



SAUDI ARABIA VAT GUIDE



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1. INTRODUCTION

1.1 Background

The Kingdom of Saudi Arabia (the "**KSA**") has introduced Value Added Tax (VAT) with effect from 1 January 2018, in accordance with the framework agreement among Gulf Cooperation Council (the "**GCC**") Member States, known as the Unified VAT Agreement for the Cooperation Council for Arab States of the Gulf (the "**Agreement**").

The requirements in the Agreement has been transposed into national law in the KSA in order to achieve effective implementation of the VAT law. The KSA also have to include in their domestic law areas where prescriptive guidance has not been given in the Agreement or where optionality is provided in the Agreement.

1.2 Governing legislation

In the KSA, VAT is governed by the Value Added Tax Law (the "**Law**"), as well as the Value Added Tax Implementing Regulations (the "**Regulations**"). Together, the Law and the Regulations set out the VAT rules applicable in the KSA.

The VAT rules applicable in the KSA, however, cannot be read without the Agreement as the common features in the Agreement are binding on all GCC Member States. As such, the content of the Agreement has been transposed into the Law and the Regulations in the KSA.

Another important piece of legislation regulating the application of VAT rules in the KSA is the customs legislation of the Member States of the Gulf Cooperation Council i.e. the Unified Customs Law. In particular, the importation of goods into the KSA is a taxable event and importation is defined for VAT purposes by reference to the Unified Customs Law.

1.3 Administrative agency

The administrative oversight of VAT in the KSA is carried out by the General Authority of Zakat and Tax (the "**Authority**") under the authority of the Ministry of Finance of the KSA.

The KSA Customs Department will be primarily responsible for administration and enforcement of VAT collected on imports, and other specific movements of goods into or out of the KSA.

Appeals in respect of VAT are governed by the competent judicial authority in accordance with the Royal Decree No (M/113) dated 2-11-1438 H, Income Tax Law and the Law. The Minister of Finance may make provisions to establish a mediation procedure to resolve disputes between the Authority and taxpayers which may be used in circumstances where the parties involved consent to the use of such mediation procedure.

2. SCOPE

When does VAT apply in KSA?

All supplies of goods and services made in the KSA are to be considered taxable supplies for VAT purposes unless the supply in question is specifically exempt. Certain specific supplies are zero-rated. VAT applies to goods and services supplied in the KSA by a resident or a non-resident, as well as imports of goods.

There is a notion of nominal supplies which deems (for revenue protection purposes) certain supplies to be taxable in the KSA. Examples of nominal supplies includes gifts of business assets, where VAT has been reclaimed on the cost of those assets.

2.1 In general

Article 2 of the Agreement outlines the scope of transactions subject to VAT in the GCC Member States. Member States are required to transpose this provision into their domestic laws, which the KSA has done.

Pursuant to article 2 of the Law in the KSA, VAT is imposed on all taxable supplies of goods and services made in the KSA by a taxable person, or received in the KSA by a taxable person from outside KSA in instances where the reverse charge mechanism applies.

In broad terms, the following transactions are subject to VAT in the KSA:

- taxable supplies of goods and/or services made by a taxable person in the KSA;
- goods and/or services supplied in the KSA by a non-resident supplier to a taxable person in the KSA (in which case the customer is required to assume the liability for the payment of VAT);
- goods imported into the KSA by any person (so as to ensure fiscal neutrality with respect to domestic and international transactions); and
- transactions which are deemed (for revenue protection purposes) to be taxable supplies of goods and/or services made by a taxable person in the KSA.

All supplies of goods and services made in the KSA are to be considered taxable supplies for VAT purposes unless the supply in question is specifically exempt from the tax.

2.2 Territorial scope

For purposes of the Agreement, each GCC Member State is able to generally determine the extent and limits of its territory in accordance with the rules of international public law.

For VAT purposes, the KSA (and its territory) is defined as:

- the territorial lands and waters of the KSA, under the rights it holds pursuant to the United Nations Convention on the Law of the Sea;
- the air space under its control; and
- the rights of the KSA in the zone divided with the State of Kuwait.

Consequently, the scope of VAT rules in the KSA extends twelve nautical miles beyond the designated coastline of the KSA.

2.3 Transitional rules

The new VAT rules will apply from the commencement date of the law from 1 January 2018.

There is however a special transitional rule for contracts entered into before 30 May 2017. In these cases, no VAT need to be charged until 1 January 2019 and the supplier can treat the supply of the goods and services as zero-rated, provided that the customer is a business who is or would be entitled to reclaim any VAT charged, and the customer certifies this in writing to the supplier.

The regulations require all resident businesses to estimate their annual turnover for the calendar year commencing 1 January 2018 no later than 20 December 2017 and apply to register for VAT if the turnover will exceed the registration threshold (SAR 375,000). Registration will thereby be effective from 1 January 2018 (or before). However, if the annual turnover does not exceed SAR 1 million, the business can delay registration for one year until 1 January 2019 (but application must be submitted by 20 December 2018). This means it would not have to charge VAT, but it would be unable to reclaim input VAT too, subject to the pre-registration VAT recovery rules. For some businesses, it may therefore be advantageous to register anyway, especially where customers can recover their VAT.

It will not be possible to avoid VAT by issuing an invoice before the commencement date, or paying in advance of the actual supply taking place. If this is attempted, VAT needs to be accounted for and a further VAT invoice issued, when the goods are actually delivered or made available to the customer, or the services are actually performed after the commencement date.

If the contract does not mention whether the price is VAT exclusive or VAT inclusive, the general rule is that it is VAT inclusive. This means the supplier has to account for VAT out of the price received. The supplier will need to negotiate with the customer that VAT can be charged on top. Most difficulty will be in cases where the customer cannot reclaim the VAT as input tax.

Not all GCC Member States have introduced VAT from 1 January 2018. So far, only the KSA and the UAE have done so. Until a Member State has introduced VAT, it will be treated for the purposes of the VAT law as a country outside the Member States, and the rules on imports and exports of goods and services will apply accordingly.

3. TAXABLE PERSONS

Person liable to pay tax

Where a person makes a taxable supply in the KSA, or issues a VAT invoice, showing VAT, it is the supplier who has to account for VAT in the KSA. This will be the case where the supplier and customer are both resident in the KSA, or the supply is otherwise stated as taking place in the KSA.

However, where the supplier is not resident in the KSA, and the customer is VAT-registered in the KSA, the customer (not the supplier) generally must account for VAT in the KSA under the reverse charge mechanism. This means the customer treats the supply as made to him and by him, so the customer must account for VAT and can reclaim the corresponding VAT according to the usual VAT recovery rules. Similarly VAT may not be chargeable in the KSA if the supplier is resident in the KSA and the customer is resident in another GCC Member State and the place of supply rules dictate that the supply takes place outside the KSA.

In the case of electronically supplied services, a special regime applies. If these services are supplied in the KSA through an online interface or portal acting as an intermediary for a non-resident supplier, the operator of the interface or portal is treated as purchasing the services from the non-resident supplier and supplying the same services in his own name. The interface or portal is liable for the tax on this supply. However, the non-resident supplier alone and not the interface/portal will be treated as liable for the VAT if he is expressly indicated as the supplier during the online sale process, and in all the contractual arrangements, and in the invoicing.

3.1 Definition of taxable person

A "taxable person" is defined under article 2 of the Regulations as any person (legal or non-legal) who conducts an economic activity independently for generating income, and is registered for VAT in the KSA or who is required to register for VAT in the KSA under the Law or the Regulations.

Pursuant to article 1 of the Agreement, the term "economic activity" means an activity that is conducted in a continuous and regular manner including commercial, industrial, agricultural or professional activities or services or any use of material or immaterial property and any other similar activity.

The definition of taxable person within the meaning of article 2 of the Regulations includes both persons who carry out VAT taxable activities and persons who carry out VAT exempted activities.

The requirement of independence excludes employees from the concept of "taxable person" and accordingly, employees, acting in their capacity as such, are not taxable persons.

3.2 Registration of a taxable person

A person that is carrying on a business and makes taxable supplies of goods and services which exceeds the mandatory annual VAT registration threshold of Saudi Arabia Riyals (SAR) 375,000 is required to be registered as a taxable person for VAT purposes.

Determining whether or not a person has made taxable supplies that exceed the mandatory registration threshold is done on both a retrospective and prospective basis. If, at the end of any month, a person has made relevant taxable supplies in excess of the mandatory registration threshold

in the preceding 12 month period they must apply for registration (the retrospective test'). On the other hand, where, at the end of any month, a person reasonably expects to have made relevant taxable supplies in excess of the mandatory registration threshold in that month and the following eleven month period, they must apply for registration (the 'prospective test').

Where a person is mandatorily registerable under the retrospective test, he must notify the Authority within 30 days of the end of the month in which he exceeded the threshold. The VAT registration will take effect from the first day of the month following notification.

Where a person is mandatorily registerable under the prospective test, he must notify the Authority no later than 30 days from the end of the first month in which he reasonably expected to exceed the mandatory registration threshold in the next twelve months. The VAT registration will take effect from the start of that first month. As a secondary calculation test, the 'reasonable expectation' test is to be interpreted narrowly – that is, to only include those persons who should expect without reasonable doubt to pass the threshold.

Voluntary Registration

The voluntary registration threshold is set at 50 percent of the mandatory registration threshold. This results in a voluntary registration threshold of SAR 187,500.

Exemptions from Registration

A dispensation from mandatory VAT registration will apply for persons above the threshold whose taxable supplies consist solely of zero-rated supplies.

Registration of Divisions (Branches)

A branch and its head office are considered to be one taxable person for VAT purposes, given that they both form part of the same legal entity. This also applies in case of two branches with different commercial registrations. As such, a branch will not be registered as a taxable person in its own right.

As a consequence a transaction between a branch and its head office both established in the KSA, or between commercial registrations within the same legal entity, would not be considered as a VAT relevant supply.

Registration on an import

A taxable person must provide his Tax Identification Number to the Customs Department on an import.

The person designated as the importer, in accordance with the provisions of the common customs system, must generally pay tax at the time of import to the Customs Department, but the taxable person can instead apply for authorisation for the payment of tax to be made through the VAT returns. Authorisation will only be granted if the VAT returns are made monthly and all payments in the previous 12 months have been made on time, and the taxpayer can prove its financial stability.

