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VAT

Professional Services Guideline

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1. Introduction

1.1. Implementing a Value Added Tax (“VAT”) system in the Kingdom of Saudi Arabia (“KSA”)

The Unified VAT Agreement for the Cooperation Council for the Unified Arab States of the Gulf (the “VAT Agreement”) was approved by the KSA by Royal Decree No. M/51, dated 3/4/1438 H. Pursuant to the provisions of the Unified VAT Agreement, the KSA issued the VAT Law under Royal Decree No. M/113 dated 2/11/1438 H (the “VAT Law”) and its corresponding Implementing Regulations were subsequently issued by the Board of Directors of the General Authority of Zakat and Tax (“GAZT”) by Resolution No. 3839 dated 14/12/1438 H (the “Implementing Regulations”).

1.2. General Authority of Zakat and Tax

GAZT, also referred to as “the Authority” herein, is the authority in charge of the implementation and administration of VAT (which may be referred to hereinafter as “the tax”) in KSA. In addition to the registration and deregistration of taxable persons for VAT, the administration of VAT return filing and VAT refunds, and undertaking audits and field visits, GAZT also has the power to levy penalties for noncompliance with legal provisions relating to VAT.

1.3. What is Value Added Tax?

VAT is an indirect tax which is imposed on the importation and supply of goods and services, with certain exceptions. VAT is imposed in more than 160 countries around the world.

VAT is a tax on consumption that is paid and collected at every stage of the supply chain, starting from when a manufacturer purchases raw materials until a retailer sells the end-product to a consumer. Unlike other taxes, persons registered for VAT will both:

- Collect VAT from their customers equal to a specified percentage of each eligible sale; and
- Pay VAT to their suppliers, if any, from whom they have received the goods or services, equal to a specified percentage of each eligible purchase.

When taxable persons sell a good or service, a 5% VAT charge – assuming a standard case – is assessed and added to the final sales price. The taxable persons will account for that 5% that they have collected from all eligible sales separately from its revenue in order to later remit a portion of it to the Authority. The VAT taxable persons collect on their sales is called **Output VAT**.

The same will apply to purchase transactions, in that VAT will be added at the rate of 5% to purchases of goods or services made from suppliers registered for VAT (on the assumption that the basic rate applies to those supplies). The VAT a business pays to its suppliers is called **Input VAT**.

Further information about VAT can be found at vat.gov.sa.

1.4. This Guideline

This guideline is addressed to all natural persons and legal persons who carry on an economic activity and who will be required to register for VAT. The purpose of this guideline is to provide further clarification regarding the obligations and tax implications of professional services, including consultancy, design, architecture, accounting, law, information technology, public relations, technical testing, research and development, veterinary medicine and management consulting.

This guideline represents GAZT's views on the application of the Unified VAT Agreement, the VAT Law and the Implementing Regulations as of the date of this guideline. This guide amounts to a guideline, and does not include or purport to include all the relevant provisions of the Unified VAT Agreement, the VAT Law, or the VAT Implementing Regulations. It is not binding on GAZT or on any Taxable Person in respect of any transaction carried out and it cannot be relied upon in any way.

However, for further advice on specific transactions you may apply for a ruling or visit the official VAT website (vat.gov.sa), which contains a wide range of tools and information that has been established as a reference to support persons subject to VAT, as well as visual guidance materials, other relevant information, and FAQs.

2. Definitions of Key Terms

A **Taxable Person** is any natural person or legal person who carries on an economic activity and who is registered for VAT in the KSA, or is required to be registered for VAT in the KSA⁽¹⁾.

Fixed Establishment is defined in law as “Any fixed location for a Business other than the Place of Business, in which the business is carried out and is distinguished by the permanent presence of human and technical resources in such a way as to enable the Person to supply or receive Goods or Services.” ⁽²⁾

Place of Residence of a Person is defined in law as “The location where Place of Business or any other type of Fixed Establishment is. In the case of a natural person, if he does not have a Place of Business or Fixed Establishment, it will be his usual place of residence. If a Person has a Place of Residence in more than one State, the place of residence will be considered to be in the place most closely connected with the supply.” ⁽³⁾

Non-Resident Person is defined in law as “A person is not resident in a State if he has no Place of Residence therein.” ⁽⁴⁾

Supply of services is anything supplied which is not a supply of goods.

Professional services is not a defined term for VAT purposes. In this guideline, professional services are consultancy and similar services characterized by the application of skills and knowledge within a specific area, including but not limited to consultancy, design, architecture, accountancy, law, IT, public relations, technical testing, research and development, veterinary, management consultancy.

Place of supply is the country, or other place, where a supply is considered to take place for VAT purposes according to the rules set out in the Unified VAT Agreement, VAT Law and Implementing Regulations.

(1) Article 2, Taxable Persons required or eligible to register in the Kingdom, Implementing Regulations

(2) Article 1, Definitions, Unified VAT Agreement

(3) Article 1, Definitions, Unified VAT Agreement

(4) Article 1, Definitions, Unified VAT Agreement

3. Economic Activity and VAT Registration

3.1. Who carries out an Economic Activity?

An Economic Activity may be carried out by natural persons or legal persons.

It will be presumed that a legal person that has a regular activity making supplies carries on an Economic Activity. Natural persons may perform certain transactions as part of their Economic Activity, or as part of their private activities. Therefore, there are specific rules to determine whether or not a natural person falls within the scope of VAT.

Natural persons and legal persons who carry on an Economic Activity must register for the purposes of VAT if so required, and such persons must collect the VAT applicable to their activities, and pay the tax collected to the Authority.

3.2. Mandatory Registration

Registration is mandatory for all persons whose annual turnover exceeds a certain threshold. If the total value of a person's Taxable Supplies during any 12 months exceeds SAR 375,000, (the "mandatory VAT registration threshold"), that person must register for VAT⁽⁵⁾ on the supplies made, subject to the transitional provisions provided for in the Implementing Regulations.

Taxable Supplies do not include:

- Exempt supplies – such as exempt financial services or residential rental which qualifies for VAT exemption;
- Supplies taking place outside the scope of VAT in any GCC state; or
- Revenues on sales of capital assets – a capital asset is defined as an asset allocated for long-term business use⁽⁶⁾.

In certain circumstances, other tests will apply for mandatory registration:

- Persons who are not resident in the Kingdom of Saudi Arabia are required to pay the VAT in respect of supplies made or received by them in the Kingdom of Saudi Arabia and to register for VAT irrespective of the value of the supplies for which they are obliged to collect and pay the VAT⁽⁷⁾.
- During a transitional period up to 1 January 2019, businesses will only be required to register where annual turnover exceeds SAR 1,000,000, and an application for registration must be submitted no later than 20 December 2017⁽⁸⁾. Starting from 2019, the mandatory registration shall be required when annual turnover exceeds SAR 375,000 as required in the Unified VAT Agreement. For persons whose turnover will exceed this threshold during 2019, an application for registration must be submitted no later than 20 December 2018.

More information on mandatory registration for VAT is contained at vat.gov.sa

(5) Article 3, Mandatory registration - Supplies exceed the Mandatory Registration Threshold, Implementing Regulations

(6) Article 1, Definitions, Unified VAT Agreement

(7) Article 5(1), Mandatory registration of Non-Residents obligated to pay Tax in the Kingdom, Implementing Regulations.

(8) Article 79 (9), Transitional provisions, Implementing Regulations

3.3. Optional VAT registration

Any Resident person in the Kingdom of Saudi Arabia who has Taxable Supplies or taxable expenses exceeding the “Optional VAT registration threshold” of SAR 187,500 in a twelve-month period may register for VAT on a voluntary basis⁽⁹⁾.

Optional VAT registration may be desirable where a business wishes to claim VAT charged to it on their costs before invoices are raised or the occurrence of an onward supply.

More information on voluntary registration for VAT is contained at vat.gov.sa

(9) Article 7, Voluntary Registration, Implementing Regulations

4. Place of Supply

Professional services are not defined within the VAT laws. However, professional services - categorised under this guideline as the provision of services by skilled professionals – often have similar considerations for applying VAT to those activities (despite relating to different disciplines).

To determine the VAT treatment of a supply of professional services, a fundamental consideration is to determine where the place of supply of the service is.

4.1. General

In general, all supplies of services made by a KSA resident fall within the scope of KSA VAT:

“The place of supply for Services provided by a Taxable Supplier shall be the Place of Residence of the Supplier.⁽¹⁰⁾”

There are exceptions to this general rule for intra-GCC supplies made to taxable customers (applying after the full introduction of VAT across the GCC and the announcement of the Electronic Services System⁽¹¹⁾), and for services of a specific nature (known as Special Cases within the GCC VAT Agreement⁽¹²⁾). These Special Cases are:

- Leasing of means of transport;
- Supply of, and relating to, goods and passenger transportation;
- Services related to Real Estate;
- Wired and wireless telecommunications and electronic services;
- Restaurant, hotel and catering services;
- Cultural, artistic, sport, educational and recreational services;
- Services related to transported goods.

If a Special Case applies, the specific rule for this nature of services applies in preference to the general rule of the place of supply determined by the supplier’s or customer’s residence (although in many circumstances, the place of supply is the same under either rule). Further details are provided in this chapter for Special Cases which are particularly relevant to the professional services sector.

4.2. Supplies to Taxable Customers in other GCC States

Following the introduction of the Electronic Services System and the full implementation of VAT for intra-GCC trade, the place of supply of services supplied to a Taxable Person will be the place of the customer’s residence:

“As an exception to the provisions of Article 15 of this Agreement, the place of supply for Services provided by a Taxable Supplier to a Taxable Customer shall be the place of Customer’s residence.⁽¹³⁾”

(10) Article 15, Place of Supply of Services, Unified VAT Agreement

(11) Article 79(6)(7) and (8), Transitional provisions, Implementing Regulations

(12) Articles 17-21, Place of Supply of Services: Special Cases, Unified VAT Agreement

(13) Article 16, Place of Supply of Services between Taxable Persons, Unified VAT Agreement

For supplies where any of the Special Cases for specific services apply, those rules will apply instead of the place of the customer's residence⁽¹⁴⁾.

