet Decision No. 56 of 2017 on Medications and Medical Equipment Subject to Tax at Zero Rate.

- The Clarification (VATP023) specifies the "medical equipment" under the temporary zero-rating rules are:
    - Medical face masks that are not included in the Cabinet Decision No. 56 of 2017 on Medications and Medical Equipment Subject to Tax at Zero Rate (of approved standards 14683 and UAE.S ASTM F2100);
    - Half filtered face mask (UAE.S EN 149);
    - Non-Medical "community" face mask made from textile (UAE.S 1956);
    - Single-use gloves (UAE.S ISO 374-2); and
    - Chemical disinfectants and antiseptics intended for use on the human body, but excluding detergents, cosmetics and personal care products (UAE.S EN 1276, EN 1650, and EN 14476:2013+A2).

- The supply or import of the medical equipment mentioned in the Ministerial Decision is zero-rated only where the date of import or both of the following dates fall into the period from 1 September 2020 to 28 February 2021 for supply of the medical equipment:
    - the date of supply as determined in accordance with Articles 25 and 26 of the UAE VAT Law), and
    - the date the medical equipment is delivered to the recipient or placed at the recipient's disposal.

- The retrospective application of the rules is allowed effective from 1 September 2020. The following two scenarios may occur for supplies made from 1 September 2020:
    - Where a supplier is aware of the identity of the recipient to whom VAT at 5% was charged on a supply which was eligible for zero-rating under the Cabinet Decision, the supplier shall issue and deliver a tax credit note to the recipient and reduce its output tax by the amount of the VAT shown in the tax credit note.
    - Where a supplier is unable to identify a recipient of the supply for the purpose of issuing and delivering the tax credit note (for example, a supermarket is unlikely to know who purchased qualifying medical equipment), the supplier should ensure that it accounts for the collected VAT in the tax return relating to the tax period in which the supply was made.

The United Arab Emirates (UAE) *(continuation)*

Value Added Tax *(continuation)*

2. Restriction on VAT301 Form email from the FTA

The FTA communicated to the VAT registrants that the form VAT301 will be deactivated shortly for all users who have a valid TRN and plan to use this form for settlements via their VAT returns.

VAT registrants who have a valid TRN, in order to continue being able to import goods via Customs, shall ensure that his Customs Registration Number (CRN) is linked to the Tax Registration Number (TRN). Those VAT registrants who do not have a Customs Registration Number (CRN), need to register with the Customs Department and link the new Customs Registration Number (CRN) with his Tax Registration Number (TRN). Alternatively, the VAT registrant will only be able to import goods via a clearing company that is registered with the FTA or only use form VAT301 to utilize the payment option.

VAT registrants from the categories shown below can still use the VAT301 and request to open form VAT301 for VAT settlements based on customs declarations through FTA online services:

1. Designated entities exempted by FTA.
2. Free zone Companies that exports through land to GCC Countries from designated zones [AHA1] for the VAT purpose.
3. FTA accredited Shipping and Clearance Agencies to clear shipments of on behalf of registered and non-registered importers with FTA.

To submit application to open VAT301 form please visit the following link:
https://tax.gov.ae/-/media/Files/EN/PDF/Guides/VAT-301-SETTLEMENT-ACCESS-FORM.pdf

The United Arab Emirates (UAE) *(continuation)*

Excise Tax

Further to the FTA's notice published last month, additional details on the new Excise Tax stock reporting requirements have been issued, including a virtual workshop held by the FTA on December 8th, 2020 to guide the Excise Tax Warehouse Keepers on how to remain compliant to the new requirements.

New taxpayers guides have been issued to ensure clarity of the new requirements, and other existing guides have been updated to reflect additional procedural steps to complete the relevant declaration forms, and comply with the new reporting obligations when submitting the Excise Tax return.

The new reporting requirements are due starting January 1st, 2021, and businesses need to ensure that they are well prepared in order to avoid any potential disruptions in their Designated Zones operations, including potential penalties or suspension of stock movement.

Link to the PwC news alert:

https://www.pwc.com/m1/en/services/tax/me-tax-legal-news/2020/uae-new-excise-tax-obligations-warehouse-keepers.html

The Kingdom of Saudi Arabia (KSA)

Value Added Tax

Legal updates

1. Regulations issued by the General Authority of Zakat and Tax (‘GAZT’) on E-Invoicing

After completing the public consultation process in relation to the E-invoicing regulation, The GAZT board of director approved the final version of the E-invoicing regulation and published it in the official Saudi gazette on 4 December 2020. These Regulations, which entered into force from the date of their publishing, contain the framework of the E-Invoicing mechanism GAZT is anticipating to apply within the effective date and expects persons subject to the E-invoicing regulation to comply with as of 4 December 2021.

A detailed newsalert has been issued by PwC on this matter which can be accessed through the following link:
https://www.pwc.com/m1/en/services/tax/me-tax-legal-news/2020/ksa-developments-on-einvoicing.html

The Regulation has been issued in English and Arabic languages and can be accessed through the following links:

https://gazt.gov.sa/en/RulesRegulations/Taxes/Documents/E-invoicing%20Regulation.pdf
https://gazt.gov.sa/ar/RulesRegulations/UnderConsultations/Documents/E-invoicing_Reg_AR.pdf

2. Refund of VAT to licensed Real Estate developers

In accordance with the directions stipulated in the Royal Order Number A/84 dated 14/2/1442 AH (corresponding to 1 October 2020), the Board of Directors of the General Authority of Zakat and Tax (“GAZT”) issued a Ministerial Resolution number 1754 dated 15/04/1442 AH (corresponding to 30 November 2020) approving the conditions and terms for considering a licensed real estate developer as qualified persons to refund input VAT incurred in relation to real estate supplies that became exempt from VAT as of 4 October 2020.

