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VAT Alert

Latest developments on Value Added Tax in GCC

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Synopsis of the unofficial English version of the framework basis which the Unified Agreement for VAT for the GCC region would be released

The Um Al-Qura, which is the official gazette of Saudi Arabia, in its edition number 4667, published the Arabic version of the outline on which the Unified Agreement for Value Added Tax (VAT) for the Gulf Cooperation Council (GCC) region would be based on.

This framework for the proposed Unified Agreement for GCC VAT (Agreement), comprising of 78 articles, sets forth the principles of the GCC VAT Law, by which the six GCC Member States, i.e., the United Arab Emirates, Bahrain, Kingdom of Saudi Arabia, Sultanate of Oman, Qatar and Kuwait (each of these States hereinafter separately referred to as Member State) would be governed.

The key principles of the English version of the abovementioned framework on which the actual Agreement would be based on, have been summarised below.

- **When is VAT levied?**
  VAT would be levied on the import and supply of goods and services at each stage of production and distribution including deemed supplies. The following transactions would be taxable:
  - Taxable supplies by a taxable person in the territory of the Member State.
  - Receipt of taxable supplies by a taxable person from a non-resident and non-taxable person in a Member State.
  - Import of goods by a person.
- **What is supply of goods and services?**
  Supply of goods means 'the transfer of ownership of such goods' or 'transfer of the right to dispose of the goods as an owner'. Furthermore, supply of goods would include:
  - Assigning possession of goods under an agreement that provides for the transfer or possibility of transfer of ownership of these goods.
  - Granting rights in rem deriving from ownership giving the right to use real estate.
  - Compulsory transfer of ownership of the goods for consideration pursuant to a decision of the public authorities or by virtue of any applicable law.

Also, transport of goods by a taxable person which are part of his assets from one Member State to another Member state for the purpose of his business shall be deemed to be supply of goods in the first State (except in case of temporary transfers). Furthermore, any Supply that does not constitute as supply of goods is defined as supply of services.

- **What is included in deemed supply of goods and services?**
  Deemed supply of goods: The following activities of a taxable person would be considered as deemed supply of goods and would be liable to VAT:
  - Assignment of goods, for purposes other than economic activity, with or without consideration
  - Change in the use of goods for non-taxable supplies
  - Retaining goods after ceasing to carry on business activity
  - Supplying goods without consideration, unless the supply is in the course of business, such as samples and gifts of trivial value as determined by each Member State.

  Deemed supply of services: The following activities by a taxable person would be considered as a deemed supply of services and would be liable to VAT:
  - Use of goods forming part of business assets for purposes other than economic activity
  - Supply of services without consideration.
- **What is the VAT Rate proposed in GCC?**
  A single standard VAT rate of 5% is likely to be implemented.
- **Which sectors would be exempt or zero rated?**
  VAT is expected to be charged at zero rate for the following supplies subject to conditions:
  - Education
  - Health
  - Real estate
  - Local transport
  - Internal and international transportation, and related supplies
  - Internal and international transportation, and related supplies
  - Exports of goods and services to outside the GCC territory
  - Re-export of goods outside the GCC territory
  - Supply of investment gold, silver and platinum.

  The following categories of supplies may be exempted depending on local Laws of the Member States:
  - Oil and gas including oil derivatives
  - Food items mentioned in the approved list
  - Medicine and medical equipments
  - Supplies of certain air, sea and land transportation
  - Financial services performed by banks and financial institutions.

- **What is the Place of Supply (POS) for goods and services?**

The POS determines the place where the transaction is taxable.

Type of transaction		Place of Supply
Supply of goods	Without transportation/dispatch	Location of goods when they are placed for customer's disposal
	With transportation/dispatch	Location of goods when the transportation or dispatch commences
	Internal supplies (i.e. one Member State to another) with transportation/dispatch a) If the customer is taxable b) If the customer is not taxable but the supplier is registered in the destination Member State	Location of goods where transportation or dispatch terminates
	Internal supplies (i.e. one Member state to another) with transportation/dispatch to a non-registered customer and where the supplier is not registered in the destination Member State	Location of goods where transportation or dispatch commences
	Supply for gas, oil and water through the pipeline distribution system and supply of electricity by a taxable person to a taxable trader in another Member State	Place where the taxable trader is established
	Supply for gas, oil and water through the pipeline distribution system and supply of electricity by a taxable person to any person other than taxable trader in another Member State	Place of actual consumption
	Importation of goods	State of the first point of entry
Supply of Services	By a taxable person to a taxable customer	Place of customer's residence
	By taxable person to non-taxable customer	Place of supplier's residence
	Conveyance leasing service by taxable to non-taxable person	Location of conveyance when placed at customer's disposal
	Real estate related services viz. real estate agent services, renting of real estate, construction work	Location of the real estate
	Wire and wireless telecommunication services and electronically supplied services	Place of actual use of or benefit from these services
	Supply of other services such as hotel, restaurant services, cultural, artistic, sports or recreation services; services linked to transportation of goods from one member state to another	Place of actual performance

- **What is the Time of Supply (TOS) for goods and services?**

The TOS means the point of time where the liability to pay tax arises.