If a KSA supplier supplies to a customer resident in another GCC State, it must collect the Tax Identification Number of the Customer issued by that GCC State.

"...a Taxable Person making a Supply of Goods or services to a Taxable Customer in another Member State must obtain the Tax Identification Number of that Customer issued by that Member State which is valid at the date the Supply takes place."

"A Supplier who cannot obtain the Tax Identification Number required by the second paragraph of this article must determine the place of Supply on the basis that his Customer is not a Taxable Customer, until such number which was valid at the time of the Supply is later obtained."⁽¹⁵⁾

The supplier is required to show the Customer's Tax Identification Number on the tax invoice it issues for the supply⁽¹⁶⁾. Both the supplier and customer will be obliged to provide data to the tax authorities to allow for recording in the Electronic Services System. Further information on these requirements will be provided upon the introduction of this system.

In cases where a person has establishments in more than one country, the branch or establishment which is most closely connected to the supply of goods or services will be where the legal person is resident for determining the place of that supply⁽¹⁷⁾.

Example (1): Al Faisal Software Co., established in the KSA, has a contract to amend the existing ERP software system of Eagle Finance Company, a regional financial advisory company with a head office in Riyadh, but also with establishments in the UAE and Oman. The project implementation will affect the entire company, but Al Faisal Software Co. is instructed by and works together with key staff members from the head office in Riyadh, and executes all on-site work for the project at Eagle Finance's local KSA office.

Therefore, the place of residence of the customer for this project will be in the KSA. Al Faisal Software Co. must charge KSA VAT for the services to the KSA establishment of the client.

4.3 Services related with Real Estate

The place of supply of services related to Real Estate» is in the country where the Real Estate (including any specific area of land and any building or construction works on such land) is located.

The following are examples of services which are considered to be connected with related to Real Estate from a KSA VAT perspective⁽¹⁸⁾:

- the grant, assignment or surrender of any interest in or right over Real Estate,
- the grant, assignment or surrender of a personal right to call for or be granted any interest in or right over Real Estate,
- the grant, assignment or surrender of a license to occupy land or any other contractual right exercisable over or in relation to Real Estate, including the provision, lease and rental of sleeping accommodation in a hotel or similar establishment,
- any works of construction, demolition, conversion, reconstruction, alteration, enlargement, repair or maintenance of Real Estate,

(14) Article 22, Place of Supply – priority of special provisions, Implementing Regulations

(15) Article 21, Taxable status of Supplier and Customer, Implementing Regulations

(16) Article 53(3), Tax Invoices, Implementing Regulations

(17) Article 1, Definitions, Unified VAT Agreement and Article 21(4), Taxable status of Supplier and Customer, Implementing Regulations

(18) Article 23, Real Estate related services, Implementing Regulations

- services such as those supplied by estate agents, auctioneers, architects, surveyors, engineers and others involved in matters relating to Real Estate.

The list above is not exhaustive, and may include other services which are related to Real Estate. To be considered as services related to Real Estate, the services should either affect a specific area of land or building, or have a specific area of land or building as a central part of the service.

Example (2): Williams Architecture Ltd, established in Scotland, renders architectural services to ABC Mini-markets Co. to design a new store at a specific site that ABC has leased in Jeddah. As the services relate to a specified area of Real Estate located in the KSA, the place of supply of the architectural services is the KSA.

As Williams Architecture Ltd is not located in the KSA and the customer, ABC Mini-markets Co., is a Taxable Person for KSA VAT purposes, ABC Mini-markets Co. is required to self-assess the VAT due on the supply of the architectural services, under the Reverse Charge Mechanism.

Example (3): An oil and gas consultancy provides a template site safety plan to KSA Refining, which operates a number of refinery and storage sites in the Eastern Province. This is not designed for a specific site, but is intended for use by the KSA Refining to implement across all operations and tailor for individual premises. The services provided by the consultancy do not relate to a specific area of Real Estate and do not fall within the Special Cases for services related to real estate.

Example (4): A KSA law firm provides legal services relating to the franchise agreements for a chain of hotels situated in the KSA and around the GCC. These services do not directly affect a specific area of land, or have the land as a central part of the service. The services do not fall within the Special Case for services connected to Real Estate.

Services relating to Real Estate situated outside the KSA have a place of supply outside the KSA, and are not subject to KSA VAT (regardless of whether the Supplier or Customer is KSA resident).

For completeness, the provision of Real Estate as a supply of goods (including an Ijara, rent-to-own or similar contract under which the goods are leased with the right to acquire at the end of the term), are a supply of the Real Estate itself (a supply of goods). These contracts are not considered to constitute a supply of services connected with Real Estate.

Further guidance around services related to Real Estate is provided in the Real Estate guideline.

4.4. Electronic Services

The place of supply of electronic services is in the country where the actual use or enjoyment from those services takes place. For many services in this category, the use or enjoyment is ascertained by the customer's usual residence, determined using specified customer information.

Electronic Services are part of a broader defined term for VAT purposes, being "wired and wireless telecommunication services and electronic services". Telecommunications services and Electronic Services are closely related, being services that involve the transmission of information to a recipient or recipients. The Implementing Regulations⁽¹⁹⁾ provide the following non-exhaustive list of services that fall within the definition of this term:

(19) Article 24 (1), Wired and Wireless Telecommunications and Electronic Services, Implementing Regulations

- a) 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.
- b) The transfer or assignment of the right to use capacity for such transmission, emission or reception.
- c) The provision of access to global information networks.
- d) 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.
- e) Live streaming via the internet.
- f) Supplies of images or text provided electronically, such as photos, screensavers, electronic books and other digitised documents or files.
- g) Supplies of music, films and games, and of programs on demand.
- h) Online magazines.
- i) Website Supply or web hosting services.
- j) Distance maintenance of programs and equipment.
- k) Supplies of software and software updates.
- l) Advertising space on a website and any rights associated with such advertising.”

Some professional services will have a connection with electronic services, without clearly falling into one of these definitions. GAZT considers that services which are closely connected and provided as part of a package with electronic services (such as the design of a web-page to be hosted to be hosted by that supplier) will generally also follow the same treatment as the electronic service. However, a separate service which is not closely connected to an electronic service (for example, a consultancy report on a business’s web presence), is not in itself an electronic service. The VAT treatment should be reviewed based on what is being supplied in each case.

Example (5): Osama Web Hosting Co., established in the KSA, offers web hosting and website development package services to online businesses around the world. Osama Web Hosting Co. is contracted by Zwiebel GmbH, operating a German website in foodstuffs, to develop and host a new website. The package of services rendered by Osama Web Hosting Co. is predominantly the supply and hosting of a website, and will qualify as electronic services from a KSA VAT perspective. Therefore, the place of supply of these services is in the country where the actual use or enjoyment from those services takes place, being Germany. Osama Web Hosting does not charge VAT on the charges made for the web development services.

The submission of reports via electronic mail does not in itself constitute an Electronic Service. Similarly, the provision of a service which is arranged through electronic means is not itself an Electronic Service.

Example (6): An architect agrees to provide some concept sketches for the extension of a customer’s commercial office building. After a site visit and some weeks of design, he sends the drawings to the customer over email. The provision of the drawings via e-mail is not in itself the provision of Electronic Services. In this instance, the services relate to a specific area of Real Estate, and VAT should apply based on the country in which the Real Estate is located.

Please refer to the Digital Economy guideline for further detail on electronic services.

4.5. Training Services

The place of supply of educational services is the place of actual performance⁽²⁰⁾, in cases when a fee is charged for admission to an event at a physical location, or when educational services are provided in a physical location. In this context, GAZT considers that “educational services” refer to the provision of education at a place of education, at an event, or the provision of formal instruction with a set program designed for general application.

The provision of bespoke training services to a single recipient, as often provided in a professional services context are not considered to be educational services. As such, the place of supply of professional training services will usually be covered under the general place of supply rules.

Example (7): Riyadh Tax Consulting, established in the KSA, provides training services to the tax department of London Bank Ltd. (established in the United Kingdom) on VAT compliance rules in the KSA. The content is based on a standard program but is agreed in advance and tailored for London Bank’s activities. The training session is carried out in-person at London Bank’s offices. The training services are not in itself the provision of educational services. VAT will apply based on the default rules for services provided by a KSA resident.

4.6. Receipt of services by Taxable Customer in KSA

VAT is charged on the receipt of services which are supplied in the KSA to a taxable person by a non-resident supplier by way of the Reverse Charge Mechanism.

“If the place of supply for Goods or Services is in a Member State where the Supplier is not a resident, then the Taxable Customer residing in that Member State shall be obligated to pay the Tax Due.”⁽²¹⁾

The customer reports the VAT due by entering the value of the services received in Box 9 of the VAT return. If the customer is fully entitled to deduct VAT in respect of those services (please refer to Section 12 on Input Tax Deduction), no additional adjustment is made to the VAT return form, and the Input VAT is automatically deducted from the Output VAT due.

A non-resident supplier is a supplier with no place of business or other fixed establishment in the KSA, in respect of that supply. A fixed establishment is a fixed location with the permanent presence of human and technical resources in such a way as to enable the Person to supply or receive Goods or Services⁽²²⁾.

It is the supplier’s responsibility to determine if it has a KSA establishment, and to take the appropriate actions to register if required. In practice, a recipient of services receiving an invoice from a supplier with a non-KSA address, and no commercial registration in the KSA, should assume the supplier is non-resident and apply VAT using the reverse charge mechanism if the place of supply takes place in the KSA.

If a supplier has a head office overseas and a local KSA branch, the services will generally be most closely connected with the supplier’s KSA branch. However, in some specific circumstances, the head office could be more closely connected to the supply (without any material involvement from the local branch). In these cases, the supplier is a non-resident in respect of that supply.

(20) Article 25 (1), Place of Supply - other services, Implementing Regulations

(21) Article 41, Customer Obligated to Pay Tax According to the Reverse Charge Mechanism, Unified VAT Agreement

(22) Article 1, Definitions, Unified VAT Agreement

Example (8): The Board of a large KSA telecommunications provider requests a strategic review from Unity GmbH, a strategy consultant established in Germany, who also has a branch office in the KSA carrying out limited functions for the local market.