The Customs Department will issue a statement to the taxable person each month, showing the value of goods imported.

3.3 Registration of a VAT group

Article 10 of the Regulations provides for the Authority to regard as a single taxable person two or more legal persons established in the KSA who, while legally independent, meet the common ownership tests. This "single taxable person" is referred to as a VAT group.

Two or more legal persons who each carry on economic activities in their own right, and can show they meet the relevant tests may apply to form a VAT group. For VAT grouping purposes, common financial control requires 50% or more common capital, ownership or control, and the ability of one person to exercise control over all members of the VAT group. The person exercising control over all members need not itself be a member of the group nor a taxable person. To apply for a VAT group, at least one member of the group must be a taxable person in their own right. A person may not join more than one VAT group.

Implications of VAT Grouping

The consequences of VAT grouping are that the group is treated as a single taxable person for the time it is in effect. Specifically, this means that:

- supplies between members of the VAT group are disregarded for VAT purposes (i.e. no VAT is due on the supplies);
- the VAT group must file a single VAT return for the entire VAT group per VAT return period, instead of each member of the VAT group submitting a separate VAT return; and
- all members of the VAT group are jointly and severally liable for the group's VAT liabilities for the period they were part of the VAT group.

Procedure for Forming a Group

The Authority may approve or reject the application for VAT grouping, or request more information (to prove the companies are eligible for group registration).

VAT grouping will generally take effect prospectively only (either from the date of submission of the application or a later date), but the Authority has the discretion to allow a retrospective date of effect where it is satisfied that this will not result in overall revenue loss. The approval or rejection of the application is a decision which may be reviewed or appealed, but the decision to allow retrospective treatment is not.

Why form a VAT group?

This should be regarded as an administrative simplification (so that only one VAT return has to be submitted, and no VAT accounting is made on supplies of goods and services between group members) rather than an opportunity to save or avoid VAT, but some VAT efficiencies can be achieved.

Compliance

The VAT group itself is responsible for completing and submitting the single group VAT return, making VAT payments and receiving VAT refunds for the group.

The Authority has the power to serve notice to disband or disregard grouping or to treat related companies as being part of a group, where necessary to prevent tax avoidance or an abusive result. An abusive result is where any person obtains a tax advantage from an arrangement that is not

intended by this policy and the corresponding law. Such notice must be served on a person in writing but may have retrospective effect. This notice is a decision which may be reviewed.

In addition to being responsible for notifying any changes to the Authority relating to the details of the group recorded on a VAT registration certificate, a representative member is the only member of the VAT group that can apply for members of the group to be removed or for it to be disbanded.

Where any of the members cease to be eligible to be part of a VAT group, the request for a group to be changed must be submitted within 20 days of the date eligibility ceases. In other cases, the representative member can elect for a change to the group to be made. This change will generally take effect from the date of request, unless the Authority agrees for the change to be made with retrospective or delayed effect. Upon leaving a VAT group, members who remain taxable persons eligible to be registered in their own right are to be given a standalone registration.

3.4 Registration of non-resident persons

Non-residents who carry on economic activities but have no fixed place of business or fixed establishment in the KSA, will be required to register for VAT if they have the obligation to pay VAT in the KSA (i.e. where they make taxable supplies in the KSA and their customers are not obliged to self-account for the VAT). There is no minimum registration threshold value for the purposes of establishing whether or not a non-resident should apply for registration.

It is mandatory for all non-resident taxable persons to appoint a tax representative established in the KSA and who is approved by the Authority. The tax representative will be held jointly and severally liable for any VAT debts of the non-resident taxable person throughout the period of its appointment to act in that capacity. A tax representative may file VAT returns, make payments and correspond with the Authority on behalf of the non-resident taxable person. The tax representative must submit the same information as would be required by the non-resident taxable person.

Non-residents must register for VAT through a separate section of the online portal made available by the Authority and will be required to provide details of their appointed tax representative at the time of registration, in addition to the normal information requirements for applicants. A non-resident taxable person whose details change (including those relating to its appointed tax representative) from that stated in their certificate of registration must update these using the relevant form on the Authority's online portal within 20 days of the change taking place.

4. TAXABLE TRANSACTIONS

4.1 General

In the KSA, taxable transactions are, generally, supplies of goods or services as well as imports.

A supply of goods or services made for consideration in the KSA by a taxable person in the course of his economic activity, which is subject to either the standard rate or the zero-rate, is a taxable supply.

Article 5 of the Agreement defines supplies of goods as the transfer of ownership or the right to dispose as an owner, and goods are defined as all types of material possessions (material assets), including water and all forms of power including electricity, gas, lighting, heating, cooling and air conditioning.

Article 7 of the Agreement defines supplies of services as "any supply that is not considered a supply of goods". This includes the obligation to refrain from an act, to tolerate an act or situation, and the performance of services in pursuance of an order made by or in the name of a public authority or as a requirement of any law.

Import VAT is due on the import of all goods into the KSA where the goods, if otherwise supplied in the KSA, would be taxable at the standard rate. Pursuant to article 1 of the Agreement, the importation of goods is, generally, the entry into the KSA of goods which were not previously in free circulation in, or had not previously cleared customs in, another GCC Member State.

Excluded Transactions

Certain specific transactions are considered, under KSA VAT law, to involve neither a supply of services nor a supply of goods for VAT purposes and are therefore treated as being outside the VAT system altogether.

The following supplies are disregarded and therefore not taxable supplies of goods or services:

- a qualifying supply of goods and services forming a business (or part thereof) being transferred as a going concern;
- the supply of goods and services within the same VAT group; or
- the issue or supply of a voucher entitling the recipient to a supply of goods or services

Furthermore, goods and services provided by a legal person to itself (e.g. supplies between a headquarter and its branch), with the exception of nominal supplies, are not within the scope of tax.

To simplify the transfer of businesses and limit the risk of VAT avoidance, VAT is not chargeable on the "transfer of an economic activity". The transfer by a taxable person of goods and services forming a part of his economic activity, is not a taxable supply of goods and services by that person in the course of an economic activity and is therefore not a supply subject to tax, provided that all of the following conditions are met:

- the goods and services transferred are capable of being operated as an economic activity in their own right, and the recipient immediately following the transfer uses those goods and services to carry on that same economic activity;
- the recipient is a taxable person or becomes a taxable person as a result of the transfer;
- the supplier and the recipient agree in writing that they wish the transfer to be viewed as the transfer of an economic activity for the purposes of the Regulations.

4.2 Supply of goods

A supply of goods made for consideration in the KSA by a taxable person in the course of his economic activity, generally, is a taxable supply.

Article 5 of the Agreement provides the definition of a supply of goods. Member States are required to transpose this definition into their domestic laws. This is duly achieved in the KSA as article 1 of the Regulations in the KSA provides that definitions contained in the Regulations have the meanings ascribed to each of them in the law and the Agreement, unless the context requires otherwise.

The supply of certain goods may be exempt from VAT or zero-rated, as discussed in Sections 8.2 and 8.3.

Definition of Goods

Goods are defined as all types of tangible property (tangible assets) including water and all types of energy including electricity, gas, lighting, heating, cooling and air conditioning, other than financial instruments such as money or vouchers where these are used as consideration.

Definition of Supply of Goods

The distinction between supplies of goods and services is important because the two categories of supplies are treated differently in a number of respects, including with respect to the place of supply.

A supply of goods means the transfer of ownership of such goods or the right to dispose of the same as an owner. A supply of goods includes the following transactions:

- assigning possession of goods according to an agreement that allows for the transfer of ownership of these goods or the option to transfer the same at a date subsequent to the date of the agreement, which shall be no later than the date on which the consideration is paid in full;
- granting rights in-kind stemming from ownership that provides the right to use real estate;
- transfer of ownership of the goods against a consideration in a compulsory manner pursuant to a decision of the authorities or by virtue of an applicable law.

The following events are also a taxable supply, provided they are made in the KSA and the underlying goods or services are not VAT exempt:

- transfers by a taxable person of his own goods from the KSA to another GCC Member State;
- other events described below which are deemed to be supplies of goods or services (nominal supplies); or
- the receipt by a taxable person of an internal supply of goods and services supplied in the KSA from a supplier in another GCC Member State.

A taxable person who transfers goods forming part of his assets from the KSA to another GCC Member State is not considered to make a supply of those goods, provided that person can evidence the use or intended use of those goods for his own temporary use or an onward supply within ninety days of the goods being moved to that Member State.

Nominal Supplies of Goods

Pursuant to article 8(1) of the Agreement the following activities related to the transfer of business assets are deemed to be supplies of goods ("nominal supplies"):

- assignment of goods, for purposes other than economic activities, with or without a consideration;
- changing the use of goods to use for non-taxable supplies;
- retaining goods after ceasing an economic activity; and
- supplying goods without consideration, unless the supply is within the context of business, such as samples and gifts of small value as determined by each GCC Member State.

A nominal supply only applies in the above instances where the taxable person claimed input VAT deduction on the purchase or as part of the manufacture of the goods.

However, a low value threshold applies to supplies of goods made without consideration, such that any goods valued at SAR 200 or lower are not required to be reported as nominal supplies. This threshold applies up to a maximum annual threshold of SAR 50,000 per supplier during any calendar year. Business gifts and provision of samples of goods for no consideration are considered nominal supplies of goods, subject to this low value threshold. Once the supplier exceeds this threshold for any calendar year, he is required to account for VAT on all nominal supplies of goods made during that year.

4.3 Imports of goods

Importation of goods is a taxable event under Article 2(3) of the Agreement unless an exception or exemption applies. GCC Member States are required to transpose the rules on imports into their domestic laws.

Article 16 of the Law provides that the importation of goods is a taxable event for VAT purposes in the KSA. Article 1 of the Agreement defines importation as goods entering any GCC Member State from outside the territory according to the provisions of the Unified Customs Law.

As such, goods supplied in the KSA from other GCC Member States are not imports. An import of goods from a place outside the GCC Member States into the KSA territory is a taxable event on which import VAT may be applicable. Import VAT is due on the import of all goods into the KSA where the goods, if otherwise supplied in the KSA, would be taxable at the standard rate. No import VAT will be due in respect of goods that would be zero-rated or exempt from VAT.

