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VAT

# Supplies of Services To Non-GCC Residents: Guideline

Edition 1

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# 1. Introduction

## 1.1. About GAZT

The General Authority of Zakat and Tax (“GAZT”) is the government body tasked with regulating, enforcing, administering and implementing taxation in the Kingdom of Saudi Arabia (“KSA”). GAZT aims to collect Zakat and taxes and facilitate taxpayers in achieving the highest degree of compliance.

One of GAZT’s roles is to raise awareness among taxpayers, to enhance the degree of understanding and compliance with GAZT requirements. The issue of taxpayer Guidelines in respect of specific topics is one of the methods that GAZT intends to use to fulfil this role. Please refer to VAT.GOV.SA to find other VAT Guidelines and reference material.

## 1.2. This Guideline

The provision of services to persons residing outside of the GCC States (and transitionally, to all persons residing outside the KSA) is subject to special VAT rules. If the supply of services takes place in the KSA under place of supply rules but is supplied to a non-GCC resident, the supply is zero-rated. However, application of this zero-rate<sup>1</sup> is limited in certain exceptions<sup>2</sup>.

This Guideline is published by GAZT to provide guidance to taxpayers supplying services to Non-GCC Resident customers, and to any other affected persons in respect of how VAT should be applied in these cases. The Guideline has been issued following amendments to the relevant provisions in the Implementing Regulations<sup>3</sup> to the KSA VAT Law. The Guideline is structured following the logical progression of the main considerations for applying the zero-rate to any supply:

- Section 2 of this Guideline defines the key terms;
- Section 3 of this Guideline briefly describes the place of supply rules applying to services;
- Section 4 of this Guideline provides detail on the application of the zero-rate
- Section 5 of this Guideline details the exceptions to the zero-rate and when these apply.

A flowchart is included as an Appendix to depict how these concepts are applied to individual situations.

This Guideline solely serves as Guidance material, and does not include or purport to include all relevant information or legal provisions in relation to the issue of Rulings or other opinions by GAZT.

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<sup>1</sup> Article 33, Services provided to non-GCC residents, Implementing Regulations

<sup>2</sup> Note that these exceptions only apply to the zero-rate for services provided to a Non-GCC Resident. Other zero-rates available in the KSA VAT Law and Implementing Regulations can still apply.

<sup>3</sup> Article 33, Services provided to non-GCC residents, Implementing Regulations

## 2. Terms used in this Guidance

**Customer** Is a defined term for VAT purposes, being: “A Person who receives Goods or Services”<sup>4</sup>. Additional context on the identification of the customer is provided in chapter 4 of this Guideline.

**GCC Territory** Is a defined term for VAT purposes, being: “All territories of the GCC Member States.”<sup>5</sup> For the purpose of this guideline, this must be read in conjunction with transitional provisions requiring that Member States of the Gulf Cooperation Council have introduced VAT and have an Electronic Services System in place with the KSA<sup>6</sup>.

**Member State** Unless the context dictates otherwise, references in this Guideline to a “Member State” refer to a Gulf Cooperation Council State which has introduced VAT and has an Electronic Services System in place with the KSA<sup>7</sup>.

**Non-GCC Resident** In this guideline, this term refers to any Person that is not Resident of any Member State. This means the person cannot have any fixed establishment or Place of Residence in any Member State, even if the Person is also Resident in a non-GCC country.

Transitionally, the term Member State includes only those Member States of the Gulf Cooperation Council that have introduced VAT and have an Electronic Services System in place with the KSA<sup>8</sup>.

**Place of Residence** Is a defined term for VAT purposes, being:

“The location of Place of Business or any other type of Fixed Establishment. 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.”<sup>9</sup>

In practice, this means that a residence of a legal person can be created by:

- The main establishment or head office; or
- Any other permanent location, with appropriate human and technical resources, from which the business is carried out

**Resident** A Person is considered to be resident of a Member State if he has any Place of Business or any other type of Fixed Establishment in that State.

**Special Cases** Supplies of Services which are considered ‘Special Cases’ under the Place of Supplies rules in Section Two, Articles 1721- of the Unified VAT Agreement.

