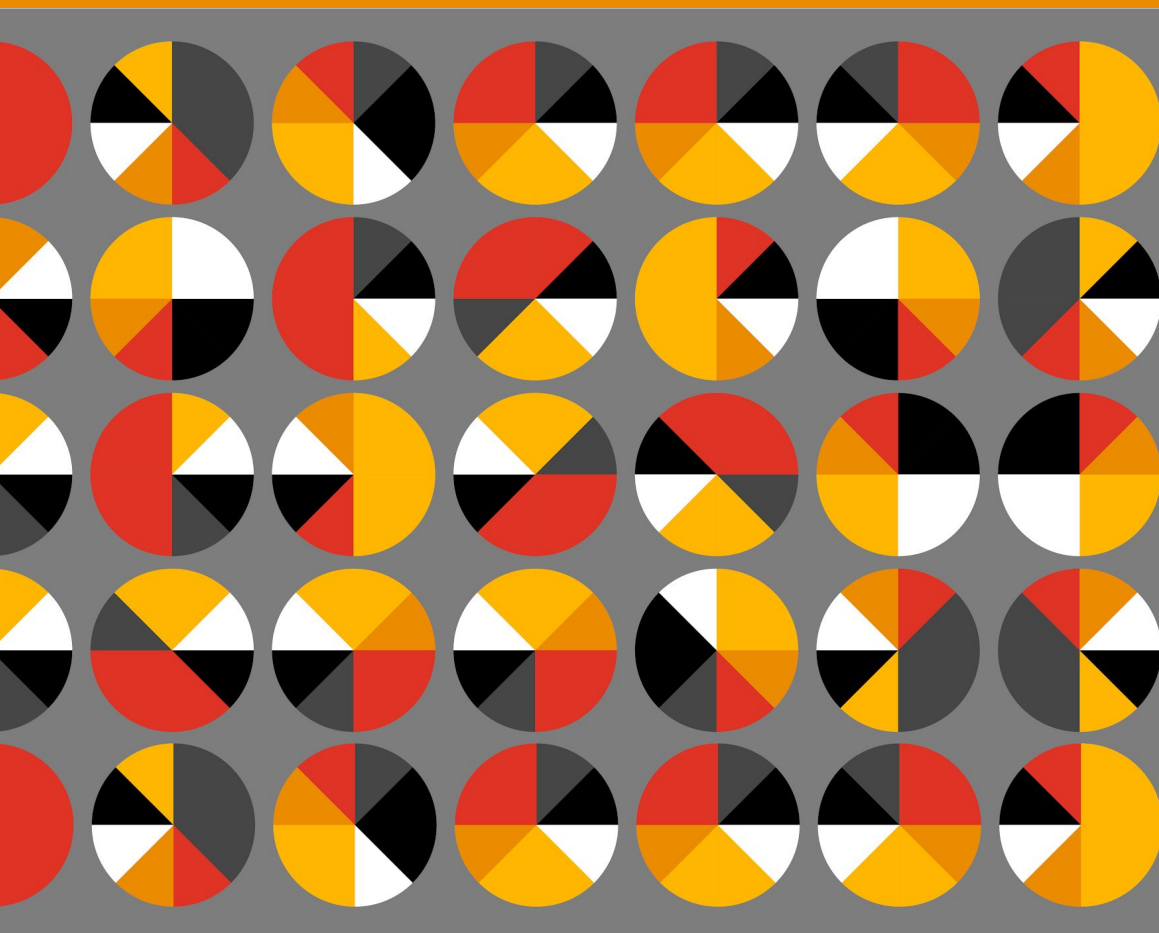


Oman VAT Update: VAT Taxpayer Guide on Oil and Gas Sector

January 2022



In brief

As per the Oman's Budget for the year 2022, the Oil and Gas sector constitutes 68% of Oman's revenue.

The supply of oil, oil derivatives and natural gas are subject to VAT at 0%, as per the Oman VAT Law. The Oman Tax Authority (OTA) has released VAT guide on Oil and Gas sector on 6 January 2022 clarifying the VAT treatment of various transactions / issues peculiar to Oil and Gas industry and the interpretation of Article 93 of the Oman VAT Executive Regulations.