Due to the complexity and nature of the services being performed, the services are carried out entirely by the strategy consultant's head office team in Germany. The local branch is not involved with the supply of services in any way. Under these circumstances, the supplier is not a resident in respect of the supply of these services, and therefore the head office should not charge KSA VAT to the KSA telecommunications provider. The KSA telecommunications provider should self-assess KSA VAT by way of the Reverse Charge Mechanism on the services rendered by the German strategy consultant.

5. Zero-rated Supplies

The supply of professional services by a KSA supplier, for a Customer who does not reside in the KSA and who benefits from the service outside the KSA⁽²³⁾, is in principle subject to the zero-rate⁽²⁴⁾.

In order to apply the zero-rate, the supplier must ensure it can meet each of the criteria set out in Implementing Regulations⁽²⁵⁾. Each of these criteria are discussed below, with examples relevant to the professional services sector.

- a. **The supply of those services does not take place in the KSA under “special cases” described in the Unified VAT Agreement⁽²⁶⁾ (further guidance in chapter 4 of this guideline).**

This means that the following professional services cannot be eligible for the zero-rate:

- Any Real Estate related services, such as architectural, engineering, design, legal or other services which relate to a specific area of Real Estate
- Any electronic services such as web development (however, these will instead not be subject to KSA VAT if provided to a non-resident)
- Education, recreational, cultural or similar services provided at an event such as a seminar or conference (see section 8 for more details)

Example (9): A KSA established research and development company is instructed by a US multinational to research the possibilities to develop a state of the art water treatment plant on bare land the company owns in Al Khobar. As the research and development services are related to property located in the KSA, the services do not qualify for zero-rating and 5% KSA VAT must be charged on the invoice issued by the research and development company.

- b. **The supplier has no evidence that the customer is resident in the KSA, and has evidence that the customer is a resident outside the KSA.**

The Authority expects this evidence will generally be satisfied in practice by the issue of an invoice or other correspondence to a non-KSA address. Any publicly available information showing the recipient having an office or branch in the KSA should result in further investigation.

Example (10): A KSA marketing consultancy has an engagement with a Turkish client, who has a branch office in the KSA. The KSA marketing consultancy provides advice to the head office, which will be used by the KSA branch in its Economic Activities. The customer has a place of residence in the KSA, and the marketing consultancy should not apply the zero-rate to its invoice to the Turkish head office.

- c. **The benefit of the Services is not received by the customer, or any other Person, when that person is situated in the KSA.**

Authority considers this condition should be interpreted narrowly, and looks at the direct and predominant benefit of the services. Zero-rating applies where the predominant benefit of the service is directly provided by the supplier to the non-resident.

(23) Note: for clarity, this section states the requirements for zero-rating of supplies made prior to the introduction of the Electronic Services System. After the introduction of the Electronic Service System, the references to “non-KSA residents” will change accordingly to refer to “non-GCC residents”.

(24) Article 34, Supplies to Outside the GCC Territory, Unified VAT Agreement

(25) Article 33, Services provided to non-GCC residents, Implementing Regulations

(26) Articles 1721-, Place of Supply – Special Cases, Unified VAT Agreement

In many cases, professional services are provided to one person in respect of a case that affects other persons. The deliverables of a service (such as a report) could be shared with a third party, or the services could affect the recipient's future conduct towards third parties. In these cases, it can be considered that the third party has received indirect benefits from the professional services. However, zero-rating should not be restricted in cases where services are directly provided to a non-resident, but can be applied when another person also receives an indirect benefit from the provision of services to a non-resident.

Please refer to section 10 of this guideline for the application of zero-rating in global contracting scenarios.

Example (11): A UK law firm asks an affiliated law firm in the KSA to meet with a client representative whilst visiting Riyadh to discuss a matter. Following the meeting, the KSA firm agrees to provide formal advice to the UK law firm, to be used in providing a memo to the UK client. In this case, whilst a representative of the ultimate client visited the KSA, the direct benefit of the services is not provided to that representative (or any other person in the KSA). The KSA law firm should apply the zero-rate to the services.

Zero-rating should not apply to cases where contractual relationship is with a non-resident, but the direct benefits of the services are provided to a person in the KSA. For example, a non-resident customer with no KSA establishment may still have employees or other representatives in the KSA on a temporary basis, who can receive the benefit of services in the KSA. Where this happens, the zero-rate should not apply.

Example (12): A Spanish company has a subsidiary entity in the KSA who requires legal assistance with respect to KSA labor law. The Spanish company contracts with a KSA law firm to provide the legal services. Whilst the law firm is instructed by and enters into a contract with the Spanish company, it provides its legal services directly to the team of the KSA subsidiary. The benefit of the services are directly received by a person in the KSA and the invoice to the Spanish company is not eligible for zero-rating.

d. The services are not related to any tangible goods or property located in the KSA during the supply.

This should be seen to include any services which affect or have the tangible goods or property as a central part of the service. For example, an expert valuation or inspection carried out on a specific physical asset situated in the KSA should therefore not qualify for zero-rating, even where the services are provided to a non-resident.

e. The supplier intends for the Services to be enjoyed outside the KSA.

The supplier should anticipate that the Customer will use the services in the course of activities outside of the KSA.

Example (13): Gulf Data Insights is a marketing consultancy firm established in the KSA, providing consumer market information to local and international businesses. Gulf Data provides a report to Laksa Pty Limited, a Singaporean restaurant chain considering entering local GCC markets. At the time the services are performed, the customer (Laksa Pty Limited) has no establishment in the GCC. It receives and enjoys the direct benefit of the services outside the GCC. Gulf Data Insights should apply the zero-rate.

f. The supplier has no evidence that the benefit of the Services will be enjoyed within the KSA Territory.

This criterion assesses the direct benefits of the original supply by the supplier. As explored in respect of condition (c), the supplier must therefore not zero-rate if his services are directly provided to a person in the KSA (even if these are paid for or requested by a non-KSA customer).

In a professional services context, a non-resident who receives a supply of services can choose to enjoy the benefit of those services in different ways, which could include by using them to provide services to other persons in their own right, to advise other persons, or to take actions, which affect other persons. The onwards provision of services by the customer to a third party in the KSA, or the subsequent use of the services by the customer in a way that benefits a third party in the KSA, does not affect the ability of the original supplier to zero-rate his services.

Example (14): Lekker Consulting Limited, a South African company, wins a large consultancy project with a KSA Bank. One of the deliverables it needs to carry out during the contract requires it to gather and analyse financial information from sources in the KSA. It hires Majd Consulting as a subcontractor to carry out these services.

Majd Consulting has no interaction with the KSA Bank, it works on the instruction of Lekker and provides all services directly to Lekker. Lekker ultimately collates this information and provides a deliverable in its own name to the KSA Bank.

In this situation, KSA Bank could be seen to derive an indirect benefit from the work carried out by Majd Consulting. However, the direct benefit is provided to and enjoyed by Lekker, allowing it to complete the work for KSA Bank. Majd Consulting should apply the zero-rate to its invoice to Lekker.

6. Tax Due Date

6.1. General

Each Tax Invoice for a Taxable Supply must show the date the supply takes place (also referred to as the “date of supply” for VAT purposes). This is the date upon which the VAT for that supply “becomes due”, determined in accordance with The Unified VAT Agreement:

“Tax becomes due on the date of the supply of Goods or Services, the date of issuance of the tax invoice or upon partial or full receipt of the Consideration, whichever comes first, and to the extent of the received amount.”⁽²⁷⁾

The date the supply takes place determines in which Tax Period the supply is reported. Whilst each supply has a separate date of tax becoming due, the payment of VAT by the Supplier to the Authority is only required when the VAT return is filed (and the corresponding Net Tax for that entire tax period is due for payment).

The actual date of supply of the Goods or services is, in standard cases, the date of delivery of the Goods or performance of the services. However, specific date of supply rules are prescribed in the Unified VAT Agreement and Implementing Regulations⁽²⁸⁾.

Example (15): Ali Hussain, an IT consultant residing in Jeddah, is contracted by the municipality of Jeddah to provide a report on the improvement of the IT infrastructure of the municipality. As this advice is a one-off consultation with a single deliverable, the date this service is completed is the date on which Ali Hussain provides its completed report to the municipality. This will be the date of supply.

Example (16): Noura, a veterinary surgeon, provides a medical consultation to a sick falcon. The medical consultation is rendered as a one-off treatment and therefore the date of supply of the service is the date the consultation takes place.

The date the supply takes place may be earlier than the actual date of supply, in cases where a tax invoice is issued or payment is received before the actual date of supply.

If a Tax Invoice is issued before the actual date of supply:	The Supplier must comply with VAT obligations based on the date of issue of the Tax Invoice. VAT must be reported as Output Tax in the Tax Period in which the Tax Invoice is issued (even if payment has not been received or the actual supply has not taken place).
If an advance payment is made before the actual date of supply:	The supply is deemed to take place on the date of payment (in cases of part-payment, the supply takes place for the portion of consideration paid).
	The Supplier must issue a Tax Invoice within fifteen days from the end of the month in which the advance payment was made for the portion of the consideration received.

(27) Article 23, Date of Tax Due on Supplies of Goods and Services, Unified VAT Agreement

(28) Article 23, Date of Tax Due on Supplies of Goods and Services, Unified VAT Agreement and Article 20, Date of Supply in specific circumstances, Implementing Regulations.

6.2. Continuous Supplies

The Implementing Regulations set out⁽²⁹⁾ that in cases where the invoice or agreement between the supplier and customer states that the consideration is due and payable in periodical instalments, a separate supply in respect of each instalment takes place. This will only apply in cases where Goods or Services are supplied on a continuing basis.

For continuous supplies allowing payment of consideration in instalments, the supply takes place on the earlier of the due date for the payment of that instalment or the date of actual payment.

A continuous supply of goods or services involves the provision of goods or performance of services continuously across a defined period. Examples of continuous supplies in the professional services context include the provision of ongoing advisory or management services.