**Supply of Services** Is defined for VAT purposes, being:

Any form of supply for consideration in accordance with the Unified VAT Agreement, that does not constitute a Supply of Goods<sup>10</sup>.

**Unified VAT Agreement** The Common VAT Agreement of the States of the Gulf Cooperation Council (GCC).

4 Article 1, Definitions, Unified VAT Agreement

5 Article 1, Definitions, Unified VAT Agreement

6 Article 6(79), Transitional provisions, Implementing Regulations

7 Article 6(79), Transitional provisions, Implementing Regulations

8 Article 6(79), Transitional provisions, Implementing Regulations

9 Article 1, Definitions, Unified VAT Agreement

10 Articles 1 and 7, Unified VAT Agreement

## 3. Place of Supply of Services

Before analysing whether the zero-rate provided in article (33) of the Implementing Regulations applies to a supply of services, the supplier must consider if the place of supply of the services is in the KSA.

The zero-rate for services provided to a Non-GCC Resident is applicable only in case the place of supply is in the KSA. The country in which a supply takes place is determined in accordance with "Place of Supply" rules set out in the Unified VAT Agreement.

As a default starting position, a supply of services made by a KSA resident supplier will also have a place of supply in the KSA, and will be subject to KSA VAT rules<sup>11</sup>. However, there are exceptions where the place of supply differs to this default position.

### 3.1. Exception based on Customer's residence: Supplies to Taxable Persons in other GCC Member States

The first case concerns services supplied to Taxable Persons who are Resident in any other Member State, and registered for VAT in that other State. The place of supply for these services is the Member State where the Customer has its Place of Residence<sup>12</sup>.

This exception applies only after the full implementation of GCC VAT, provided that:

- The Member State where the Customer is resident has introduced VAT; and
- That Member State also has an Electronic Services System in place with the KSA<sup>13</sup>.

Please note this exception does not apply to services which are provided to a non-GCC Resident. The place of supply for services supplied by a Saudi-Resident Supplier to a non-GCC Resident Customer is in the KSA (unless any one of the Special Cases outlined in section 3.2 apply).

Services supplied to a non-GCC Resident Customer are therefore generally subject to KSA VAT, but may qualify for zero-rating.

### 3.2. Exception based on nature of services: Special Cases

Regardless of the standard place of supply rules based on the Supplier's or Customer's State of Residence, specific types of services are governed by particular rules. These are known as the Special Cases.

The Unified VAT Agreement outlines these Special Cases, which fall into the five categories below.

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11 Article 15, Place of Supply of Services, Unified VAT Agreement. Note that in the case where the supplier has multiple establishments, the supplier's place of residence will be the country most closely connected with the supply.

12 Article 16, Place of Supply of Services between Taxable Persons, Unified VAT Agreement

13 Article 6(79), Transitional provisions, Implementing Regulations

1. Leasing Means of Transport to Non-Taxable Customers:<sup>14</sup>
2. Supply of Goods and Passenger Transportation Services:<sup>15</sup>
3. Supply of services which are closely linked to Real Estate:<sup>16</sup>
4. Telecommunications services and electronically supplied services:<sup>17</sup>
5. Other services, which are considered to take place at the place of actual performance:<sup>18</sup>
  - Restaurant, hotel and catering services.
  - Cultural, artistic, sport, educational and recreational Services: the place of supply of these services is in the place of actual performance, when they are charged for as admission to an event at a physical location, or educational services provided in a physical location.<sup>19</sup>
  - Services relating to transported Goods supplied to a Non-Taxable Customer residing in another Member State

Services which are supplied in the KSA by virtue of these five Special Cases are also exceptions to the default zero-rate for services supplied to Non-GCC Residents. These exception cases are discussed in more detail in section 5 of this Guideline.

## 4. Application of Zero-Rate to Services supplied to a Non-GCC Resident

The first paragraph of article 33 of the Implementing Regulations applies the zero-rate to services supplied to a non-GCC resident, subject to the four exceptions outlined in the second paragraph (discussed in chapter 5 of this Guideline).

*Article 33: Services provided to non-GCC residents*

1. With the exception of the second paragraph of this Article, a Supply of services made by a Taxable Person to a Customer without a place of residence in any Member State is zero-rated.