Type of transaction	Time of Supply	
Supply of goods and services	Supply of goods or services	Whichever is earlier
	Date of issuance of tax invoices	
	Receipt of consideration (partial or full)	
Importation of goods	Date of importation of goods	
Supply of goods for this case is defined as:		
Supplies of goods without transportation/dispatch	The date on which the goods were placed at the customer's disposal	
Supplies of goods with transportation/dispatch	The date on which transportation or dispatch of goods began in connection	
Assembly or installation of goods	The date on which the assembly or installation of goods was completed	
Supply of services	The date on which the performance of the service was completed	
Deemed supply of goods	Date of occurrence of deemed supply	

- **In what circumstances is tax liable to be paid under Reverse Charge Mechanism (RCM) i.e., tax is payable by the customer?**
  - In case of receipt of goods or services from a supplier who is not a resident of the same Member State, then the customer is obligated to pay tax on RCM
  - In case of receipt of services from supplier who is not a resident of the GCC Member States, then the customer is obligated to pay tax on RCM.

- **What is the value on which tax is due?**

  The value of supply would be the value of consideration and;

  Includes:
  - Non-monetary consideration as per the 'fair market value'
  - All expenses in relation to the taxable supply which would be charged by the supplier and reimbursed by the customer
  - All taxes excluding VAT.

Excludes
- Discounts in prices and deductions given to customers
- Subsidies granted by the Member State to the supplier
- Expenses paid by the supplier in name and on account of the customer (subject to no Input Tax Credit (ITC) of such expenses).

<u>Value of deemed supply from one Member State to another</u>: Purchase or cost based market value, if the same can be determined. In other cases, the fair market value would apply.

<u>Value of imported goods</u>: The value of imported goods would be the value in accordance with the Customs Law, plus Excise Law and would include Customs Duty and other specified taxes excluding VAT.

- **Whether input tax deduction is allowed?**
  Input tax in relation to providing taxable supplies would be allowed to be deducted. Each Member State would determine the terms and rules for tax deduction. Proportionate reversals are applicable in case it is used both for taxable and non-taxable supplies.
- **What is the registration criteria?**
  Compulsory registration: In case a business has an annual turnover of more than SAR 375,000 (excluding exempt supplies) or the equivalent in the currencies of the GCC countries, they would have to be mandatorily registered. When registering for tax purposes in a Member State, the taxable person would be issued a Tax Information Network (TIN).

  Optional registration: Any resident of the Member State, having an annual turnover of more than SAR 187,500 (excluding exempt supplies) or the equivalent in the currencies of the GCC countries, would have the right to obtain optional registration under the VAT Law[1].

- **What is VAT grouping?**
  Each Member State may treat a group as one taxable person, as per their local legislation.

- **Are there any transitional provisions prescribed?**
  Every Member State would provide domestic law for transitional provisions.

In addition to the above, the framework of the Agreement also provides for the tax due date, tax deduction principles, tax invoices, cancellation of registration, submission of tax returns, tax refund, exchange of information between Member States, etc. However, the Agreement does not provide any clarity for the treatment of free zones under the GCC VAT Law.

SKP's Comments

Upon ratification of the Agreement by each Member State, each Member State would be required to issue its own national VAT legislation which would be required to be based on the features of the Agreement. The ratification process timeline of the various Member States will depend upon the constitutional process undertaken by each Member State.

The VAT implementation has been scheduled for 1 January 2018 in four states viz. the United Arab Emirates, Kingdom of Saudi Arabia, Bahrain and Qatar and the other two States, viz. Sultanate of Oman and Kuwait are to follow suit and implement the same by 1 January 2019. At this juncture, business in the GCC region should focus on obtaining a preliminary understanding of the framework basis which the proposed GCC VAT Agreement would be officially released, identifying key aspects that would affect them, understand and anticipate the changes that would be required for them to be GCC VAT ready and implement all the preparatory steps for GCC VAT law basis this understanding. Additionally, the release of the Member State's domestic VAT law should also be tracked and deciphered.

[1]It would be pertinent to note that the right to amend the registration exists with the Ministerial Committee and can be amended after three years

About SKP

SKP is a long established and rapidly growing professional services group located in seven major cities across India. We specialise in providing sound business and tax guidance and accounting services to international companies that are currently conducting or initiating business in India as well as those expanding overseas. We serve over 1,200 clients including multinational companies, companies listed on exchanges, privately held firms and family-owned businesses from more than 45 countries.

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