Continuous supplies of services, whereby no installment payments are due, take place on the earlier of the date a Tax Invoice is issued or payment is made in respect of those Goods or services, to the extent of the amount invoiced or paid⁽³⁰⁾.

Unless an advance payment is received, the date of issue of the Tax Invoice for continuous supplies will be the date of supply. If an advance payment is received, the earlier date of supply should be shown on the Tax Invoice.

Example (17): Al Nakheel Consultancy Services has a retainer agreement with Al Saleh Factories to provide ongoing consultancy services for its customer, Al Saleh Factories. It issues an invoice at the completion of every month to reflect the services received in the previous month, on a time spent basis.

Al Nakheel Consultancy Services has a monthly VAT filing period. During the month of September, no requests were received and no services were provided. Al Nakheel does not raise an invoice or report VAT for the month of September.

During the month of October, the value of services provided was SAR 20,000 (plus SAR 1,000 of VAT). The Tax Invoice is issued by Al Nakheel on 4 November, and requires Customer payment by 10 November. The date of supply for VAT reporting purposes is 4 November and it will be included as part of Al Nakheel's November VAT return.

(29) Article 20(1), Date of Supply in specific circumstances, Implementing Regulations

(30) Article 20(2) and 20(3), Date of Supply in specific circumstances, Implementing Regulations; subject to specific rules applying in the event that no payment has been received or invoice issued within twelve months.

7. Consideration

The Unified VAT Agreement requires that: “published prices in the local market for Goods and Services must include VAT”⁽³¹⁾. This means that prices expressed to the general public (for example, in a retail store) should be a VAT-inclusive price.

Most professional services are provided as business-to-business transactions. In this context, GAZT accepts that a supplier and customer may agree a VAT-exclusive price or consideration payable for a supply of goods and services. In these cases, it must be clear from the agreement that the price is exclusive of VAT. If a price is expressed without any mention of VAT, it will be presumed to be inclusive of the VAT amount.

In these cases, or if the agreement contains other wording to prescribe the consideration includes VAT (such as “inclusive of all taxes”), the VAT due by the Supplier is calculated as 5/105 of the total consideration payable.

The consideration for a supply is a defined term⁽³²⁾:

“Everything collected or to be collected by the Taxable Supplier from the Customer or a third party against the Supply of Goods or Services inclusive of the VAT.”

For professional services, the consideration charged to a customer consists of the net fees or income of the supplier for the activities rendered (this may for example be based on the hourly rate and the time spent, a percentage commission, or a fixed amount), plus any disbursements or reimbursements (see below) and the VAT amount due on the various elements. The supplier may alternatively charge a fixed price including these elements.

Example (18): Omar Accountancy Services Co charges a fixed VAT-inclusive price of SAR 1,320 to small business customers for preparing the annual statement of accounts, including its costs incurred for online filing fees within this price. It calculates the VAT payable as 5/105 of 1,320, (which equals approx. SAR 62.86). The Tax Invoice showing the VAT amount must show VAT of SAR 62.86.

Consideration is usually monetary, but also includes non-monetary consideration. In a professional services context, this may arise where one service provider agrees to do something “in return” for a service provided by the recipient (also known as a “barter” transaction). In this case, both supplies are subject to VAT on the fair market value of the supplies.

Example (19): Khan Consulting provides specialist advisory services to multinational customers wishing to bring expatriate workers to the KSA. Khan Consulting agrees with Stefano SPA, an Italian human resources business, to provide advisory services directly to one of Stefano SPA’s expatriate workers in the KSA. These services would otherwise be valued at SAR 50,000 based on normal rates, but are provided no charge on the understanding that the Italian customer agrees to deliver a bespoke online HR training session in return.

Whilst no monetary consideration is paid, both Khan Consulting and Stefano SPA make supplies of services. The fair market value of both supplies is SAR 50,000. Khan Consulting must apply VAT to the services which are consumed by the expatriate in the KSA, and must also consider if it needs to apply VAT on the receipt of services from the Italian supplier, under the Reverse Charge mechanism.

A service supplier may agree with its client to recover costs borne when acting on behalf of a client. The application of VAT will depend on whose name in which the costs are incurred.

(31) Article 25, Tax Rate, Unified VAT Agreement

(32) Article 1, Definitions, Unified VAT Agreement

A situation in which a supplier incurs costs directly in the name of the customer is often referred to as a "disbursement". If a supplier incurs costs in his own name and charges the customer, this is often referred to as a "reimbursement". These are not defined terms for VAT purposes, and the VAT treatment should in all cases be applied on the specific fact scenario (regardless of how the charge to the customer is described).

The sections below provides detail on the common commercial circumstances for disbursements and reimbursements, and the corresponding VAT treatment.

7.1. Disbursement

In cases where a service provider arranges for a supply to be received from a third party in the name of his client, this supply takes place directly from the third party to the client as customer.

Typically, a service provider makes physical payment to the third party supplier and recovers the amount paid from the client. In these cases, the recovery of the money from the client is not consideration for a supply made by the service provider. This situation is often referred to as a "disbursement".

Care should be taken as the term "disbursement" can be used differently in practice. The Authority accepts that a service provider does not need to charge VAT on a "disbursement" provided the following criteria to be met:

- The client actually receives the goods or services (whether directly or via the service provider in actual commercial practice);
- The client is the person responsible to pay;
- The client is aware of a supply by a third party supplier and gives (either general or specific) authority to the service provider to make payment on his behalf;
- The service provider claims the exact amount from the client, without markup
- The disbursed cost is clearly evidenced in commercial documentation to be separate and additional to the supplies the service provider makes to the client.

Example (20): A KSA design firm is completing an office design for its client, Century Bank. Once the design phase is complete, Century Bank authorizes the design firm to pay a fee of SAR 15,000 to the municipal authority to obtain certification to carry out necessary construction works. The permission is in the name of Century Bank.

The design firm is carrying out the design work on its own account as service provider, but acts on behalf of Century Bank in obtaining certification from the municipal authority. If the design firm seeks payment of the SAR 15,000 as an individual amount (separate to the design fees), this will be a disbursement and not subject to VAT.

However, if the design firm charges an inclusive price for the design, including costs to obtain the municipal certification, then this will be a single supply of services, which is subject to VAT in full.

A disbursement is not a taxable supply made by the service provider, so the service provider is not subject to specific tax invoicing requirements in law for that disbursement. However, the Authority recommends that if a disbursement is charged by a service provider who is a Taxable Person, the service provider issues a Tax Invoice which clearly evidences that the charge is a disbursement (and therefore not subject to VAT).

This will reduce potential uncertainty for the supplier, customer or for the Authority during an examination or any other review of the Tax position of either party. If clear documentation of the disbursement is not issued, it may indicate that the service provider has itself made a taxable supply in respect of the consideration received.

7.2. Reimbursement

If a service provider incurs expenses in its own name, and agrees to charge the client for these expenses, this agreed charge is consideration for a supply made by the service provider. To distinguish it from a "disbursement", costs on charged in this way are often referred to as a "reimbursement".

Note however that the VAT treatment will depend on whether the service provider acts in its clients name or in its own name, rather than the description given to the charges.

In the case of a reimbursement, VAT may be applied as an onwards supply of that same good or service, or – if applicable – as additional consideration for a larger "dominant" supply made by the service provider.

- An onwards supply will have the appropriate VAT rate and treatment for that good or service, when supplied from the service provider to the client. Usually this will match the VAT rate applied to the original charge, but this may differ depending on the status of the parties.

Example (21): Global Real Estate KSA is a company who advises businesses on developing a portfolio of office locations globally. In order to complete a global options paper for a KSA bank, it engages a Hong Kong supplier to provide expert advice on the local market, and seeks reimbursement of the consultancy fee incurred. The options paper does not relate to a specific piece of Real Estate, so is subject to KSA VAT at 5%.

The Hong Kong supplier does not charge VAT on its own supply. However, Global Real Estate must charge VAT at 5% on the entire report, including the reimbursement of the cost from the Hong Kong supplier.

- If a cost being reimbursed forms a part of a larger dominant supply, then the reimbursement of that cost will be considered as additional consideration for the dominant supply. Therefore, VAT will apply at the same rate as that supply.

Example (22): Element Consulting, a KSA consulting firm, is working on a large project with a Saudi Ministry. To complete the project, with Element Consulting needs to fly in a group of experts from other countries: and therefore, Ministry agrees to reimburse the exact travel air costs of its staff in addition to the prescribed fees.

The reimbursement of airfares is not a separate service provided to the Ministry – it instead forms an inseparable part of delivering the project. Whilst the airfares incurred are not subject to VAT, or have VAT charged at 0%, the reimbursement of those costs should be charged as additional consideration for the project fees (and therefore subject to VAT at 5%).

7.3. Adjustment to consideration

In case the previously agreed consideration for a supply of goods or services is changed, the amount of Output VAT due on the supply also changes. The Unified VAT Agreement sets out that:

“A Taxable Person may adjust the value of the Tax imposed upon any of the following events taking place at a date later than the Supply date:

1. Total or partial cancellation or rejection of a Supply;
2. Reduction of the Supply value;
3. Total or partial non-collection of the Consideration in accordance with the conditions applicable to bad debts in each Member State.”⁽³³⁾

The effect of these events in a professional services context is as follows:

The **total cancellation** of the supply may take place when the services have not yet commenced, or no material work towards the agreed deliverables is yet carried out. The supplier is not eligible to receive any consideration for any work performed. In this case, the supplier is not allowed to make any supply for VAT purposes.

The **partial cancellation** of a supply is when the agreed scope of work changes, so that only part of the services are provided. The supplier is generally eligible for reduced consideration.

The **rejection** of a supply involves the supplier providing services, but the customer not accepting the quality or delivery of the services. In these cases, the customer may refuse to pay the full consideration, or refuse to pay any consideration, for the services provided.