In detail

Oil and Gas is one of the key sectors for the Omani economy. On 6 January 2022, the OTA released the Oil and Gas sector specific guide to clarify the application of the Oman VAT law in the Oil and Gas industry. Through this guide, the OTA has clarified the interpretation of Article 93 of the Oman VAT Executive Regulations (ER) - which prescribes the conditions for zero rating the supplies within the Oil and Gas sector; the extent of zero rating in the supply chain and also specified certain additional requirements for applying the zero rating in the upstream and midstream transactions.

Clarification in terms of conditions prescribed for zero rating

As per Article 51(7) of the Oman VAT law ('law'), supply of oil, oil derivatives and natural gas are subject to VAT at 0%, in accordance with the conditions prescribed under Article 93 of the ER. There has been ambiguity in terms of the interpretation and fulfillment of conditions / requirements set out under Article 93 of ER - especially around the condition 3, that states that *'the supplier and the customer must be registered and licensed by the Ministry of Energy and Minerals (MEM) to carry out primary and intermediate activities...'*

In light of the above, amongst other things, the OTA has clarified that:

- In order to apply the zero rate of VAT to any domestic supply of goods or services, all conditions under Article 93 must be fulfilled.
- The OTA accepts Joint Suppliers Registration System (JSRS) to meet the 'MEM licensing' requirement specified under Article 93 (3) of ER. Therefore, the contractors supplying goods / services for upstream / midstream activities shall submit their JSRS certification as a proof of 'MEM licensing' for VAT registration.
- For operators, MEM will provide the OTA with a list of operators and partners engaged in upstream and midstream activities, including service agreement for small fields. This fulfils the 'MEM licensing' requirement specified under Article 93 (3) of ER.

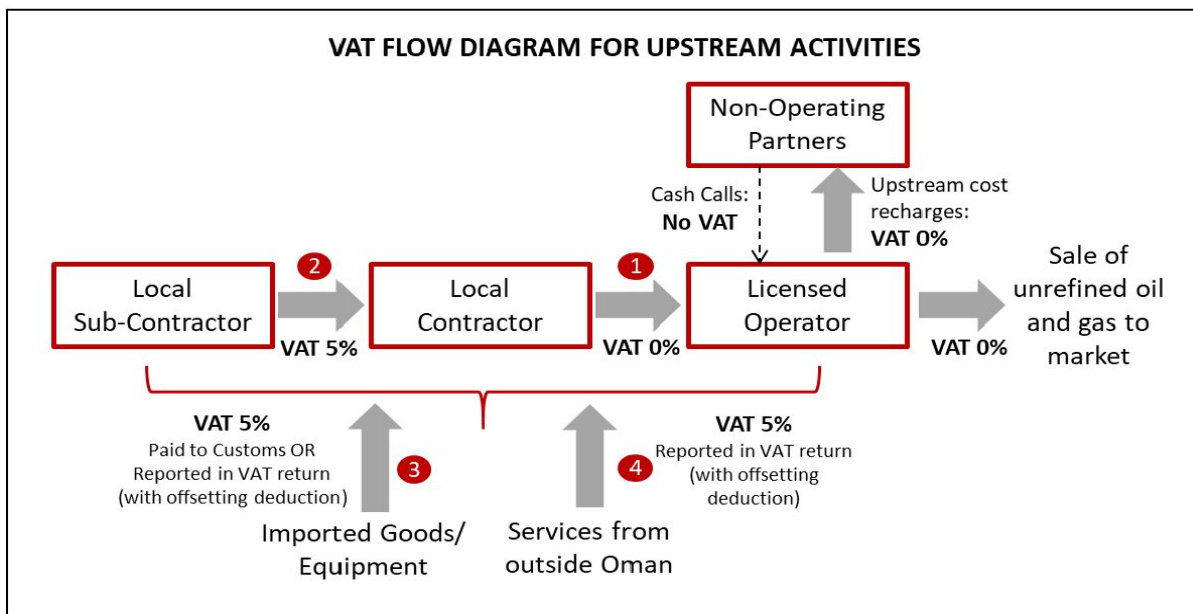
The scope of upstream, mid-stream, down-stream, and transportation and storage activities are detailed in the guide. The definitions section in the guide also defines key technical terms specific to the Oil and Gas industry such as cash-calls, farm in & farm out, unsuccessful exploration, etc.