The following imports of goods, which are not subject to customs duty on entry into the KSA, are exempt from import VAT:

- Goods for diplomatic and military use which are exempt from customs duty in accordance with the Unified Customs Law;
- Imports of personal effects and household appliances being moved into the KSA which are exempt from customs duty in accordance with the Unified Customs Law;
- Imports of returned goods which are fully exempt from customs duty in accordance with the Unified Customs Law;
- Low value imports of personal items and gifts carried in travellers' personal luggage, within the limits set by the Customs Department for relief from customs duty collection; and
- Imports of equipment for people with special needs in cases where the equipment is specified in an order issued by the Board of Directors.

Where import VAT is due, it is applied on the person (whether a taxable person or not) on whose behalf the goods are imported into the KSA (the 'importer').

VAT payable on imports into the KSA will be collected by the Customs Department at the time of the import, under administrative provisions specified by that Department for imports of goods. However, a taxable person may apply for authorization for the payment of tax on imports to be made through that taxable person's tax return, instead of being collected by the Customs Department on importation entry.

Temporary imports or re-exported goods

Article 34 of the Agreement requires GCC Member States to exempt from VAT goods that are subject to a number of customs suspension mechanisms.

Therefore, no import VAT will be due when goods are placed under a customs suspension regime upon entry into the KSA. Import VAT will only be due when the goods are released into free circulation.

Furthermore, re-exportation of movable goods that were temporarily imported into the KSA for repairs, renovation, modification or processing as well as the services added to these goods are subject to the zero-rate.

The Customs Department can require a bank guarantee or set other conditions to secure the VAT value for goods placed under a customs suspension regime, in addition to any other requirements surrounding the deferment of duty payment.

See Section 8.4 for reliefs from import VAT.

Imports of services

The concept of an import of services is not recognised under the Agreement or the Law and the Regulations in the KSA, because importation is defined by reference to goods.

When services are purchased from a supplier established outside the KSA, KSA taxation is preserved by operation of the place of supply rules discussed below in Section 4.4 and, if applicable, a "reverse charge" mechanism.

4.4 Supply of services

A supply of services made for consideration in the KSA by a taxable person in the course of his economic activity, generally, is a taxable supply, although the supply of certain services may be exempt from VAT or zero-rated, as discussed in Sections 8.2 and 8.3.

Definition of Services

The distinction between supplies of services and goods is important because the two categories of supplies are treated differently in a number of rules, including with respect to the place of supply.

Services are defined as all transactions that are not considered as supplies of goods. This includes the obligation to refrain from an act, to tolerate an act or situation, and the performance of services in pursuance of an order made by or in the name of a public authority or as a requirement of any law.

Intangibles

For VAT purposes in the KSA supplies made in relation to intangible property are subject to VAT as supplies of services as intangibles do not qualify under the definition of goods. As a consequence,

there are no specific provisions addressing the tax treatment of "intangibles" such as patents, copyrights, trademarks, contracts and other legally protected property.

A transfer of a business as going concern is, under certain conditions, considered outside the scope of VAT so that a transfer of the associated intangibles such as contracts, goodwill, and similar intangibles as part of a business is not taxable.

Nominal Supplies of Services

Pursuant to article 8(2) of the Agreement a taxable person shall be deemed to have made a supply of services when one of the following occurs ("**nominal supply**"):

- a taxable person deducts input VAT on the purchase of goods or services and subsequently uses those goods or services for non-economic activities or use in activities that do not carry the right to input VAT deduction; or
- a taxable person deducts input VAT on goods or services which he then uses to make a supply of services without any consideration.

A low value threshold applies to supplies of services made without consideration, such as low-value promotional services or services provided to employees. In line with the threshold for nominal supplies of goods, any individual supply of services valued at SAR 200 or lower are not to be considered nominal supplies. This threshold applies up to a maximum annual threshold of nominal supplies SAR 50,000 per taxable person supplying those services, calculated on a calendar year basis. Where a taxable person exceeds this limit, all supplies of services made without consideration during that year should be treated as nominal supplies.

5. TIME OF SUPPLY

The time of supply is the date when a supply of goods and services is considered to take place for VAT purposes. This is the date on which the liability for the payment of VAT on a supply is created and any reporting and payment obligations arise.

Pursuant to article 23 of the Agreement VAT becomes due (subject to any arrangements for the periodic payment of liabilities) at the earliest of the following:

- the date where goods are delivered or made available or the performance of the service is completed;
- the date when any tax invoice is issued in respect of the supply; or
- partial or full receipt of consideration, to the extent of the amount received.

For one-off supplies, the basic rule for both supplies of goods and services is that VAT is due on the date that the supply actually takes place. However, to the extent payment is required, or a valid VAT invoice is issued before the actual supply takes place, the supply shall be treated as accelerated and made then, to the extent of the payment/amount shown on the invoice.

When the actual supply takes place is different depending on the type of supply made:

- for supplies of goods which do not require transportation, the supply takes place when the goods are placed at the disposal of the customer. All the VAT will be due then, even if the price is payable in instalments after the customer has received them;
- if the supply of the goods does require their transport, the time of supply is the date that transport begins;
- if goods require the seller to install or assemble them, the time of supply is when that installation is complete;
- for supplies of services, the supply takes place when the services are completed;
- where a service is supplied over a period of time, referred to as a continuous supply of services, and the consideration is payable periodically over that period, there are separate times of supply each time a payment is made or an invoice is issued, but there must be at least one supply for VAT every 12 months;
- goods supplied under a hire purchase or finance lease agreement and considered a supply of goods will be supplied at the time the goods are made available, regardless of when payments are made;
- other goods supplied under rental agreements, and supplies of services under agreements which provide for periodic payments are successively supplied on the date on which each payment or instalment is due or received;
- a nominal supply where goods or services are applied to a non-economic or non-creditable use by a taxable person will take place on the date the goods or services are so applied;
- the transfer of a taxable person's own goods to another GCC Member State is considered to take place on the date the goods were transferred.

Example

DLA Piper lawyers are instructed on two projects; one is the purchase of real estate, and the other is to provide advisory services on a monthly retainer. The supply of the services relating to the real estate transaction will be completed when the services end. Strictly, that will be the tax point even if DLA Piper delay its invoicing. The advisory services are a continuous supply of services, and VAT should be accounted for when each interim payment is received or VAT invoice issued.

To delay the tax point, on continuous supplies, where there is a concern the customer may not pay on time, some suppliers particularly, landlords, may issue "demands" which do not constitute valid VAT invoices, so the VAT liability is delayed until payment is actually made. The VAT invoice is issued after that.

For the supply of oil, gas, water or electricity through a distribution network, where the supply does not occur on a continuous basis, the time of supply takes place when an invoice is issued or payment received.

Where a person ceases making taxable supplies and deregisters for VAT, in some circumstances, he can become liable to account for VAT, to eliminate the advantage of having reclaimed the VAT on goods still held but unsold at the date of deregistration. The tax point for this nominal supply is the date of deregistration.

VAT will be due on the date of import or, if later, when the goods are released from customs suspension. The value of the import shall be the specified customs value based on the common customs system, in addition to excise duties and customs duties. VAT will also be due on import where the goods have been transported outside the GCC Member States to complete their manufacturing or repair, and then re-enter the KSA. The VAT will be based on the value added to the goods.

6. PLACE OF SUPPLY RULES

6.1 Place of supply — general

Place of supply rules are important for VAT analysis because, in general, only supplies which take place in the KSA in accordance with the place of supply rules will be subject to VAT in the KSA.

Supplies which take place outside the KSA do not fall within the general definition of 'taxable supplies'.

The KSA VAT system classifies transactions as supplies of either goods or services, and does not use other classifications. Therefore, there are no place of supply rules applicable to transactions other than supplies of goods or services.

6.2 Place of supply — goods

Articles 10-14 of the Agreement provide rules on the place of supply of goods. GCC Member States are required to transpose these rules on place of supply into their domestic laws.

Domestic Supplies

The law in the KSA provides that, in general, when goods are located in the KSA, and their supply does not involve removing them from the KSA, they are treated as supplied in the KSA. Conversely, when goods are located outside the KSA, and the supply does not involve bringing them into the KSA, they are treated as being supplied outside the KSA.

Consequently, determining the place of supply of goods requires establishing whether the goods have been transported as part of the supply. For these purposes, 'transport' refers to the movement of goods from one country to another (whether transport is from one GCC Member State to another Member State, or a movement from a country or other place outside GCC Member States to a Member State). Where the supplier physically transports the goods or organizes the transport of goods, and this transport happens within 60 days of the taxable event, the goods are viewed to be transported as part of the supply.

Where no transport of the goods takes place as part of the supply, the place of supply of goods will be the country or place where the goods are located at the time they are made available to the customer.

Place of Import of Goods into the GCC Member States

The place of import of goods into the GCC Member States shall be the first entry point of a Member State. If the goods enter GCC Member States under suspension of customs duties, the place of import is the Member State where the goods are released.

Goods Supplied on Board Ships, Aircraft, etc.

Where goods are supplied on board ships, aircraft or trains during the section of a passenger transport operation effected within the GCC Member States, the place of supply is deemed to be at the point of departure of the passenger transport operation.

Gas, Oil, Water and Electricity

The place of supply for gas, oil and water via a pipeline distribution system and supply of electricity by a taxable supplier who is established in a GCC Member State to a taxable trader (i.e. a taxable

person whose primary activity is to re-sell those goods) established in another Member State shall be the place where the taxable trader is established.

The place of supply for gas, oil and water via a pipeline distribution system and supply of electricity to a person who is not a taxable trader shall be the place where the customer effectively uses and consumes the supply.

Cross Border Supplies

If goods are transported from the KSA to another GCC Member State, and the recipient is a person in that Member State who can evidence he is VAT registered in that State, then by derogation from the rule above, the place of supply takes place in the State where the recipient of the goods is established. Under the Agreement, VAT will be payable by the customer under the reverse charge mechanism in the country of receipt.

If goods are transported from the KSA to another GCC Member State and the recipient is not registered for VAT in that State, the place of supply is the Member State of the goods' destination, if:

- the supplier is responsible for arranging the transport or dispatch of goods; and
- the value of these supplies to non-taxable persons in that country exceeds a certain amount set by that country (the equivalent threshold in KSA is SAR 375,000 which equals the mandatory registration threshold).