In a professional services context, it is often difficult to “return” the services, once they are received to the supplier. GAZT accepts that if a customer receives some services but rejects these as not being satisfactory (and refuses to make any payment), the supplier does not make a nominal supply of those services for VAT purposes. The supplier should retain a proof of the Customer’s rejection of the unsatisfactory services to substantiate its VAT reporting.

The **reduction of the supply value** is generally an agreement between the Supplier and Customer to apply a reduced consideration to the supply.

The **non-payment of Consideration** is where the services are satisfactorily provided to the Customer, but the Customer does not make payment (also known as ‘bad debts’). An adjustment for bad debts is only available once all criteria set out in the Implementing Regulations⁽³⁴⁾ are met. These criteria include:

- a period of at least twelve months has passed from the date of the Taxable Supply,
- the Taxable Person holds a certificate from his certified accountant indicating that the unpaid Consideration has been written off in his books, and
- in cases where the total amounts unpaid by the Customer exceed one hundred thousand (100,000) riyals, formal legal procedures have been taken to collect the debts without success and the Taxable Person can provide evidence of these procedures.

(33) Article 27, Adjustment of Tax Value, Unified VAT Agreement

(34) Article 40(7), Adjustment to value of a Supply, Implementing Regulations

In all cases other than the non-payment of consideration, if a Tax Invoice has been issued for a supply, and the consideration has been changed due to one of these circumstances, the Supplier must issue a credit note to report the change to consideration⁽³⁵⁾.

If the Supplier has already reported Output Tax on the supply, he may make an adjustment to Output Tax in the Tax Period in which the change to consideration took a place, or in which the credit note is issued, whichever is later⁽³⁶⁾. If the Customer has deducted Input Tax in respect of the supply he must also adjust the VAT deducted to reflect the change to consideration.

Please see the Invoicing and Records guideline for further details on issuing credit notes and making adjustments to Output Tax in these circumstances.

(35) Article 54, Credit and debit notes, Implementing Regulations

(36) Article 40 (5), Adjustment to value of a Supply, Implementing Regulations

8. Professional events and seminars

Professional events and seminars are events which generally provide training, professional development, marketing, promotional activity or a combination of these factors to attendees or delegates. These events can take a place over multiple days and may in some cases include the provision of catering, accommodation, and cultural events in the host city.

8.1. Events where delegates pay an attendance fee

In cases where the delegates pay a charge to attend the event, GAZT in most cases considers the place of supply is the country which the event has been held in. The fee may relate to cultural, recreational or educational services, and may include the provision of hotel or catering services. In all cases VAT should be applied in the country where the event takes place.

Example (23): The Japanese Chamber of Commerce hosts an annual seminar in Riyadh to promote the business activities of Japanese companies all over the world. The purpose of the event is to provide cultural and educational information about businesses in Japan. The admission fee to attend the seminar is SAR 2,500.

Japanese Products Ltd, a trading company established in Egypt, sends its sales manager Mohamed to attend the seminar of the Japanese Chamber of Commerce. As the admission fee relates to the physical admission to the seminar (with a cultural and educational nature), KSA VAT is due on the admission fee.

8.2. Events without payment

In cases where professional services companies run events for promotional reasons, and delegates do not pay a fee for attending the underlying sessions of the event or seminar, GAZT accepts that the supply of admission to the event has no value for VAT purposes. The supplier of the event or seminar is not required to report VAT on a nominal supply in these cases.

However, if other elements have been provided which were separate from the seminar itself, such as accommodation or cultural activities (such as a city tour), these will be subject to the rules on Nominal Supplies. If the event organizer deducts input tax on the purchase of these items, it will be required to account for Output VAT if these items are provided to delegates for no consideration.

8.3. Provision of catering

The provision of catering in hotels, restaurants and similar venues is not eligible for Input Tax deduction in the KSA, unless it is used in an onwards supply by the Purchaser⁽³⁷⁾.

If the organizer of a professional event or seminar provides beverages, light food or snacks intended for consumption during the seminar, GAZT accepts that this expenditure forms part of the Economic Activity and the VAT on such expenditure is deductible – both for the event organizer and by the delegate (if he is charged for this).

However, the VAT incurred on any formal meals provided in connection with a seminar in a dining establishment are not deductible. The organizer may choose to restrict Input Tax on the costs relating to this catering. If it chooses to make a charge to the delegates for the catering during the seminar, this charge should be separately identified on the invoice to allow the recipient to identify the non-deductible amount for VAT reporting purposes.

(37) Article 50, Goods and services deemed to be received outside of Economic Activity, Implementing Regulations

Example (24): A Saudi law firm organizes a roundtable to discuss the impact of new administrative legislation, followed by a dinner at a restaurant with the 20 attendees. The law firm does not charge an admission fee, as the event is organized to generate business with existing clients. As the law firm does not make a charge to any attendee, there is no implicit value to the provision of the roundtable itself, and no nominal supply is required.

The meal is a separate item with identifiable value. The Saudi law firm does not deduct any input VAT related to restaurant costs, therefore the provision of the meal for no consideration is not considered a nominal supply.

9. Financial advisory

9.1 General provisions

Financial services can include a wide range of financial products supplied to both VAT registered customers and other customers.

Supplies of financial services to a resident person in the KSA are by default treated as exempt⁽³⁸⁾, however, many supplies may be treated as VAT taxable based on the consideration payable in respect of the service provided. This summary table outlines the general principles discussed in further detail and at product level in the Financial Services guideline.⁽³⁹⁾

<ul style="list-style-type: none"> • Financial services where the consideration payable in respect of the services by way of an implicit margin or spread (including but not limited to interest, spread, margin or other implicit margin). • Equivalent income earned under Islamic financing products. • The Issue or transfer of a debt security or equity security • Provision or reinsurance of life insurance 	VAT exempt
<ul style="list-style-type: none"> • All other financial services provided in the KSA, where the consideration payable in respect of the services by way of fees, commissions or commercial discount. • Provision of any non-life insurance. • All financial intermediary fees. 	Taxable at 5%
<ul style="list-style-type: none"> • Financial services provided to a recipient resident outside the KSA⁽⁴⁰⁾ 	May be zero-rated or outside the scope of KSA VAT

VAT is applied on all financial services supplied in the KSA by a registered Taxable Person, where the consideration payable in respect of the service is by way of an explicit fee, commission or commercial discount (not implicit).⁽⁴¹⁾

An explicit fee or commission is an identifiable amount charged to the customer in respect of the service, whether as a discrete monetary value or a percentage of a fixed amount. **A commercial discount** is any identifiable amount which is discounted from another amount due

That means any supply of a financial service will be subject to VAT where the value of that supply can be readily identified by way of the discrete charge levied for them which is explicitly identified.

(38) Article 29(1), Financial Services, Implementing Regulations.

(39) Article 29(2), Financial Services, Implementing Regulations.

(40) Article 71, Electronic Service Systems, Unified VAT Agreement

(41) Article 29(2), Financial Services, Implementing Regulations.

9.2. Financial advisory services

Financial advisory services generally consist of suppliers advising customers with respect to financial products or helping customers with financial planning. Typically, a supplier of financial advisory products will not supply the financial product itself. Financial advisory services can be provided by parties such as financial advisors/planners, investment advisors, brokers, insurance agents and consultants.

The supplier of financial advisory services generally does not act as the principal for the supply of the financial product itself. Its activities are limited to advising clients on financial products. The consideration for these services will be an explicit fee (e.g. hourly fee or flat fee) or a commission (such as a percentage). As the financial advisor does not bear the financial risk of providing finance, the VAT exemption will not apply in most cases.

Example (25): Abdullah is an independent financial advisor who provides advisory services on the possibilities to finance the purchase of houses to natural persons in the KSA. The customer will pay a fee based on the time spent by Abdullah for the advisory services. Abdullah charges an explicit fee for its activities and therefore the fee is subject to VAT.

Further guidance in respect of financial advisory services is provided in the Financial Services guideline.

10. Global Contracting

10.1. Global Contracting

In the international professional services marketplace, parties often make use of “global contracting” arrangements. Global contracting is not a defined concept for VAT, however for the purpose of this guideline it refers to the situation whereby one entity within a group (for example the head office or a procurement entity) concludes an overall or “framework” contract with a service supplier applicable to all or multiple entities within the global group.

Examples of commercial rationale for global contracting are that the head office wants to control procurement, or to make use of supply chain efficiencies.

10.2. VAT consequences of supplies under global contracting

10.2.1. Determining of the supplier and the customer

For supplies provided under global contracting arrangements, the application of VAT is determined by reference to whom the supplier and the customer of each supply are.

A global contract should specify which entity is contractually responsible for the supplying of services in each case. There are framework agreements whereby local branches or group entities of the service provider carry out the underlying services as subcontractor of the head office of the service provider. In some cases, it may be possible that the local branches or group entities are explicitly mentioned in the framework agreement as possible sub-contractors or service providers under the global contract. The Customer is defined as “a Person who receives Goods or Services”⁽⁴²⁾. Often, this can be determined by which Person instructs the supplier, and by the Person who enters into a contract with the supplier.

Where a framework agreement exists, it is important to examine the individual transactions which, as separate supplies, will in principle have separate VAT treatments. In cases where the contractual relations and obligations all fall under a single global framework agreement, the entity actually using or benefiting from the supplied services is more determinative to establish which entity is the customer in respect of the supply.

10.2.2. Charges within a single legal entity

If a Saudi established legal entity with a head office located in KSA has a branch in a different country, or vice versa, any charges between the head office and the branch are not subject to VAT⁽⁴³⁾. However, in these cases it is crucial to establish which establishment of that legal entity (head office or branch) is most closely connected to any supply made to or received from a third party supplier.

10.2.3. Zero-rating under global professional services contracts

Professional service providers in the KSA may provide services under global contracts entered into by affiliated service providers in other countries. Usually, the local KSA supplier will be instructed by a non-resident affiliated entity to provide professional services. The KSA supplier will issue an invoice to the non-resident affiliated entity for its services, but the services may have some link to a person in the KSA or an activity carried on in the KSA. The scope of the KSA supplier’s activities will determine whether it can apply the zero-rate to its invoice.