Key clarification in terms of VAT treatment of upstream activities

All supplies of unrefined crude oil are eligible for zero rating which includes any supply of crude after extraction (whether the first or a subsequent supply), and a sale of crude to refinery. A domestic supply of refined oil products does not qualify for zero rating.

It is pertinent to note that a zero rating can also be applied to natural gas in a gaseous or liquified state (therefore including LNG). Domestic supplies of natural gas in Oman are required to be made by the MEM. Given this, any supply of natural gas by or to the MEM is zero-rated.

The OTA has provided an indicative list of goods / services related to upstream activities and the VAT treatment in the guide. The VAT treatment for the upstream activities is summarised in the diagram below:



The extent of zero rating

Only local supply of directly related goods/services destined for exclusive use in an upstream activities supplied by registered contractors to operators could be zero rated, subject to fulfilling all the conditions of Article 93 of the ER. It is pertinent to note that the guide specifies an additional requirement for the application of zero rating - The operator must provide a confirmation statement (either electronic or physical) stating that the goods/services are *“Received for direct and exclusive use in zero rated upstream or midstream activities as prescribed by Article 93 of VAT Executive Regulations”*.

Accordingly, the local supply of goods/services from a sub-contractor to a contractor are not eligible for zero rating under Article 93 of the ER, even if these are to be used by the Contractor in making a supply for upstream use, these supplies will be charged with VAT at standard rate of 5%, for which input credit will be available to the contractor, as eligible.

It may be noted that import of goods/services by the operators, contractors and sub-contractors, intended for use in an upstream activity do not qualify for zero-rating and will be subject to 5% VAT (unless specifically exempted in the law).

As part of this VAT guide, the OTA has also clarified the VAT treatment in terms of transactions related to Government, transactions between JV partners, transactions between operator & affiliated entities, transactions between upstream operators, transactions between operators and contractors / suppliers etc. A few of the key clarifications are mentioned on the next page.

Key clarification in terms of the VAT treatment of midstream activities

Transportation of crude Oil via Main Oil Line ('MOL') to refineries and storage of crude at the approved facilities are midstream activities. The transportation of crude oil via MOL is zero rated for VAT. A local supply of goods or services from contractors to a midstream operator for exclusive use in the midstream activities would qualify for zero rating.

Key clarification in terms of the VAT treatment of downstream activities

The downstream supply of oil or gas after refinery and / or for consumption within Oman is not eligible for zero rating and is subject to the standard rate of VAT at 5%

Key clarifications in terms of the VAT treatment on transactions related to

Government:

Activities such as Government payments such as royalties, signature or production bonuses, training bonus, training levy by the Government will be considered as sovereign in nature and not subject to VAT.

Activities such as Gas Transportation Tariff (RAB), crude oil/gas revenue, Exploration and Production Sharing (EPSA) overhead, will be treated as Zero rated supply

Activity of disposal of material or inventory other than to an operator shall be charged at 5% where these disposals are made through sale via operator within Oman to a third party and not related to Upstream/Midstream.

Key clarification in terms of the VAT treatment for the supply of aviation and marine fuels

The supply of any fuel, lubricants or other goods which are to be used or consumed by a 'qualifying means of transport' on an international voyage departing Oman is zero-rated.

Zero-rating only applies to the supply of fuel or consumable goods which takes place at an international port, airport or comparable facility.

As an important part of applying zero rating, the fuel supplier must retain evidence that:

- The fuel or goods are physically placed onto the qualifying means of transport; and
- The qualifying means of transport is departing for a destination outside Oman.

Further details on this procedural aspect are expected in the VAT guide for the transportation sector.

Takeaway

The guide clarifies the ambiguity in terms of the interpretation of Article 93 of ER such as acceptance of JSRS certificate as a MEM licensing requirement, the extent of zero rating in the Oil and Gas supply chain, etc.

The guide also clarifies various open issues such as scope of upstream and midstream activities, VAT treatment of the royalties/fees paid to the Government, supplies made by the contractors and the sub-contractors, VAT treatment of EPSAs, cross charges by the JV partners, supplies made by the Government, etc.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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