Where the value does not exceed this threshold, supplies with transport to non-registered persons take place where the transport begins

The supply of goods that are removed to a place outside the GCC Member States (exportation) by or under the instruction of the supplier or customer as a part of that supply are eligible to be zero-rated, subject their removal being satisfactorily evidenced by the supplier.

6.3 Place of supply — services

The general rule is that the place of supply of services is in the KSA if the supplier is resident in the KSA. Residence is determined by where the headquarters or establishment of a non-natural person is based, and in the case of an individual, where he is usually resident. If a person has two or more places of residence, the place which is most closely connected to the supply in question is taken.

However, there are some overriding rules which dictate the place of supply depending on the type of services or activities involved in the supply, and whether the customer is in business or not, broadly to ensure that VAT is charged in the KSA where consumption of the service takes place in the KSA.

Place of Supply of Services to Customers based in another Member State

Where the supplier is resident in the KSA but the customer is based in another GCC Member State, it is important to determine if the customer is in business or not. If the customer is not in business, the supplier must charge VAT in the KSA. If the customer is in business, the supplier must obtain the customer's Tax Identification Number, and insert it on the invoice. The customer will then account for VAT in its Member State under the reverse charge, because the place of supply is in that Member State. Until he gets the customer's Tax Identification Number, the supplier must treat the customer as non-business. Where the customer is not in business, the supplier must charge VAT in the KSA.

Special Place of Supply of Services Rules

These rules supersede the general rules.

- **Hiring means of transport** - where the supply is to a non-business customer, the place of supply is where the means of transport is put at the disposal of the customer.
- **Supply of freight and passenger transport services** - the place of supply is where the transport begins. Transport services include incidental and related services, as detailed in the Regulations, including docking, landing, parking, customs and immigration clearances, air navigation, pilotage, supplies of crew members, loading, unloading or reloading, storing, opening for inspection, cargo security, packing and storage.
- **Land related services** - the place of supply of services closely related to real estate based in the KSA is in the KSA. Examples include the services of estate agents, surveyors, architects, supplies of land, construction services and lawyers' conveyancing services.
- **Wire and wireless telecoms and electronic services** - the place of supply is where the services are actually used and enjoyed. Where the services are provided at a particular location, such as a wi-fi hot spot or hotel lobby, where the customer's physical presence is required, the place of supply is there. Otherwise, the place of supply will be where the customer is resident. Because of the special difficulty in working out where the customer is resident the supplier may use special indicators to assist in determining where the customer is resident, such as its invoicing address, bank account details, Internet Protocol address and country code of the SIM card. Examples of what constitutes electronic and telecom services is detailed in the Regulations and includes:
 - any service relating to the transmission, emission or reception of signals, writing, images and sounds or information of any nature by wire, radio, optical or other electromagnetic systems;
 - the transfer or assignment of the right to use capacity for such transmission, emission or reception;
 - the provision of access to global information networks;
 - the provision of audio and audio-visual content for listening or viewing by the general public on the basis of a program schedule by a person that has editorial responsibility;
 - live streaming via the internet;
 - supplies of images or text provided electronically, such as photos, screensavers, electronic books and other digitized documents or files;
 - supplies of music, films and games, and of programs on demand;
 - online magazines;
 - website supply or web hosting services;
 - distance maintenance of programs and equipment;
 - supplies of software and software updates; and
 - advertising space on a website and any rights associated with such advertising.
- **Supplies of restaurant, catering and hotel services** - these services take place where the services are consumed, so will attract VAT in the KSA if the hotel etc is in the KSA.

- **Cultural, artistic, sporting, educational and entertainment services** - the place of supply is where the services physically take place. Where there is an event or show requiring admission, in particular, by means of a ticket, the services take place in the location where the event takes place.

7. VALUE OF SUPPLIES

7.1 Valuation — generally

The taxable value of a supply is critical to determining how much VAT must be accounted for. The taxable value is the consideration received for goods and services, either the actual consideration or the consideration treated as given for VAT purposes under the law.

The consideration includes all expenses and fees paid by the customer to the supplier as a result of the supply, and all taxes other than VAT.

Where goods and services are provided as part of the consideration, the fair market value of the goods/services is treated as the taxable value.

The law states that the declared price of goods and services is inclusive of VAT, unless the customer has agreed that the price is exclusive of VAT. The standard rate of VAT is 5%. Where the consideration is inclusive of VAT, the amount of VAT due is calculated by means of the following formula:

$$\text{VAT} = \text{Consideration} \times \frac{\text{Tax Rate}}{100\% + \text{Tax Rate}}$$

This corresponds to multiplying the consideration by 0.0476 to calculate the VAT.

Supplies between Related Persons

Where a supply is made to a related person at less than fair market value, and that related person is not entitled to full recovery of the input VAT, the supply is treated as made at fair market value. Fair market value means the consideration that would be payable in the open market for a similar and contemporaneous supply of identical goods/services freely offered between persons who are not related.

Related persons are defined in the Regulations. A natural person is related to his spouse, brother-in-law and a relative to the fourth degree. An employer is related to his employees. Partners in a partnership are related. A person is also related to the entity in which he is a partner or director or acts as such in directing strategic decision. A person is also related to a company which he controls by way of owning or controlling more than 50 per cent of the shares or voting rights or value. Two companies which are both controlled by the same person are also related persons.

Consideration Expressed in a Foreign Currency

To calculate the VAT due when a price is expressed in a foreign currency, the price shall be converted to the SAR based on the official rate of exchange on the date of the supply.

Nominal Supplies of Goods

Where a person is treated as having made a nominal supply (that is, where he gifts assets owned by his business valued at over SAR 200 or where goods cease to be used in the business), the value of the supply is the purchase price which the supplier originally paid for those goods. If this cannot be ascertained, fair market value (see above) shall apply.

Where a person who deregisters for VAT retains certain goods, he will need to account for VAT on the fair market value of those goods where he reclaimed VAT on the goods.

Supply Transported to another GCC Member State

The value of the supply, where the goods are moved to another GCC Member State and are to be used merely temporarily or for an onwards supply in that Member State, shall be the fair market value.

Used Goods Margin Scheme

The VAT on the sale of some second hand goods can be calculated by reference to the profit margin instead of the full value of the consideration.

Taxable persons may apply electronically to account for tax payable on certain used goods solely on the profit margin. If they do so, no input VAT on the purchase of goods is recoverable. The Tax Authority will notify the taxable person if the application has been successful. Application may only be made:

- in respect of used goods (known as Eligible Used Goods) as prescribed by the Authority;
- the supplier of the goods purchased the goods outside any business activity, or applying the margin scheme; and
- the goods are situated in the KSA.

Where the margin scheme applies, the taxable person must issue a VAT invoice which refers to the scheme and does not show any VAT charged. Where a taxable person purchases such goods from a non-taxable person, the taxable person must issue the invoice. Full records of all purchases and sales must be kept and retained by the taxable person.

7.2 Adjustments to stated sales price

Discounts, Subsidies, etc

There are some special rules to deal with discounts and subsidies:

- Price discounts and rebates offered to the customer shall reduce the consideration for VAT purposes;
- Subsidies given by a GCC Member State to a supplier shall not form part of the consideration for VAT purposes;
- Any amounts met by the supplier on behalf of the customer shall not form part of the consideration, and the supplier shall not have the right to deduct the taxes paid on such expenses.

Adjustment of the Taxable Value

Sometimes it is necessary for a supplier to adjust the value of a supply and account for further VAT (or reduce the VAT payable) as a result of events after the supply takes place. These events are:

- the supply is cancelled or terminated in whole or part;
- there is a material change or alteration in the nature of the supply;
- there is an agreed alteration in the amount of consideration payable; and
- the goods or services are returned to the customer.

In these circumstances, a credit note/debit note must be issued and the supplier must adjust the output VAT payable in the tax return for the period in which the relevant event occurred. The

customer must also adjust his input VAT for the period in which the supplier's credit note or debit note is issued.

Bad Debt Relief

In certain circumstances, a supplier who has accounted for VAT on a supply, but has not been paid in full by his customer, can reduce his output VAT and obtain a refund. The conditions are:

- the VAT has been included in a tax return and has been paid to the Authority;
- the supply was not to a related person;
- 12 months has elapsed since the date of the supply;
- the supplier holds a certificate from his accountant that the unpaid consideration has been written off in his accounts;
- where the amount of the unpaid consideration exceeds SAR 10,000, the supplier can evidence that appropriate formal procedures have been attempted to collect the debt, but without success e.g. evidence of a court order, bankruptcy proceedings etc.; and
- the supplier does not use the cash accounting basis.

The customer, having failed to pay within the 12 month period, must also reduce the input VAT he has reclaimed.

If, after adjusting his output VAT, subsequently the supplier receives full or partial payment of the unpaid amounts, the supplier must account for further VAT by reference to the time the payment was made and the customer can reclaim the VAT element of the amount he has now paid as input VAT.

8. STANDARD RATED, EXEMPT AND ZERO-RATED SUPPLIES

8.1 Standard rate

Throughout the GCC Member States, the standard rate of VAT is five per cent. This rate must be charged on supplies of goods and services and imports into the KSA, unless the law provides for an exemption or a zero-rate.

There are no reduced rates in the KSA. If a supply is specifically listed as zero rated, or exempt, as explained below, that will supersede the normal rate.

Charging VAT means that VAT has to be paid to the Authority on the supply, generally by the supplier, and the corollary is that the VAT incurred on costs will generally be recoverable. If a supply is charged at zero-rate, VAT is not charged, but it is still possible to recover VAT on related costs. This is because a supply at zero-rate counts as a taxable supply.

8.2 Supplies which are exempt

Certain types of goods and services are exempt from VAT. This means no VAT is accounted for on the supply, and no attributable input VAT is recoverable (unlike zero-rated supplies).

Exempt Supplies of financial Services

Certain financial services are exempt from VAT, namely:

- the issue, transfer or receipt of money;
- the issue or transfer or dealing with securities for money, or notes, or orders for the payment of money (e.g. loans at interest, credit cards, mortgages, finance leasing);
- the operation of any current, deposit or savings account;
- financial instruments such as derivatives, options, swaps, credit default swaps and futures;
- Islamic financial products which achieve the same objective as exempt financial instruments, including a temporary transfer of goods that serves as collateral under such financial products;
- issue of a life insurance product; and
- temporary transfer of title as part of collateral security.