(42) Article 1, Definitions, Unified VAT Agreement

(43) Article 18(1), Supplies by a legal Person to itself, Implementing Regulations

- In cases where the Saudi supplier does not provide advice, direct assistance or other direct benefits to a person in the KSA (or has no direct contact with a person in the KSA), and provides services intended for the affiliated entity's use, the direct benefit of the services is provided to the non-resident affiliated entity. The Saudi supplier should apply the zero-rate, provided the other conditions are met.
- In cases where the Saudi supplier provides advice or direct assistance to a Saudi entity or person, or provides a deliverable which is intended for direct use by the KSA entity or person, the direct benefit of the services is received in the KSA. The Saudi supplier should not apply the zero-rate and charge KSA VAT at the standard rate.

The global contracting examples in section 10.2.5. below apply these concepts.

10.2.4. Analysing a global contract

The contractual arrangements, in combination with the actual facts and circumstances, should be taken into account on a case-by-case basis to determine how each supply of services is qualified from a VAT perspective. Any small differences can result in material differences to the application of VAT.

Generally speaking, the contractual arrangements are indicative to determine the parties' intentions and the VAT consequences of a supply. However, in certain cases the contractual arrangements are not in line with the actual facts and circumstances of a supply. In these cases, VAT consequences of the supply should be determined in accordance with the actual facts.

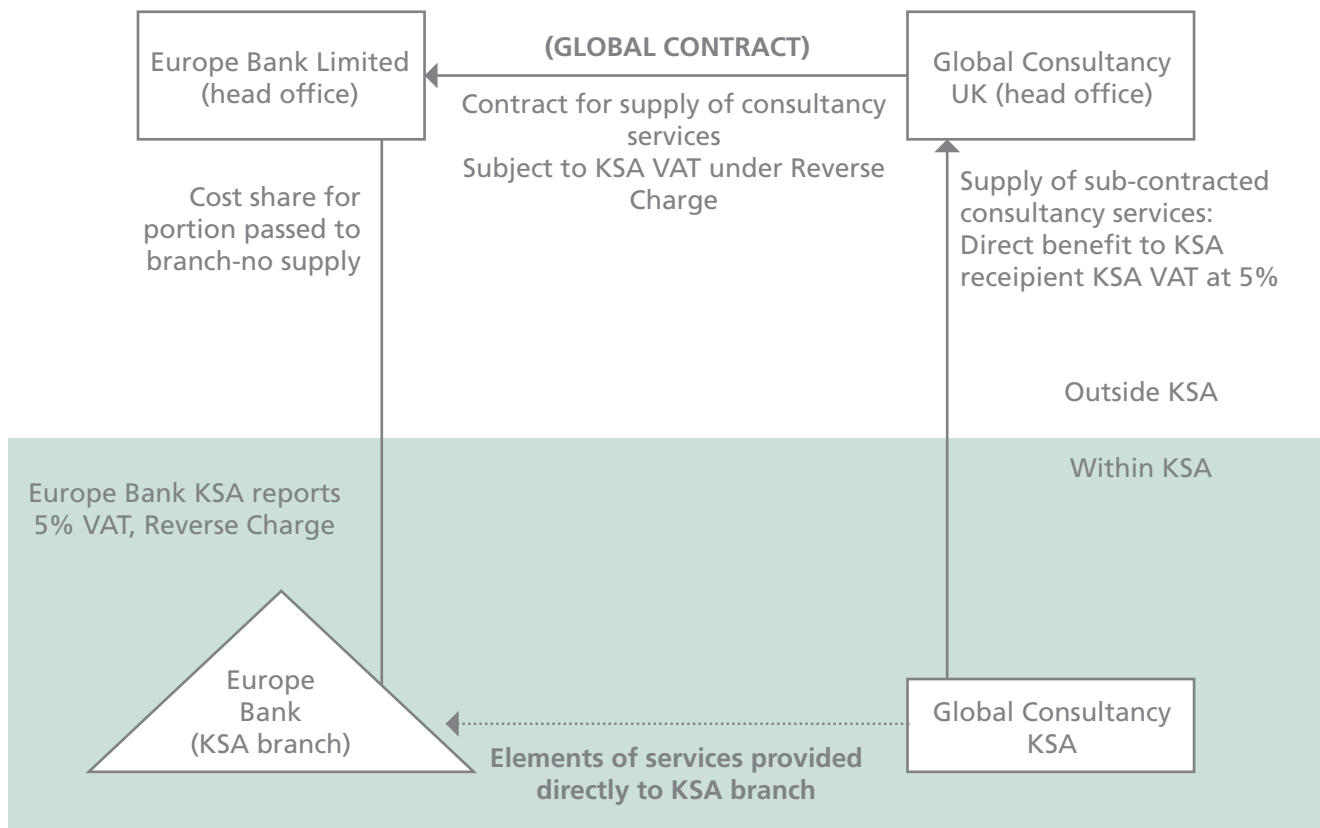
GAZT can apply VAT to the transactions based on the actual facts (rather than from the form of the arrangements) in cases where the contractual arrangements give an incorrect VAT result, or where parties structure the supply of services in such a way that lead to the avoidance of levying VAT in the KSA.

10.2.5. Examples of Global contracting scenarios

Example (26): Europe Bank Ltd, established in the UK, enters into a global contract with Global Consultancy UK, a consultancy service provider established in the UK. Part of the consultancy services rendered under the global contract consist of making an impact assessment for a potential expansion of the business of the KSA branch of Europe Bank Ltd in Riyadh. The activities of the impact assessment are carried out by Global KSA Consultancy, a group entity of Global Consultancy UK in the KSA.

Based on the contractual arrangements, Global KSA Consultancy works as subcontractor for Global Consultancy UK and Global Consultancy UK renders the service to Europe Bank Ltd. However, the consultants of Global KSA Consultancy work at the office of the KSA Branch of Europe Bank Ltd, and provide direct assistance to the KSA Branch teams.

The diagram below shows how the services are contractually provided, and with a dotted line representing the provision of direct benefits under the agreement.



Based on the contractual relations, Global KSA Consultancy will issue an invoice for its activities to Global Consultancy in the UK. In this case, as the direct benefit of the services is provided to Europe Bank, Global KSA Consultancy is not able to apply the zero-rate to its invoice and should charge VAT at 5% to Global Consultancy UK.

Under the global contract, Global Consultancy will issue an invoice for the impact assessment to the head office of Europe Bank Ltd in the UK. Although based on the global contract, the billing arrangements will be in the UK, the services are actually consumed by the KSA Branch of Europe Bank Ltd and therefore the KSA Branch of Europe Bank Ltd qualifies as the establishment most closely connected to the supply (and therefore, the recipient of the supply).

The KSA Branch of Europe Bank Ltd should self-assess KSA VAT on the invoice issued by Global Consultancy UK via the Reverse Charge Mechanism.

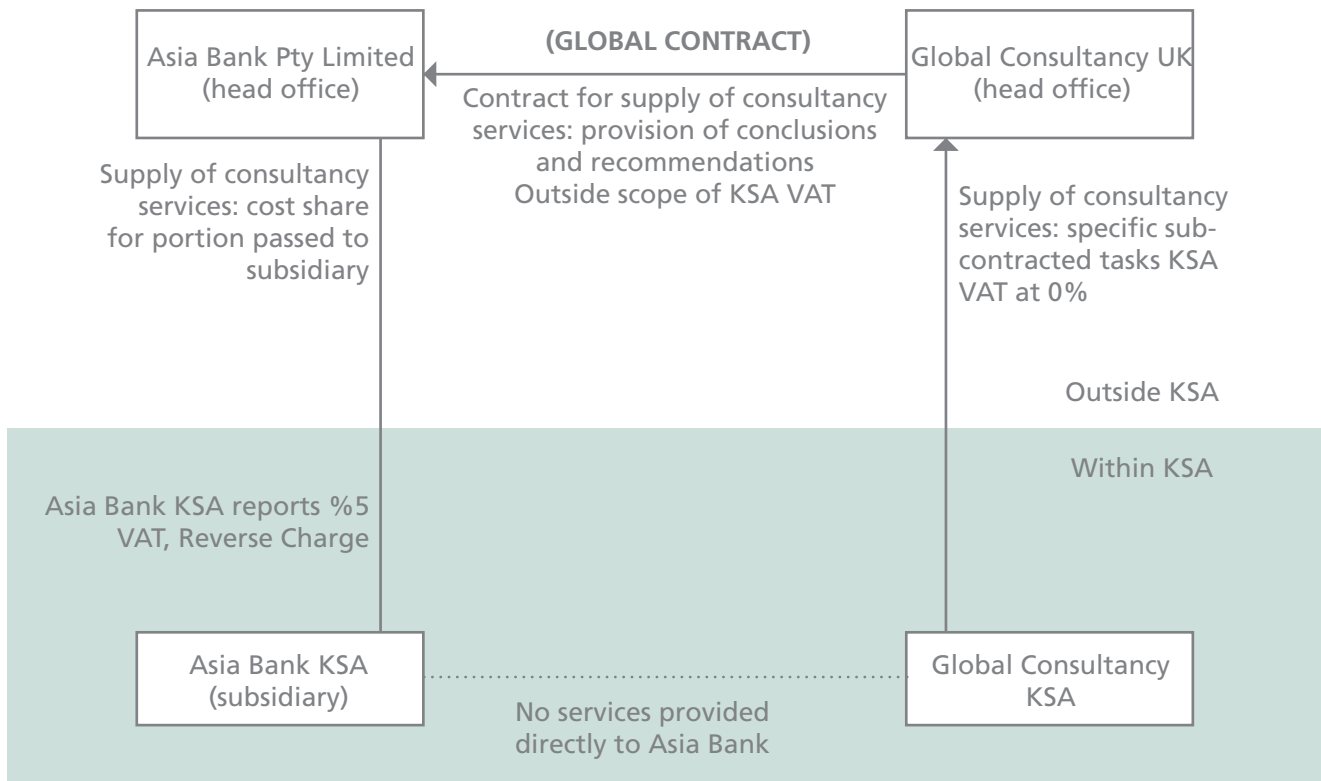
Example (27): Global Consulting UK also has a global contract with Asia Bank Pty Limited, which has a head office in Singapore and local companies established in many countries throughout Asia, including Asia Bank KSA.

