VAT Alert

Latest developments on Value Added Tax in GCC

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Kingdom of Saudi Arabia: Release of the Draft Law Consultation Web-Form

The Kingdom of Saudi Arabia (KSA) is proposing to implement Value Added Tax (VAT) from 1 January 2018.

The Unified VAT Agreement of the Cooperation Council for the Arab States of the Gulf (Agreement) was published by UM AL-QURA, which is the Official Gazette of KSA, in the issue number 4667 dated 21 April 2017. This agreement is to set forth the unified legal framework to introduce VAT in the GCC states which will be imposed on the supply of goods and services and which has been ratified by the Kingdom of Saudi Arabia cabinet (decision number 257 dated 30 January 2017).

On the basis of this Agreement, KSA has prepared a primary draft domestic legislation (Draft KSA VAT Law), to set out how VAT is to be implemented in the kingdom. It is based on the Agreement and aims to make domestic provisions following the same framework and would be accompanied by impending regulations which detail the implementation.

Furthermore, KSA has released a public consultation framework to factor the public views before the KSA VAT Law is developed. The deadline for the submission of views is 29 June 2017. The public consultation framework includes a draft law feedback form and a readiness evaluation form.

A brief summary of the additional important provisions of the KSA VAT Law in comparison with the Agreement, has been provided below:

1. **VAT Group**: Regulations would provide cases in which two or more resident legal persons may elect to register as a VAT group where they carry on economic activity and have close economic or financial links with each other. Persons registered as a VAT group would be treated as a single taxable person.

2. **Transactions falling outside the scope of tax**: The following circumstances are not considered supplies of goods or services within the scope of VAT:

    - Goods and services provided by a legal person to itself – with the exception of certain specified supplies which the VAT Regulation would prescribe.
    - Supplies of Goods from one member of a VAT Group to another member of the same VAT Group.
    - Any other transaction as may be prescribed by VAT Regulations.

3. **Place of supply of goods and services – to determine the taxable jurisdiction of the supply**: Various situations have been envisaged wherein the place of supply for the taxable supplies have been provided in the Agreement. The KSA VAT Law further envisages a situation wherein the performance of a part of service takes place within KSA and another part outside KSA, the value thereof would be split accordingly between the part taking place within the KSA and the part taking place outside KSA.

4. **Supply by agent**: The KSA VAT Law provides that where a taxable person acting in his own name but on behalf of another person supplies taxable goods and services, he would be deemed to have received or supplied those goods or services himself.

5. **Valuation of taxable goods and services**: The KSA VAT Law specifies that if all of the following apply to a supply then such supply would be treated as 'supply for reduced consideration' and the valuation for the same would be Fair Market Value (FMV) plus taxes (excluding VAT):

    - When consideration for supply is less than the FMV
    - The supplier and customer are related persons
    - The customer is not entitled to full input tax deduction in relation to the supply.

    VAT Regulations may be prescribed for calculating the FMV or prescribing alternative methods of valuing certain supplies of goods or services.

6. **Specific procedure/conditions provided** for adjustment of value of taxable supplies in case of cancellation/termination of supply, material change in the nature of supply, alteration in agreed consideration (including discounts).

7. **Accounting**: The KSA VAT Law provides for invoiced based accounting to calculate the net tax payable, wherein the net tax payable by a taxable person is calculated by deducting the allowable total deductible tax, from the total of the output tax payable, in respect of all thetaxable supplies. Moreover, cash based accounting may be provided by VAT regulations.

8. **Tax invoices, credit notes and debt notes**: VAT Regulations would prescribe the formats for tax invoices, credit notes and debit notes.

9. **Review and appeals**: VAT Regulations would define the types of assessments or decisions which may be reviewed or appealed against and the means, time limits and restrictions applying in respect of review or appeal.

10. **Penalties**: The KSA VAT Law has provided various penalties and fine for various violations. The key penalties have been provided in the table below.

	Particulars	Penalty	
1.	Penalty for failure to register for tax	SAR 10,000	
2.	Penalty and fine for error in tax returns	50% of the under-reported tax; No penalty where incorrect return shows more tax payable than tax due	
3.	Penalty and fine for overstated claims of refund	50% of the over-stated amount	
4.	Penalty and fine for failure to pay tax when due	SAR 1,000 and an addition of:	
		Delay<30 days	5% of unpaid tax
		30 days<Delay<90 days	10% of unpaid tax
		90 days<Delay<365 days	20% of unpaid tax
		365 days<Delay	25% of unpaid tax
5.	Penalty for recipient of supply for providing incorrect tax identification number, etc.	Higher of: 1. SAR 1,000; or 2. Double the amount of VAT	

11. **Transitional provisions**: KSA VAT Law to apply from 1 January 2018 – except Registration and Deregistration Articles which would be effective immediately post the Law is published in Official Gazettte.

VAT Regulations would inter-alia prescribe:

- Imposition of tax on supplies made after the commencement of Law but where invoice is raised or consideration is paid before the commencement of the Law.
- Supplies made after commencement of Law but contracts effected prior to issue of this Law.
- Transactions with other Member States which have not introduced VAT at the time of the transaction.

SKP's Comments

A general policy document summarising the positions taken in the implementing regulations is expected to be made available in due time. The draft KSA VAT Law provides a resourceful insight for the expected domestic VAT legislation and expected legislations of Member States. At this juncture, industry representations for specific issues concerning them should be made. Additionally, the release of the various mentioned regulations would require to be tracked. Also, filling up of the readiness evaluation form which is available in the public domain would assist businesses to judge their current level of preparedness.

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