It should be noted that where goods and services are supplied solely as part of a Shari'ah compliant financial product, there is no separate supply of those goods or services in accordance with the usual rules, as they are merely treated as part of the product. However, a separate supply of goods which has been transferred as collateral shall be considered to be made upon the transferee becoming entitled to exercise full rights of disposal of the goods or the transferee otherwise is acting in such a way that the transfer may no longer be considered temporary

Exempt supplies of Residential Real Estate

Article 29 of the Agreement stipulates that each GCC Member State may exempt or apply the zero-rate to the real estate sector.

The supply of bare land or any property designed or used for residential purposes will qualify to be treated as exempt from VAT in the KSA. The following supplies of residential property are also exempt from VAT:

- leases and licences of dwellings, including gardens and garages; and
- leases and licences of residential homes such as purpose-built student accommodation and school boarding accommodation.

Residential real estate means a permanent dwelling designed for human occupation, including;

- immovable property used or intended to be used as a home, such as houses, flats and apartments;
- other real estate intended as a person's primary residence, including residential accommodation for students or school pupils.

The supplies of real estate designated for commercial use described below are carved out from the exemption and subject to standard VAT:

- the supply of hotel accommodation;
- the supply of non-hotel but serviced accommodation; and
- residential property held out for rent in a similar manner.

Thus, supplies of accommodation in hotels, inns, guesthouses, motels and similar properties are not treated as residential real estate, and are taxable at five percent.

8.3 Supplies which are zero-rated

Supplies which are taxable at zero-rate means that no VAT needs to be charged, but all attributable input VAT on costs can be recovered. Where supplies fall into a category for both zero-rating and exemption, the zero-rating treatment prevails, and that is advantageous for the supplier as he can reclaim his attributable input tax.

The Agreement sets out the sectors where zero-rating can be applied by the GCC Member States, namely education, medicine, medical equipment, investment metals, local transport and, at the discretion of each Member State, oil and gas. In addition, the export of goods outside the GCC Member States is also zero-rated.

The conditions for applying zero-rating in these sectors in the KSA are set out below.

Supplies of Food

Zero-rating will apply to the sale of food items that are provided under a unified list of commodities to be ratified by the Financial and Economic Cooperation Committee.

Medicines and Medical Equipment

Subject to controls imposed by the Ministers of Health Committee, the supply of Qualifying Medicines and Qualifying Medical Goods (namely medicines on the list issued by the Ministry of Health or any other competent authority from time to time dispensed to an individual for personal use, authorized prescription, is zero-rated where the dispensing is carried out by:

- a registered pharmacist;

- a person who is a distributor of medical products licensed by the Saudi Food and Drug Agency;
- at a Primary Healthcare Centre; or
- at a hospital.

Supplies of Investment Metals

The first supply of a qualifying metal by their producer (a person who carries on a trade of mining and extraction) or refiner is zero-rated.

Qualifying metals are gold, silver and platinum, which are supplied for investment purposes at a purity level of at least 99 per cent, and tradeable on a Global Bullion Exchange.

Supplies of Transport Services

The transport of passengers is zero-rated, if the transport is by means of a qualifying means of transport or a scheduled passenger flight or voyage which runs according to a published timetable. Similarly, the transport of goods outside the KSA is zero-rated.

To be a qualifying means of transport, the vehicle, ship or aircraft must be designed to carry at least 10 persons, and be used for predominantly international transport, and not be designed for private or recreational use. For the transport to be international, the journey must be from outside the KSA, or from the KSA to outside the KSA, and be equipped with a driver or pilot and a crew.

Zero-rated passenger transport services include services which are directly connected to a zero-rated supply of transport, including transport of luggage, pets accompanying passengers, bicycles, prams, luggage charges, transporting vehicles and trailers of passengers, seat reservations, sleeping berths and cabin charges.

The maintenance, repair or modification of a qualifying means of transport, including replacement parts, components affixed or incorporated into the means of transport are also zero-rated.

Export of Goods

The supply of goods from the KSA to outside GCC Member States is zero-rated, provided the goods leave the GCC Member States within 90 days of the supply taking place. Evidence must be held, namely export documentation issued by the Customs Department showing the goods being formally cleared for export on behalf of the customer or the supplier, commercial documentation identifying the customer and the place of delivery of the goods, and transport documentation evidencing delivery or receipt of the goods outside the GCC Member States.

Supply of Services to Non-GCC Residents

Supplies of services which are not covered by specific place of supply rules are zero-rated, when the customer receiving the service, whether an individual or a business, is not resident in any GCC Member State. For zero-rating to apply, the supplier must have evidence that the customer is solely resident outside the GCC Member State, the services must not be related to any tangible goods or territory situated in a Member State, and there must be no consumption of the services in a Member State. A person is resident where it has its headquarters or other establishment and, in the case of a person, where he has his usual place of residence.

Persons with Special Status

Certain classes of entity may be permitted not to have to pay tax on services and goods received, or to have a special right to reclaim VAT outside the usual rules. Such entities could include charities, government organisations, farmers and fishermen not registered for VAT. The law should be checked as to when and how the KSA introduces such a rule.

First Supply of Newly Constructed Residential Real Estate

Furthermore, the first supply (being either its first sale or first let) of newly constructed qualifying residential real estate will be eligible to be zero-rated. Zero-rating will only be available to a fully completed construction work. The zero-rating is not available in respect of any conversions from industrial to residential use.

8.4 Reliefs from import VAT

VAT will not be due on the import of goods in the following cases:

- where the supply of goods in the KSA would be zero-rated, or exempt from tax.
- where the goods qualify for exemption from customs duties due to the application of any of the following: a diplomatic exemption, a military exemption, the goods are personal effects brought into the KSA by persons living abroad and expatriates arriving for the first time to live in the KSA, the import of goods by charities and import of returned goods.
- where goods are brought into the KSA by a non-VAT registered person and the value is less than SAR 10,000. If the value exceeds SAR 10,000, and the importer cannot evidence that VAT has been paid in another GCC Member State e.g. with a VAT invoice or other appropriate document, VAT is payable on import.
- where customs duties are suspended on an import of goods, the VAT shall be similarly suspended, subject to guarantees.
- imports of personal items and gifts carried in a traveller's personal baggage are exempt from tax on import in accordance with the Unified Customs Law.
- imports of equipment for people with special needs, where the equipment is specified in an Order issued by the Board of Directors.
- where the importer pays tax on imports through its tax returns, and a customs duty exemption applies, the tax exemption will only apply where an import entry is made in accordance with the Unified Customs Law.

9. DEDUCTION AND RECOVERY OF INPUT TAX

9.1 Input tax eligible for a deduction/credit

A taxable person registered for VAT in the KSA is entitled to recover the VAT it incurs on its costs (input tax) to the extent that those costs are used to generate taxable supplies made by the taxable person. It does not matter if the taxable supplies are zero rated, or taxable at five per cent. However, if the taxable person is involved with non-business activities and/or making exempt supplies, the input tax recovery will be restricted, as input tax incurred for the purposes of non-business activities and exempt supplier is not deductible.

Complex rules govern how the input tax is apportioned when a business makes both taxable and exempt/non business supplies, and where the use of capital assets switches from exempt to taxable use or vice versa.

Certain input VAT, such as VAT on business entertainment, is restricted from recovery by its very nature.

What Supplies Enable Input VAT To Be Deductible?

Supplies that enable input VAT recovery are:

- taxable supplies, including zero-rated supplies;
- internal supplies; and
- supplies made outside the KSA that would have been taxable had they been made in the KSA.

All these supplies are referred to as taxable supplies in the context of input VAT recovery.

Input Tax Incurred Before VAT Registration

A person who incurs VAT on services received six months or less before the date he is registered for VAT can make a claim for that VAT on his first VAT return, provided:

- the costs are attributable to taxable supplies;
- the services purchased have not been resold, or supplied onwards or fully consumed prior to the registration date; and
- the VAT is not of a kind restricted from deduction.

A person is entitled to deduct VAT incurred on goods purchased or imported before the date he is registered, provided:

- the costs are attributable to taxable supplies;
- if the goods acquired were capital assets, they have a positive book value at the date of registration, the amount of deductible VAT being limited to this value;
- the goods have not been supplied onwards by that person, or used in full, prior to the registration date, and
- the VAT is not of a kind restricted from deduction.

In all cases it is critical to retain the original VAT invoices received and appropriate evidence of the VAT incurred.

Other Input Tax Recovery Principles

If VAT is incurred on costs which are used for a business activity that does not give rise to a specific taxable or exempt supply, it will be treated as an overhead to the overall economic activities of the person, and VAT will be deducted accordingly. This includes issuing shares or debt to raise capital for an economic activity, selling goods or services as a transfer of an economic activity which falls outside the scope of VAT, and activities incidental to economic activities.

If the goods have been lost, damaged or stolen, VAT can still be reclaimed, but must be reported as such in the accounting records, and further enquiries may be made by the Authority.

If import VAT is paid in the KSA and the import VAT is reclaimed as input tax, but the goods are subsequently removed to another Member State, and the taxable person is liable to transfer the tax to that Member State, the taxable person must repay the input tax reclaimed for the period in which the removal took place. If at the time of import, the taxable person already intends to remove the goods to another Member State, he should not reclaim the input tax in the first place.

Evidence for VAT Reclaim

The taxable person must hold a valid VAT invoice before he reclaims the VAT. If a valid VAT invoice is not held, he can rely on the following alternative evidence in certain circumstances:

- a simplified tax invoice, where appropriate;
- where goods are moved to another GCC Member State, a commercial or other document substantiating the value on which VAT is reclaimed;
- other commercial documentation satisfactory to the Authority, evidencing that the taxable person has received the supplies and incurred the VAT.

If the VAT invoice or other alternative evidence is only obtained in a period after the VAT was incurred, the input VAT can be deducted then, provided the taxable person is still eligible for VAT recovery, and no more than five years has passed since the supply.