Global Consulting UK enters into a contract to carry out an impact assessment for Asia Bank Pty Limited across multiple countries. It arranges for its subsidiary, Global Consulting KSA, to carry out specific information gathering tasks at the premises of Asia Bank KSA. The local consulting team carry out these tasks but do not provide services directly to Asia Bank KSA. The analysis of the information, conclusions and recommendations are carried out at a project-wide level by Global's head office.

Global Consulting KSA is able to charge Global Consulting UK for the time spent in carrying out the tasks. This charge can be zero-rated, as the direct benefit of the services is provided to Global Consulting UK. The services are not directly provided to Asia Bank KSA (whilst a KSA resident entity will later receive some indirect benefit from the services, this does not affect how VAT applies to Global Consulting KSA's supply).

Global Consulting UK provides its full report and conclusions to Asia Bank Pty Limited. Asia Bank's head office then acts on the report and provides feedback and direction to its subsidiary companies. It also charges a portion of the report costs.

Asia Bank KSA's payment of the charge from its head office is consideration for the receipt of services from a non-resident, Asia Bank Pty Limited. Asia Bank KSA must report VAT on the receipt of these services under the Reverse Charge Mechanism.



11. Intercompany charges

11.1. Management Services

In many organisations, the management of one or many group companies is carried out on a central level.

Management services can consist of a broad range of activities, including for example:

- Management and co-ordination of legal and tax affairs of the group (or company);
- Accounting and administration of the group (company);
- Developing business strategies of the group (company);
- Management of the cash position of the group (company);
- Other operational services benefiting the group (company).

In order to receive a (proper) remuneration for the activities, the entity or person that provides the management services will ask for payment for its activities.

Generally, management services are formalised in an agreement which determines which activities will be carried out by which party and who will be receiving the services and for which price.

Unless any exception applies, management services between KSA entities will be subject to VAT at the standard rate. If a KSA entity supplies management services to a non-KSA entity, the rules to determine place of supply and application of the zero-rate should be examined, depending on the exact nature of the services being provided.

The general place of supply rules are generally expected to apply for management services (please refer to section 4 of this guideline). Generally, management services are not expected to fall within any of the Special Cases for place of supply.

However, if services are described as management services but actually comprise other services (such as rental of office space), VAT should be applied based on the actual services provided.

In accordance with the rules for Tax Groups, the Tax Group is deemed to act as a single taxable person⁽⁴⁴⁾. Any supplies between members of a Tax Group, including management services, are not within the scope of Tax for VAT purposes (i.e. no VAT is charged on any consideration paid for goods or services supplied).⁽⁴⁵⁾

Charges made within a legal entity (such as from a head office to a branch) are not subject to VAT.

11.2. Other Services within the group

In addition to management services, group entities often make charges for other intercompany services which will generally be subject to VAT, such as finance and administrative activities.

Financing activities are in principle exempt from VAT, when charged with an implicit margin. Therefore, if a group company makes exempt supplies (from financing activities to group entities outside the Tax Group), this could affect the right to Input Tax deduction for the company providing the financing activity.

(44) Article 4, Tax Group, Unified VAT Agreement

(45) Article 18(2), Supplies by a legal Person to itself, Implementing Regulations

The VAT treatment of intercompany services is in principle equivalent to the VAT treatment of services rendered to entities outside the company, unless the service provider and recipient are part of the same Tax Group.

11.3. Date of Supply

Management services or other group services are typically provided across a set period, and are considered to be continuous supplies of services.

VAT arises on the earlier of the date the payment is due (for supplies with payments due in installments), payment is made, or the issue of an invoice.

For group services, physical payment and invoicing may occur at different times to the provision of the underlying services. In the event that no payment is received - nor any invoice is issued - in respect of a continuous supply, the supply is deemed to take place on the date falling twelve months after:

- the date which the supply has been commenced; or
- the date which the last invoice was issued or payment received;

whichever of those dates is later.

Example (28): Al Bahr Holding Company operates the head office building in Dammam for all businesses in the family group. It enters into an agreement on 1 January 2019 to charge a fee to each of the group companies for the operation of the head offices. A partly-owned group company, Wahid Logistics agrees to pay a fee amounting to SAR 2,000 per month, but without any fixed dates for payment. This agreement is for a continuous supply of services.

Al Bahr Holding Company issues an invoice on 31 December 2019, for the fee covering the twelve months to December 2019. Wahid Logistics is not part of a VAT group with Al Bahr Holding Company, so the fee amounts to SAR 24,000 plus VAT of SAR 1,200. Wahid Logistics pays this in January 2020 – but the date of supply for VAT purposes is on 31 December 2019, due to the fact the invoice was issued first.

Al Bahr neglects to issue an invoice to Wahid Logistics during the 2020 calendar year. As twelve months has passed since the previous date of supply was created (from the issue of the previous tax invoice), a subsequent date of supply is created on 31 December 2020, for the continuous supplies provided during 2020 (since the previous invoice).

Al Bahr must:

- report Output Tax in its VAT return for December 2020, and
- issue a tax invoice showing the deemed date of supply of 31 December 2020. This tax invoice must be issued before 15 January 2021 (during 15 days since the end of the month containing the date of supply).

11.4. Transfer Pricing Adjustments

Many multinational group companies review the pricing of intercompany charges, in particular those concerning international transfers of goods, services, capital and intangibles (intellectual property).

This aligns with transfer pricing guidelines and regulations which have been established at both a global level, and under domestic laws, to ensure that related parties set their intercompany pricing in a similar way that independent third parties would deal with each other (at an “arm’s-length” price).

As a result, group companies may make transfer pricing adjustments, which adjust the consideration payable for intercompany transactions to be in accordance with rules of transfer pricing.

If a transfer pricing adjustment is made in respect of a supply of goods or services, the effect of this is to adjust the previously agreed consideration. For VAT purposes, an adjustment to consideration for a taxable supply requires the supplier to adjust the Output Tax payable, and the customer to adjust the Input Tax deducted on the transaction⁽⁴⁶⁾. The Supplier must also issue a credit note or debit note to reflect the adjustment.

If KSA VAT is not due on the underlying supply of goods or services, the transfer pricing adjustment would not require adjustment of the Output Tax or Input Tax. However, it is recommended that correct documentation is issued to reflect the change to consideration.

Further detail on the application of transfer pricing rules under KSA law will be provided in a separate guideline.

(46) Article 40, Adjustment to value of a Supply, Implementing Regulations

12. Input VAT deduction

12.1. General Provisions

A VAT registered person may deduct Input VAT charged on goods and services it purchases or receives in the course of carrying on its Economic Activity. Input VAT may be deducted on:

- VAT charged by a VAT-registered supplier in the KSA;
- VAT self-accounted by the VAT-registered person under the Reverse Charge Mechanism; or
- Import VAT paid to Saudi Customs on imports of goods into the Kingdom.

As a general rule, input VAT which is related to the Taxpayer's VAT exempted activities is not deductible as input VAT.

In addition, input VAT may not be deducted on any costs incurred that do not relate to the Economic Activity of the Taxable Person (including some blocked expenditure types such as entertainment, sporting or cultural services, catering service, and restricted motor vehicles),⁽⁴⁷⁾ or on any costs which relate to making exempt supplies.

This input VAT is a credit entered on the VAT return which is offset against the VAT charged on supplies (output VAT) made during that period.

Input VAT may only be deducted where the Taxable Person holds a tax invoice, or customs documents showing the amount of tax due, or any other document showing the amount of input tax paid or due, subject to the approval of the Authority.⁽⁴⁸⁾

12.2. Proportional deduction relating to input VAT

VAT incurred which relates to a Taxpayer's VAT exempt activities, such as exempt financial services or residential rental, is not deductible as Input VAT. A person making both taxable and exempted supplies, can only deduct the Input VAT related to the taxable supplies. If a Taxable Person incurs general costs or expenses (overheads) in the making of taxable supplies, and others that are exempt from VAT, he must in that event split the costs and expenses precisely so as to specify those costs that relate to the taxable supplies. The input tax will be determined in accordance with the following rules⁽⁴⁹⁾:

Input VAT directly attributed to Taxpayer's taxable supplies	Deduct in full
Input VAT directly attributed to Taxpayer's exempt supplies	No deduction
Overheads and all other input VAT that cannot be directly attributed	Partial deduction based on apportionment

The overhead costs/expenses incurred by the Taxable Person for making both taxable and exempted supplies must be apportioned to most accurately reflect the use of those costs in the **taxable portion** of the Taxpayer's activities.

A prescribed default method of proportional deduction is calculated on the Values of supplies made in the year, using of the following fraction:

(47) A detailed list of the blocked expenditures is listed under Article 50 of the Implementing Regulations.

(48) Article 49(7), Input Tax Deduction, Implementing Regulations.

(49) Article 51, Proportional deduction of Input Tax, Implementing Regulations

The Value of **Taxable Supplies** made by the Taxable Person in the last calendar year

The total Value of **Taxable Supplies** and **Exempt Supplies** made by the Taxable Person during the last calendar year

The fraction for the default method does not include supplies of Capital Assets made by the Taxpayer, as these distort the use of input VAT.

Alternative attribution methods, using other calculation approaches than the Value of supplies, may be approved with the Authority in cases where these better reflect the actual use of VAT incurred. Further information about deduction of VAT and proportional VAT recovery is provided in the Input Tax deduction and Partial Exemption guideline.

13. VAT obligations of the Taxable Person

A Taxable Person must evaluate its tax obligations and also comply with the conditions and obligations relating to VAT. This includes registering for VAT as necessary, and exactly calculating the net amount of VAT payable, and paying the tax at the time due, as well as keeping all necessary records and cooperating with officials of the Authority on demand.

If a Taxable Person is not sure of its obligations, he must contact the Authority through the website at vat.gov.sa or by other means of communication, and a Taxable Person may also seek external consultation through a qualified consultant. There follows below a review of the most important tax obligations provided for in the Law and the Implementing Regulations.