The Ministerial Resolution enters into effect from the date of issuance i.e. 30 November 2020.

The PwC news alert issued on the matter can be accessed through the following link:
https://www.pwc.com/m1/en/services/tax/me-tax-legal-news/2020/ksa-refund-vat-licensed-real-estate-developers.html

The Kingdom of Saudi Arabia (KSA) (Cont'd)

Practical updates

1. Guideline issued by the GAZT on E-Invoicing

GAZT issued a detailed guide on E-Invoicing that provides clarification related to application of E-Invoicing.

The guide provides additional information over the requirements established under the E-invoicing regulations and includes i) The definition of an E-invoice, ii) The timeline to implement E-invoicing in KSA, iii) The taxpayers who will be subject to the regulations of E-invoicing, iv) The Preliminary and basic requirements for technical solutions related to E-invoicing, and v) The violations and penalties.

GAZT has also included timelines dating back to September 17, 2020 where it had initially published the draft Regulations for E-invoicing for public consultation and has highlighted important dates such as:

- December 4, 2020 -The Regulations of E-invoicing are published and enter into force..
- Within 12 months of publishing the Regulations - Establishments which pay VAT are to start preparing themselves to issue, maintain and amend E-invoices in an orderly manner.
- December 4, 2021 - Official date for taxpayers to issue, maintain and amend E-invoices.

The guideline has been issued in English and Arabic versions and can be accessed through the following links:

https://gazt.gov.sa/en/RulesRegulations/Taxes/Documents/E-invoicing%20guideline.pdf
https://gazt.gov.sa/ar/HelpCenter/guidelines/Documents/E-invoicing_Giude_AR.pdf

GAZT also issued a document containing FAQs along with their responses which can also be accessed through the following links:

https://gazt.gov.sa/en/RulesRegulations/Taxes/Documents/e-invoicing%20-%20FAQs.pdf
https://gazt.gov.sa/ar/RulesRegulations/UnderConsultations/Documents/E-invoicing_FAQ_AR.pdf

The Kingdom of Saudi Arabia (KSA) (Cont'd)

2. Tax ruling request template

A new template has been released by GAZT for submitting a tax ruling request. All tax rulings need to be submitted using the new template otherwise these might be rejected from GAZT as per the information available.

3. GSTC guide for grievance before the Committee for resolution of tax violations and disputes

The General Secretariat of the Tax Committees ('GSTC') issued a new guide which elaborates the process for filing appeals against zakat/tax decisions, statement of claims, scheduling sessions and view decisions issued by GSTC etc.

It also highlights important timelines that need to be considered by taxpayers while submitting appeals/claims. The guide is issued in Arabic language at the moment and can be accessed through this link.

The Kingdom of Bahrain (Bahrain)

Value Added Tax

The NBR issued a public clarification amending the place of supply rules for telecommunication services.

The National Bureau for Revenue (NBR) has amended the "use and enjoyment" rules under which the place of supply for certain telecommunications services is determined for VAT purposes. The public clarification sets out that, with effect from 1 February 2021, the place of use and enjoyment will be the place of residence of the customer, regardless of whether the customer is a business or a consumer and will be determined as follows:

1. For telecommunications services that require the customer to be physically present in a specific location to use them (such as a wi-fi hotspot or an internet café), the place of use and enjoyment is that specific location. There is no change to the place of supply for such services and suppliers of such services should continue to charge Bahrain VAT where such services are provided from a location in Bahrain.

2. For all other telecommunications services, the place of use and enjoyment is the place of residence of the customer. The supplier of the service should determine the place of residence of the customer by reference to the following:
   a. The internet protocol address used by the customer to receive the service;
   b. The country code of the SIM card used by the customer to receive the service;
   c. The customer's address as stated on the tax invoice or other documents used for billing;
   d. Details of the customer's bank account; and
   e. Other information of a commercial nature.

Where any of the above is in or refers to Bahrain, the place of residence will be Bahrain unless the customer can provide satisfactory evidence to the supplier to confirm that his actual place of residence is in another country. However, the place of supply cannot shift from Bahrain where the country code of the SIM card is Bahrain even where the customer can provide evidence of actual residence in another country.

This update from the NBR will have a significant impact on the VAT treatment of supplies by both local and foreign telecommunication providers (telcos). The public clarification provides details on the VAT implications for both resident and non-resident telcos following this update.

A link to the PwC newsalert can be found below:
https://www.pwc.com/m1/en/services/tax/me-tax-legal-news/2020/bahrain-nbr-issues-public-clarification-supply-rules-telecommunication-services.html

A link to the Public Clarification can be found below:
https://s3-eu-west-1.amazonaws.com/nbrproduserdata/media/qZsyrE8YrTFdyHXmk2gmJzIgPBv8FtdQzNxnNodA.pdf

www.pwc.com/me

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