Costs On Which VAT Recovery Is Restricted

VAT on the following items cannot be reclaimed, unless they are sold in the course of the taxable person's economic activities:

- entertainment, sporting or cultural expenditure;
- catering services in hotels, restaurants, etc;
- purchase or leasing of restricted motor vehicles - namely all vehicles except those used exclusively for business purposes by the taxable person or his employees, and in particular any vehicle accountable for private use;
- repair, maintenance etc. of restricted motor vehicles;
- fuel used in restricted motor vehicles;
- any other goods and services used for private or non-business purposes.

Where no VAT has been reclaimed on the purchase of a restricted motor vehicle, no output VAT will be due on its future sale.

9.2 Deduction rules for mixed transactions

Tax incurred on goods and services received exclusively and directly attributed to taxable supplies (or other supplies which give the right to input tax recovery as discussed above) is fully deductible.

Tax incurred on goods and services which are exclusively and directly attributed to exempt suppliers is not deductible.

Where a taxable person incurs VAT on goods or services used for making both taxable and exempt supplies, typically VAT on overheads, where the taxable person makes both taxable and exempt supplies, the amount of VAT he can reclaim will depend on which method of VAT he uses.

Standard Method

The standard method, called the default method, works by computing as a fraction the value of taxable supplies made in the previous calendar year (the numerator) divided by the value of both taxable and exempt supplies made during the previous year (the denominator), and multiplying that fraction by the amount of input VAT which cannot be attributed exclusively to taxable or exempt supplies.

Supplies made outside the KSA which would have been taxable if they had taken place in the KSA are treated as taxable, and similarly supplies which take place outside the KSA which would have been exempt, are treated as exempt.

Certain supplies are excluded from the denominator of the fraction, so as not to distort it, namely supplies of capitals assets, and supplies made by the taxable person from an establishment outside the KSA. Then, at the end of the calendar year, the calculation is done again applying the actual value of exempt and taxable supplies in the current calendar year and an adjustment to the input tax recoverable during the year is made.

Proportional Deduction Method

Instead of the default method, the taxable person can apply to use an alternative proportional deduction method which more accurately reflects the actual use of goods and services supplied to the taxable person.

The Authority will notify the taxable person that it approves the use of the alternative method, up to a period of five years, or that it rejects it. The Authority can later raise objections as well, if this method is not giving a fair recovery of input VAT.

9.3 Timing of the deduction or credit

The input tax is reclaimed on the same VAT return as the output tax is declared, and the taxable person will either pay the net VAT due to the Authority or receive a refund of the net VAT deductible. However, it is generally necessary for the taxable person to hold a valid VAT invoice before he can reclaim the input tax.

If the deductible input tax in any period exceeds the amount of output tax due in that period, the taxable person will receive a repayment from the Authority, for the amount of that excess.

9.4 Recovery of input tax on capital goods or assets

The general rule is that the input tax deductible is ascertained at the same time supply is received and the cost is incurred. However, that could create unfairness where the asset is long lasting in the

business, and the business use of that asset, and the extent it is used to make taxable and exempt supplies, changes over the life of the asset. Therefore, special rules apply to the deduction of input tax on capital assets, so that the amount of VAT initially deducted must be adjusted over the life of the asset in the business, where its use in making taxable or exempt supplies changes.

The adjustment period for the recovery of the input VAT is six years for moveable tangible or intangible capital assets, and ten years for real estate, or fixtures attached to real estate. The adjustment periods may be less, to be consistent with the accounting life of the asset.

Adjustments to the input tax originally deducted on the purchase of the asset must be made each year the actual use of the asset changes compared to the year of purchase. Construction, enhancement or improvement expenditure counts as purchasing a new asset.

The VAT initially deducted on the asset, divided by the number of years in the adjustment period, is calculated. That gives the amount of input tax potentially subject to adjustment upwards or downwards each year, depending on the use of the asset in the business during the year, and a calculation is done at the end of every 12 months since the acquisition of the asset. If there is no change, there is no adjustment.

If the asset is sold, a final adjustment is made, assuming the use of the asset for the remaining years of the adjustment period matches the VAT treatment of the sale. If the asset is destroyed or stolen, no adjustments are made.

If the asset's use permanently changes, no adjustment to the input tax is made, but the taxable person is treated as making a nominal supply, of a value calculated by reference to the value of the asset at the time and the percentage of input VAT recovered on it.

9.5 Refunds of tax

A taxable person may claim a refund of the amount of excess Tax paid in the following circumstances:

- upon filing of a tax return for a tax period where net tax is an amount due to the taxable person;
- where the taxable person has paid an amount in excess of the amount of tax due;
- where the taxable person has a credit balance in respect of VAT.

A taxable person may submit a request electronically for refund at the time the tax return is filed, or at any other time within 5 years following the end of the calendar year for which the payment was made. A refund request may be rejected if there are tax returns due and not submitted to the Authority.

The Authority will review the taxable person's request, and may approve the refund, issue a rejection in part or in full, or may request additional information from the taxable person for verification. It may offset excess tax held in the taxable person's VAT account against taxes, penalties or any other amounts due to the Authority, or withhold payment pending the resolution of outstanding assessments raised against that taxable person in respect of other taxes.

The taxable person may request excess tax to be carried forward in the VAT account at the time he submits each tax return or at any other time within the limitation period of the first paragraph of this article.

Refund of Tax to Designated Persons

The Authority may allow designated persons not carrying on an economic activity, or those engaged in designated economic activities, to apply for a refund of tax paid by them on supplies of goods or services received in the KSA.

An eligible person must submit an electronic application to allow that person to submit refund applications. The Authority will issue an individual identification number to an eligible person. An eligible person may submit an electronic refund application in respect of either a quarterly period or a calendar year. Only one refund application can be submitted in respect of any quarterly or annual period.

All refund applications must be submitted within six months from the end of the calendar year to which the claim period relates.

The refund application may only include tax paid on goods and services for which a tax invoice dated during the indicated refund period is held by the taxable person at the time the application is submitted.

A refund application may not be submitted in respect of a total value of tax which is less than one SAR 1,000.

The following information in respect of the goods and services supplied to the eligible person must be included with each refund application:

- name and Tax Identification Number of the supplier;
- invoice date;
- invoice number;
- total invoice amount;
- VAT amount; and
- a description of the purchased Goods or Services.

The Authority may request copies of tax invoices or additional information from the eligible person, either electronically or in physical form. In such cases, the applicant must provide the requested information within 20 days from the Authority's request. After processing the claim, the Authority will issue a formal decision to the eligible person. If the claim is approved either partially or in full, the Authority will make the payment to the bank account indicated by the eligible person in the application within 60 days from issuing the decision.

Refund of Tax to Taxable Persons in other Member States

Persons who are registered for VAT in another Member State may submit an electronic application for refund of tax incurred in the KSA.

Persons who carry on an economic activity in a country outside of the GCC Member State may apply to be considered as eligible persons and to request a refund of tax incurred on supplies of goods or services made to that person in the KSA. A person will be eligible to be an eligible person where:

- the person is established in a country with a transaction tax system similar to VAT, and that person is registered for that tax;

- the person is established in a country with a transaction tax system similar to VAT, that country allows a similar mechanism to provide refunds of tax to residents of the KSA who are charged tax in that country.

The person wishing to request a refund of tax must submit an application to the Authority to be an eligible person. These applications will follow the process applicable to designated persons as outlined above.

Refund of Tax to Tourists

Tourists who can evidence they are not resident in a GCC Member State may apply directly to the approved provider for a refund of VAT on goods which are purchased in the KSA, which will not be used whilst in the KSA and which will be exported to a place outside of the GCC Member States.

The Authority may at its discretion authorize one or more providers to carry out a tourist refund scheme facilitating refunds of VAT incurred in the KSA by tourists. The Authority will publish a list of all authorized providers. However, the Authority has no obligation to individual tourists to make refunds of VAT incurred in the KSA.

A refund application must be submitted by the tourist to the authorized provider whilst the tourist is still present in the KSA. In cases where an application in respect of any tourist is approved, the Authority will make payment of the refund amount to the provider. The provider is obliged to make payment to the tourist, but may deduct a percentage of the tax refund as a commission.

The Authority may reject individual claims in part or in full where it is not satisfied that the eligibility criteria are met. In cases where the eligibility criteria are not met in respect of multiple claims, the Authority may revoke the approval to a provider to offer a tourist refund scheme.

10. EXTENSION OR SHIFTING OF VAT LIABILITY

10.1 "Reverse charge" and similar provisions

A recipient of a supply of goods or services who is a resident taxable person in the KSA is required to self-account for VAT due on supplies of goods transported from other GCC Member States, and on most supplies of services received from non-resident suppliers, using the reverse charge mechanism. Under this mechanism the VAT due is declared in the taxable person's VAT return and collected under the standard procedures for collection of VAT.

If goods are transported from the KSA to another GCC Member State, and the recipient is a person in that Member State who can evidence he is VAT registered in that State, then the place of supply takes place in the State where the recipient of the goods is established. Under the Agreement, VAT will be payable by the customer under the reverse charge mechanism in the country of receipt.

For the supply of goods which are transported from another GCC Member State to the KSA, the place of supply will be the KSA if the customer is a taxable person. KSA VAT will be payable by the customer under a reverse charge mechanism. If the customer is not a taxable person, the place of supply is the KSA if the supplier takes care of the transport or dispatch, and the value of these supplies with transport to non-registered KSA recipients exceeds SAR 375,000. Where this value is exceeded the supplier will be obliged to register for VAT in the KSA and pay the VAT due on these supplies of goods.

10.2 Other mechanics applicable to supplies by non-residents

Non-residents who carry on economic activities but have no fixed place of business or fixed establishment in the KSA, will be required to register for VAT if they have the obligation to pay VAT in the KSA (i.e. where they make taxable supplies in the KSA and their customers are not obliged to self-account for the VAT). There is no minimum registration threshold value for the purposes of establishing whether or not a non-resident should apply for registration.

It is mandatory for all non-resident taxable persons to appoint a tax representative established in the KSA and who is approved by the Authority. Non-residents must register for VAT through a separate section of the online portal made available by the Authority and will be required to provide details of their appointed tax representative at the time of registration, in addition to the normal information requirements for applicants.

A non-resident taxable person whose details change (including those relating to its appointed tax representative) from that stated in their certificate of registration must update these using the relevant form on the Authority's online portal within 20 days of the change taking place.