13.1. Issuing tax invoices

A supplier must issue a tax invoice for each taxable supply made to any VAT-registered person or to any other legal person, or issue a simplified invoice in the event that the Value of the supply is less than SAR 1,000, or for supplies made to the end consumer, by no later than fifteen days following the end of the month in which the supply is made.

The tax invoice must clearly details some information such as the invoice date, supplier's tax identification number, taxable amount, tax rate applied, and the amount of VAT charged⁽⁵⁰⁾. If different rates have been applied to supplies, the Value of each supply at each rate must be separately specified, as well as the VAT applicable to each rate. A tax invoice may be issued in the form of a commercial document, provided that document contains all of the requirements for the issuing of tax invoices as set out in the Implementing Regulations to the Law⁽⁵¹⁾.

Further information on the requirements for tax invoicing can be found in the Taxpayer guideline on Invoicing and Records.

13.2. Filing VAT Returns

Each VAT registered person, or the person authorised to act on his behalf, must file a VAT return with the Authority for each monthly or quarterly tax period. The VAT return is considered as self-assessment of tax due for that period.

Monthly VAT periods are mandatory for Taxable Persons with annual revenues exceeding SAR 40 million. For all other VAT registered persons, the standard tax period is three months.

The VAT return must be filed, and the corresponding payment of net tax due made, no later than the last day of the month following the end of the tax period to which the VAT return relates.

More information on filing of VAT returns is provided in a separate guideline.

If the VAT return results in VAT due to the Taxpayer, or if the Taxpayer has a credit balance for any reason a request for a refund of this VAT may be made after the filing of the VAT return, or at any later time during the next five years by filing a request for a refund to the Authority. GAZT will review these requests and will pay the amount due on refund requests that have been approved, directly to the Taxpayer⁽⁵²⁾.

(50) For more details on the requirements for issuing tax invoices, refer to the published Invoicing & Records guideline and Article 53, Tax Invoices, Implementing Regulations

(51) Article 53, Tax Invoices, Implementing Regulations

(52) Article 69, Refund of overpaid Tax, Implementing Regulations

13.3. Keeping records

All Taxpayers are required by law to keep appropriate VAT records relating to their calculation of VAT for audit purposes. This includes any documents used to determine the VAT payable on a transaction and in a VAT return. This will generally include:

- tax invoices issued and received;
- books and accounting documents;
- contracts or agreements for large sales and purchases;
- bank statements and other financial records;
- import, export and shipment documents; and
- other records relating to the calculation of VAT

Records may be kept in physical copy, or electronically provided the relevant criteria are met – but in all cases must be made available to the Authority on request.

All records must be kept for at least the standard retention period of (6) years. That minimum period for retention is extended to (11) years in connection with invoices and records relating to movable capital assets, and (15) years in connection with invoices and records relating to non-movable capital assets⁽⁵³⁾.

13.4. Certificate of registration within the VAT system

A resident person who is subject to VAT and registered with the Authority in the VAT system must display a certificate to the effect that he has been registered in the VAT system in a place visible to the public at his main place of business and at all his branches.

In the event of a contravention, the person in breach will be liable to the penalties provided for in the Law.

13.5. Correcting past errors

If a Taxable Person becomes aware of an error or an incorrect amount in a filed VAT Return, or of any other non-compliance with the VAT obligation, he should notify the Authority and correct the error by amending VAT the tax return. Errors resulting in a net understatement of VAT (exceeding SAR 5,000) must be made known to the Authority within twenty (20) days of detecting the error or incorrect amount, and the previous return must be amended. In connection with minor errors resulting in a difference of less than SAR 5,000, the error may be corrected by amending the net tax in the subsequent tax return⁽⁵⁴⁾.

Further information on correcting errors can be found through vat.gov.sa

(53) Article 66, Records, Implementing Regulations, and Article 52, Capital Assets, Implementing Regulations

(54) Article 63, Correction of Returns, Implementing Regulations

14. Penalties

The Authority may impose penalties or fines on taxpayers for violations of VAT requirements set out by the Law or Implementing Regulations.⁽⁵⁵⁾

Description of offence	Associated fine
Submitting false documents with the intent of evading the payment of the VAT due or to reducing its value	<ul style="list-style-type: none"> • At least the amount of the VAT due • Up to three times the value of the goods or services
Moving goods in or out of the Kingdom without paying the VAT due	<ul style="list-style-type: none"> • At least the amount of the VAT due • Up to three times the value of the goods or service
Failure to register for the VAT in the allotted timeframe	SAR 10,000
Filing incorrect tax return, amend a tax return after submission or filing any VAT document with the Authority resulting in a lower amount due	Equal to 50% of the value of the difference between the calculated Tax and Tax due
Failure to file VAT return in time	5-25% of the VAT in respect of which the return should have been filed
Failure to pay the VAT in time	5% of the VAT due for each month or part thereof
Collecting VAT without being registered	Up to SAR 100,000
Failure to maintain books and records as stipulated in the regulations	Up to SAR 50,000
Preventing GAZT employees from performing their duties	Up to SAR 50,000
Violating of any other provision of the VAT regulations or the VAT law	Up to SAR 50,000

In all cases, if a violation is repeated within three years from the date of issuing the final decision of the penalty, the Authority may double the fine for the second offense.

The level of the penalty or fine imposed is set by the Authority with regard to the taxpayer's behaviour and compliance record (including taxpayers meeting their requirements to notify the Authority of any errors and provide co-operation to rectify mistakes).

(55) Chapter Sixteen: Articles (39), (40), (41), (42), (43), (44), (45), and (47), [Tax Evasion and Penalties], VAT Law.

15. Applying for the issue of rulings (interpretative decisions)

In the event that a Person is not sure about the manner of application of VAT to a particular activity or particular transaction that it is doing or intend to do, after referring to the relevant provisions and the relevant guideline, the Person may submit an application to the Authority to obtain a ruling. The application should set out the full facts relating to the particular activity or particular transaction on which the Person is asking the Authority to express its view.

A reply to a request for a ruling may be either:

- Public, in which event the Authority will publish details of the ruling, but without referring to any private particulars relating to the individual Taxpayer, or
- Private, in which case the Authority will not publish the ruling.

The ruling may contain all of the information relating to the activity or the transaction in respect of which the ruling is requested, in addition to an explanation concerning the particular area of doubt or uncertainty in the law or the guide that the Person has looked at. The Person may choose to describe the alternatives and what it considers to be the correct treatment.

The Authority is not obliged to respond to all requests for rulings, and it may review all requests and specify priorities on the basis of certain elements, including:

- The level of information submitted by the Person in the request,
- The potential benefit to Taxable Persons as a whole on the issuing of a general ruling concerning some transaction or activity,
- Whether there is an existing law or guide dealing with this request.

Neither a public nor a private ruling issued by the Authority will be treated as binding on it or upon the Taxable Person in connection with any transaction that it performs, and it shall not be possible to rely on it in any manner.

16. Contacting us

For more information about VAT treatment, kindly visit our website: vat.gov.sa; or contact us on the following number: **19993**

17. Q&A

1. How is VAT applied in cases where a non-resident service provider contracts directly with a KSA customer to provide services?

If the KSA customer is a Taxable Person (registered for VAT in the KSA), the Taxable Person is required to self-account for the VAT due on the services under the Reverse Charge Mechanism. This involves the customer reporting the value of the services in Box 9 of the VAT return. In these cases, the non-resident must not charge KSA VAT to the Taxable Customer.

If a non-resident supplies services to a non-taxable customer, such as a private individual, the supplier will be required to register for VAT, charge VAT to the customer and report the VAT due.

2. How is the “Place of Supply” determined?

The place of supply (where tax is ultimately levied) is based on the rules established in the Unified VAT Agreement. As a default rule, VAT is applied in the country where the supplier is established. However, there are different rules for supplies to Taxable Customers in other GCC States, and for certain types of services (such as transportation, services connected with Real Estate and electronic services). Please refer to section 4 of this guideline for more detail.

3. A KSA service provider supplies professional services to customers outside of the GCC. Is this subject to VAT?

In most cases, the provision of services to a recipient outside the GCC States is zero-rated for VAT purposes. However, the law sets out a number of criteria for zero-rating which the supplier must review and confirm before applying the zero-rate to the supply. Please see section 5 of this guideline for details.

4. Our consultancy business has been working on a long-term project for six months. We raise invoices on a monthly basis but have not yet received payment. If the customer has not yet paid, is the VAT payable to GAZT?

For services provided across a set period (continuous services), VAT is due at the earlier of the invoice date or the date of payment. The invoices raised to the customer should include VAT, and this VAT should be reported as Output Tax in the VAT return (whether the customer has made payment or not). A subsequent adjustment may be possible if the invoices remain unpaid and the debt is written off as a bad debt.

Smaller businesses with an annual turnover less than SAR 5 million may choose to use cash based accounting.

5. How are transactions between companies of the same corporate group treated? Does this treatment change in case of companies being located in different countries?

Intercompany transactions are in principle treated in an equivalent way to transactions between two unrelated Persons, and are subject to VAT under normal rules.

However, intercompany transactions between companies forming part of the same VAT Group in Saudi Arabia are not subject to VAT.

The VAT treatment of transactions with companies in countries outside the KSA will depend on individual factors, including the place of supply of the transaction.

6. Are cross charges between legal entities within a corporate group for costs incurred subject to VAT?

Yes, if a company incurs costs in its own name and then makes a charge for providing a part or all of those services, this reimbursement is a supply for VAT purposes. VAT will not apply if the legal entities form part of the same VAT group.

7. If a lawyer or other professional service provider incurs out-of-pocket expenses on a client's account, does it charge VAT when it makes a charge to the client?

This depends on whether the expenses are incurred directly in the name of the client (and charged as a "disbursement"), or in the lawyer's own name. If the costs are incurred in the name of the client and the criteria set out in section 7 of this guideline are met, the cost can be passed on directly without an additional VAT charge. In this case, the lawyer should not deduct any VAT charged by the third party supplier.



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