The tax representative will be held jointly and severally liable for any VAT debts of the non-resident taxable person throughout the period of its appointment to act in that capacity. A tax representative may file VAT returns, make payments and correspond with the Authority on behalf of the non-resident taxable person. The tax representative must submit the same information as would be required by the non-resident taxable person.

11. ADMINISTRATIVE MATTERS

Processes for payment of VAT

Businesses in Saudi Arabia are required to assess their VAT-relevant turnover and to register for VAT with the Authority by 30 September 2017 if exceeding a SAR 375,000 threshold.

Full VAT obligations will take effect from 1 January 2018. From that time, VAT must be charged on supplies and tax invoices must be issued for all taxable supplies showing various information.

Businesses will need to calculate the net VAT due over monthly or quarterly tax periods and provide for the payment due for that period required by the end of the following month.

11.1 Registration and VAT number

A taxable person is required to register according to his economic activities exercised in the KSA. It is important to understand that a taxable person may qualify as such without being actually registered for VAT in the KSA (i.e., the requirement to register for VAT in the KSA is sufficient).

It should be noted that any activity exercised by a government authority in its capacity as a public authority does not qualify as an "economic activity" for the purpose of the registration rules. In cases where a government body, or an entity owned by government, carries out activities which involve making supplies of goods and services in a capacity other than its capacity as a public authority, or supplies goods and services in competition with persons in the private sector, that government body or entity will be regarded as carrying on an economic activity.

A person who supplies or intends to supply real estate will be presumed to carry on an economic activity for the purpose of registration, except in cases where prior to the supply the real estate was used or was intended for use as a permanent dwelling by the person, or by a close family member of the person.

Mandatory Registration

A taxable person is obliged to register if he is resident in the KSA and the value of his annual supplies (according to the rules stated below) other than exempt supplies in the KSA exceeds or is expected to exceed the mandatory registration threshold (SAR 375,000). For those taxable persons whose annual supplies exceed the threshold but are less than SAR 1 million, they are exempt from mandatory registration until 1st January 2019.

For registration purposes every resident person in the KSA who is not registered by the Authority must at the end of each month calculate the value of his annual supplies made in the KSA within the twelve months then ended.

In cases where this calculated value exceeds the mandatory registration threshold, the person must apply to the Authority to register within 30 days of the end of that month. The registration takes effect from the start of the next month following the month in which registration application is submitted.

Where the value of these supplies is expected to exceed the mandatory registration threshold, the person must also apply to the Authority for registration within 30 days of the end of that month. In this case, the registration takes effect from the start of the first month in which its annual supplies made in the KSA were expected to exceed the mandatory registration threshold.

The Authority may agree to a request from the person for the registration to take effect from a later date, up to the start of the month following the notification made by the person. The Authority may also agree to a request from the person for the registration to take effect from any earlier date, provided the person was eligible to be registered on that earlier date.

In cases where two or more related persons carry on similar activities, the Authority may issue a formal notification requiring that the value of their annual supplies be added within a specified duration and this combined figure be used as each person's annual supplies value.

Calculating the Value of Supplies

For calculating the value of annual supplies the following basis applies:

- total value of supplies – excluding exempted supplies – made by the taxable person at the end of any month plus the previous eleven months;
- total value of supplies – excluding exempted supplies – expected to be made by the taxable person at the end of any month plus the following eleven months.

The total value of supplies consists of the following:

- the value of taxable supplies except for the value of capital assets supply;
- the value of goods and services supplied to the taxable person who is obliged to pay Tax;
- the value of internal supplies the place of supply of which is in a Member State other than the State where the taxable supplier resides and these supplies would have been taxable in the State where the supplier resides had the place of supply been located in that State.

Mandatory Registration of Non-Residents

A non-resident person who is not registered with the Authority but is obligated to pay tax on supplies made or received by that person in the KSA must apply to the Authority for registration within 20 days of the first supply on which that person was obligated to pay tax. The registration takes effect from the date of the first supply on which the non-resident was obligated to pay tax.

Every non-resident person who registers in the KSA must (by itself or through a tax representative) use the electronic application form prescribed by the Authority. A tax representative shall take the place of the non-resident person in all its rights and obligations.

Voluntary Registration

A person carrying on an economic activity may voluntarily apply to the Authority for registration if the value of its supplies or expenses was, or is expected to be, equal to an amount not less than the voluntary registration threshold. The voluntary registration threshold is 50% of the mandatory registration threshold.

The Authority may, upon request, agree to deem such registration effective from an earlier or later date to the relevant effective date provided the person is eligible to be registered from that date.

A person who at any time has annual supplies made in the KSA whose value exceeds the mandatory registration threshold which are exclusively zero-rated supplies, is excluded from the requirement to register. In this case, the person may elect to apply to register voluntarily.

Application to Register

A registration application must be made electronically by completion of the form prescribed by the Authority. Where a person has failed to make an application to the Authority, the Authority may register such person without the person submitting any application and such registration shall take effect from the relevant date.

Any application must contain the following minimum information:

- official name of the legal person or natural person and ID information;
- physical address of regular abode or place of business;
- email address;
- existing electronic identification number issued by the Authority, if any;
- commercial registration number;
- value of annual supplies or annual expenses; and
- effective date of registration, or any alternative effective date requested.

The Authority may request further documentation.

Where any of the taxable person's information changes, that person is required to notify the Authority of the change.

The Authority may refuse an application for registration where it does not have evidence that the application is valid or that the person is eligible to be registered; a formal notification with reasons of refusal must be provided.

Upon acceptance of the registration, the Authority will issue a certificate of registration to the person in a formal notification. This certificate will state the date on which the registration takes effect and the Tax Identification Number.

Group Registration

Two or more legal persons may apply to register as a VAT group if the following requirements are met:

- each legal person is resident in the KSA and carries out an economic activity;
- each legal person is under common control; and
- at least one of the legal persons is a taxable person.

An application to form a VAT group must be made by a taxable person (the representative member of the VAT group with the primary obligation to comply with the obligations and rights of the group on behalf of all members). All members of the group are jointly liable for the payment of the VAT.

An application to form a VAT group must be made electronically using the application form approved by the Authority. This form must contain the minimum information of all members of the group as indicated above.

The Authority may request that the VAT group representative provide further documentation.

The Authority may refuse an application for a group registration in cases comparable to an individual registration; a formal notification of refusal must be provided.

The VAT group takes effect from the first day of the month following the month in which the application is approved or such later date as agreed.

If the application is approved, the Authority will issue a new Tax Identification Number to the VAT group representative on behalf of the VAT group and suspend the existing Tax Identification Numbers of members who are individually registered.

In a case where any information originally stated in the application changes, or where any member of the VAT group is no longer eligible to form part of the group, notification must be given by the VAT group representative within 20 days. This change will take effect from the date that legal person is no longer eligible to form part of the group.

The VAT group representative may file an application on behalf of the VAT group to add new members to the group or to remove existing members from the group or to disband the group or to change the VAT group representative. All changes will take effect from the date the request is made, unless the Authority specifies an alternative effective date.

The Authority may issue a formal notice to the VAT group representative to set aside the effect of the VAT group status as applicable to disregard VAT on any supplies between members of the group. This notice may have retrospective effect. Such a notice may only be issued where the VAT group results or will result in the accrual of a tax advantage which is contrary to the purpose of the law, and obtaining this advantage is one of the principal or main purposes of the group.

Deregistration

Where a taxable person ceases to carry on an economic activity, including cases where a legal person ceases to exist as a legal person, that taxable person must deregister.

Where at the end of any month, a non-resident taxable person has not made any taxable supplies in respect of which it is obligated to report tax in the KSA in the most recent twelve-month period, that taxable person must deregister.

Even though a taxable person may not apply to deregister in cases where it has been registered for less than twelve months, generally, at the end of any month, a resident taxable person is required to deregister where each of the following occurs:

- The total value of annual supplies or annual expenses in the twelve months then ended does not exceed the voluntary registration threshold; and
- The total value of annual supplies made in the KSA or annual expenses in the twenty-four months then ended does not exceed the mandatory registration threshold; and
- The total value of annual supplies or annual expenses in that month and the eleven months following is not expected to exceed the voluntary registration threshold.

In all cases, a taxable person must request a deregistration from the Authority on a timely basis. Requests must be made electronically on an application form prescribed by the Authority. In cases where the taxable person does not request a deregistration, the Authority may deregister that person; in such cases the Authority will issue a formal notification to the deregistered person.

At the end of any month, a taxable person who is not required to deregister may apply to deregister where both annual supplies made in the KSA in the last twelve months do not exceed the mandatory registration threshold and where its expected annual supplies made in the KSA in that month and the eleven months following do not exceed the mandatory registration threshold.

The deregistration takes effect on the date the application is made or such later date requested by the taxable person and agreed by the Authority.

The Authority may request further documentation from the taxable person; the Authority may refuse an application for deregistration where it does not have sufficient evidence that the taxable person is eligible to deregister. It will issue a formal notification, with reasons, that confirms the deregistration of a taxable person or the refusal of an application to deregister.

11.2 Invoices

A taxable person must state its Tax Identification Number on tax invoices and on any correspondence with the Authority relating to VAT.

Every taxable person must issue a tax invoice in respect of the following events:

- Taxable supplies which he has made to another taxable person or to a non-taxable legal person; or
- any payment received in respect of a taxable supply of goods and services to a taxable person or non-taxable legal person before the time the actual supply takes place.

Any such tax invoice must be issued at the latest the fifteenth day of the month following the month in which the supply took place.

Tax invoices must only be issued in an electronic format in cases where this is prescribed in the Regulations, provided these Regulations are in force as at the date of the supply. As of the date hereof, the Regulations do not provide for a mandatory electronic format for invoices.

Invoice Requirements

The tax invoice must include the following details in Arabic, in addition to any other language also shown on the tax invoice as a translation:

- the date of issue;
- a sequential number which uniquely identifies the Invoice;
- the Tax Identification Number of the Supplier;
- in cases where the customer is required to self-account for tax on the supply, the customer's Tax Identification Number and a statement that the customer must account for the tax;
- the name and the address of the supplier and of the customer;
- the quantity and nature of the goods supplied or the extent and nature of the services rendered;
- the date on which the supply took place, where this differs from the date of issue of the invoice;
- the taxable amount per rate or exemption, the unit price exclusive of VAT and any discounts or rebates if they are not included in the unit prices;
- the rate of tax applied;
- the tax amount payable, shown in SAR;
- in the case where tax is not charged at the basic rate, a narration explaining the tax treatment applied to the supply;
- in cases where the margin scheme for used goods is applied, reference to the fact that VAT is charged on the margin on those goods.

A simplified tax invoice may be issued for a supply of goods and services valued at less than SAR 1,000. A simplified tax invoice may not be issued in respect of an internal supply or an export of goods.

A simplified tax invoice must include the following details:

- the date of issue;
- the full name, address and Tax Identification Number of the supplier;
- a description of the goods and services supplied;
- the consideration payable for the goods and services;
- the tax payable or a statement that the consideration is inclusive of tax in respect of the supply of the goods and services.

A summary tax invoice may include more than one separate supply of goods and services, provided all supplies included on a summary tax invoice are made by the same supplier and within the same tax period.

Self-billed tax invoices may be issued by the customer on behalf of a supplier in respect of a taxable supply made to the customer, provided that a prior qualified agreement between the supplier and the customer has been made to this effect. Tax invoices may also be issued by a third party on behalf of a supplier who is a taxable person in respect of a taxable supply of goods and services. The supplier remains responsible for the accuracy of the information and for reporting VAT on the supply.

Amendment of Invoices (Credit Notes)

A taxable person who adjusts the supply consideration must include this adjustment in a document (i.e. a credit or debit note) correcting the original tax invoice. This document shall be treated in the same way as the original tax invoice. See Section 7 above for the situations where the value of a supply must be adjusted.

11.3 Filing of tax returns

A tax return must be filed by the taxable person or a person authorized to act on behalf of the taxable person. By filing a tax return the taxable person makes an assessment of tax for that tax period and the filed tax return qualifies as an assessment.

The right of the Authority remains reserved to issue an assessment based on its best estimate of the tax properly due for the relevant tax period in cases where the taxable person has failed to file a tax return. In such cases, the taxable person remains obliged to submit the outstanding tax return.

The tax return of a taxable person must be filed electronically for each tax period with the Authority by the last day in the month following the end of the tax period to which the tax return relates.

Filing Period

For taxable persons whose annual value of taxable supplies exceeds forty million (40,000,000) SAR during the previous twelve months, the tax period will be monthly. Otherwise, an application to use a monthly tax period may be made electronically. The Authority will issue a formal notification including the effective date of the change to use a monthly tax period.

For all other taxable persons, the standard tax period will be three months, set to align with calendar quarters based on the Gregorian calendar.

A taxable person who has used the monthly tax period for two years may submit an application electronically to use a tax period of three months, provided that taxable person's value of annual supplies during the last twelve months does not exceed the value mentioned above at the time of the application. The Authority will issue a formal notification including the effective date of the change to use a three-month tax period.

In cases where the Authority directs the taxable person to use a certain tax period, it will issue formal reasoned notification and the effective date of such tax period.

Correction of Returns

In cases where a taxable person becomes aware of an error or an incorrect amount in a filed tax return, which results in an increased amount of tax payable to the Authority, that person must notify the Authority within 20 days by filing an electronic submission to correct the tax return. However, an error which results in net tax of less than five thousand SAR payable by or to the taxable person, the taxable person may correct that error by adjusting the net tax in the subsequent tax return.

In case a taxable person becomes aware of an error in a tax return which results in a decreased amount of tax due to the Authority, an electronic submission to correct the tax return may be filed. No correction to any tax return in respect of a tax period may be made after a period of 5 years has passed from the end of the calendar year in which the tax period takes place.

Timing of Payments or Deposits

Payment of tax due by a taxable person in respect of a tax period must be made maximum by the last day of the month following the end of that tax period. Payment of tax by a person in the case of an assessment issued by the Authority must be made before the date specified in the notification of the assessment.

The Authority may, if a taxable person presents evidence showing that he is unable to pay the tax when due, or showing that he would suffer hardship from payment thereof in a single payment, allow payment in instalments of tax and fines payable.

A request by a taxable person to make payment of tax, fines or penalties by instalments must be made in writing to the Authority. Such request must identify the amounts of tax due, the relevant tax periods to which payments are due, and the reasons for inability to pay by the due date or dates. The request must include supporting evidence. The Authority must provide formal notification of acceptance or refusal to the taxable person within 20 days.

The allowance of an extension of time to pay does not suspend liability of a taxable person to pay any penalty for delay.

Methods of Payment or Deposit

Payment of tax must be made to the designated bank account of the Authority using the SADAD payment system. The person making payment must provide details of the Tax Identification Number of the taxable person and the tax period or tax periods to which the payment relates.

For each taxable person, the Authority will keep a VAT account. Details of the balances of a taxable person's VAT account will be available electronically for taxable persons to review. The Authority must notify a person where an offset of a credit balance is to be carried out.

Where any amount is expressed in a currency other than SAR, the amount must be converted to SAR using the daily rate prescribed by the Saudi Arabian Monetary Authority on the date tax becomes due.

Recordkeeping

The invoices, books, records and accounting documents required to be maintained by a person must be kept for a minimum period of 6 years from the end of the tax period to which they relate. Records with respect to capital assets must be kept for a minimum of the adjustment period for these capital assets (6 years in respect of moveable tangible or intangible capital assets and 10 years in respect of immovable capital assets), plus 5 years from the date those capital assets are acquired by the person.

Records must be kept in Arabic. All issued invoices must be printed in Arabic and maintained in a hard copy for a period of two months.

Records must be kept in the KSA either physically or through an access to the relevant server where these records are stored. In cases where the taxable person opts to store the records electronically, various conditions must be met, specifically, the computer system or server must be physically located in the KSA and whenever and to the extent practicably possible data shall be entered into the computer system in the Arabic language and shall be an identical copy of said books.

A taxable person who has a fixed establishment in the KSA may have its central computer outside of the KSA, provided it has with a terminal at the subsidiary in the KSA through which all data and entries regarding the account of the fixed establishment in the KSA can be accessed. The Authority may review electronically the systems and programs applied by the taxable person to prepare its computerized accounts.

The taxable person may appoint a third party to comply with the record storage requirements but remains responsible for such compliance.

The tax representative of a non-resident person with no establishment in the KSA is required to maintain the invoices, books, records and accounting documents of the non-resident person.

The right of the Authority remains reserved to request additional records due to the registration, examination and assessment procedures in cases where the Authority considers it necessary by justifiable grounds. The Authority will request the necessary records by notifying the taxable person and ensuring a reasonable time to submit the additional records.

11.4 Statute of limitations

Where a taxable person has not filed a VAT return (including where that taxable person has not registered for VAT), the Authority may issue an assessment based on its best estimate of the tax properly due for that period. In this scenario the taxable person remains obliged to submit the outstanding VAT return.

The Authority may not make or amend an assessment after a period of five years following the end of the calendar year in which the tax period falls.

In cases where any transaction is carried out with the intention of breaching the provisions of the Law and the Regulations, or in cases where a person is required to register but fails to do so, the Authority may issue or amend assessments up to a period of twenty years from the end of the calendar year in which the tax period falls.

11.5 Appeals of assessments

Appeals are possible with the competent judicial authority.

The Minister of Finance may make provisions to establish a mediation procedure to resolve disputes between the Authority and taxpayers which may be used in circumstances where the Authority and the relevant taxpayer consent to the use of such a mediation procedure.

12. INTEREST AND PENALTIES

12.1 Interest (on underpayments)

A person failing to pay its outstanding VAT debt, regardless of the intention of the person, is liable for a penalty on the unpaid VAT at the rate of 5% per month or part of a month. This penalty is in addition to the VAT payable and any penalty for other offences linked to not paying its VAT debt (for example not filing a VAT return).

12.2 Penalties

Penalties may be imposed for the following offences:

- failure to register for VAT purposes;
- submission of incorrect VAT returns;
- overstated refund claims (by eligible non-registered persons);
- failure to file VAT returns in time;
- failure to pay VAT when due;
- issue of invoices by unauthorized persons;
- incorrect information provided by the recipient;
- failure to maintain records;
- failure to comply with information requests;
- failure to cooperate during field exams;
- failure to comply with requirements to issue invoices;
- making false or misleading statements;
- tax fraud;
- tax evasion; and
- other specific offences qualifying as a failures to comply with a requirement of the Law or Regulations in the KSA.

Penalties are raised in addition to any amount of tax payable. A payment of penalties does not remove the requirement for the taxable person to pay the tax due.

Where a person is designated to have joint responsibility for the payment of VAT for a taxable person, this joint responsibility also extends to any penalties payable by the taxable person.

Any penalty levied by the Authority is a decision which may be formally reviewed.

Specific Offences

A person failing to submit an application to register for VAT purposes within the 30 day timeframe, regardless of the intention of the person, will be liable for a penalty. The penalty will be 10,000 SAR.

The penalty for not registering for VAT can be imposed in addition to a penalty for not filing a VAT return and/or not paying a VAT amount due.

A person submitting an incorrect VAT return, regardless of the intention of the person, will be liable for a penalty in case the submission shows an incorrect amount of VAT due. The penalty is set at 50% of

the underreported VAT. This penalty will only apply in case the submitted VAT return underreports on the VAT but will not apply in cases of over-reporting.

A person failing to file a VAT return within the timeframe specified, regardless of the intention of the person, will be liable for a penalty . The penalty for failing to file VAT returns will be amount calculated between 5% and 25% of the unpaid VAT amount.

In case a person who is not registered for VAT issues an invoice showing an amount of VAT, or purporting to include VAT this person will be liable for a penalty not exceeding 100,000 SAR.

Deliberate Offences

In case a person submits false documents or information to evade or reduce the payment of VAT or unlawfully obtain refunds for tax, this person will be liable for a penalty. The penalty will be at least the amount of the VAT due and up to three times the value of the goods or services which are the subject of the evasion. The taxable person has to prove the lack of intent.

The following statements are typically considered to be false or misleading:

- providing an incorrect VAT number to the supplier / customer;
- declaring lower / higher amounts on the value of the supplies of a person, resulting in a loss of VAT for the KSA;
- attributing supplies to an incorrect tax period; or
- including a different party on an invoice than the party actually receiving the supply as the recipient of the supply.

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