### 4.1. Who is the Customer?

In most cases, identification of the Customer, being the person who receives the Services, is a straightforward matter.

However, identification of the Customer may be complex when the supplier interacts with different persons in respect of the same supply, particularly in cases where there are many legal persons in the Customer's corporate group, or in commercial arrangements where one person agrees to arrange for services to be provided for the benefit of many.

<sup>14</sup> Article 17, Leasing Means of Transport, Unified VAT Agreement

<sup>15</sup> Article 18, Supply of Goods and Passenger Transportation Services, Unified VAT Agreement

<sup>16</sup> Article 19, Supply of Real Estate Related Services, Unified VAT Agreement

<sup>17</sup> Article 20, Supply of Wired and Wireless Telecommunication Services and Electronically Supplied Services, Unified VAT Agreement

<sup>18</sup> Article 21, Supply of Other Services, Unified VAT Agreement

<sup>19</sup> Article 1) 25), Place of Supply - other services, Implementing Regulations

As many different commercial circumstances are possible in practice, GAZT does not consider that a single test is appropriate to determine the Customer for VAT purposes. However, GAZT considers that the following factors are most likely to indicate which Person is considered the Customer:

1. The Person who enters into a contract with the supplier;
2. The Person to whom the supplier owes obligations;
3. The Person who instructs the supplier to supply the goods or services;
4. The Person who receives, or who the parties intend will receive, the deliverable, output, or the performance of the services directly from the supplier.
5. A person who is obliged to pay the value of supply and tax in normal cases.

## 4.2. Is the Customer a Non-GCC Resident?

If services are supplied to a Non-GCC Resident, the zero-rate applies to the supply unless one of the exceptions in chapter 5 apply.

Services provided to Customers who are Resident in other GCC States are subject to special transitional considerations.

Any Customers who are Resident in a GCC state that does not have an Electronic Services System in place with the KSA are considered to be Non-GCC Residents for the purpose of applying VAT<sup>20</sup>.

Example	Does the Customer's State have a VAT system?	Has GAZT announced that the Customer's State has an ESS in place with the KSA?	For KSA VAT purposes, Customer is considered to be a:
A	<input type="checkbox"/> NO	<input type="checkbox"/> NO	Non-GCC Resident
B	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	Non-GCC Resident
C	<input checked="" type="checkbox"/> YES	<input checked="" type="checkbox"/> YES	GCC Resident

In example A and B above, the zero-rate for services provided to a Non-GCC Resident may apply in principle, because the Customers are deemed to be Non-GCC Residents. In example C, the zero-rate cannot apply as the Customer is a GCC Resident.<sup>21</sup>

## 4.3. Exempt Services supplied to a Non-GCC Resident

The zero-rate will also apply in cases where a supply of services would have been exempt if provided to a KSA Resident from a domestic supply.<sup>22</sup>

*Example (1): An insurance company established in the KSA provides life insurance to a customer who does not have any establishment or place of residence in any Member State. This supply would have been exempt from VAT if provided to a KSA customer. However, the services are subject to the zero-rate if provided to a Non-GCC Resident (provided that none of the exceptions apply).*

<sup>20</sup> Article 6(79) and 8(79), Transitional provisions, Implementing Regulations

<sup>21</sup> The Place of Supply will depend on whether the Customer is a Taxable Person and should be determined in accordance with Articles 15 and 16 the Unified VAT Agreement, Article 13 of the KSA VAT Law and Chapter Four of the Implementing Regulations.

<sup>22</sup> Article 31, Zero-rated Supplies, Implementing Regulations

## 5. Exceptions to zero-rate

This section of the Guideline discusses each of the four exceptions to zero-rating outlined in the second paragraph of Article 33 of the IR.

2. The first paragraph of this Article will not apply in any of the following instances:

1. If the place of supply of the service is in any Member State under the Special Cases listed in articles seventeen to twenty-one of the Agreement,
2. If the Customer is resident in any Member State,
3. If the Customer or any other Person benefits directly from the services when that Customer or Person is situated in a Member State, and the other Person is not permitted to deduct the input tax on such services in full;
4. If the services are performed in relation to tangible Goods which are located within a Member State during the Supply.

### 5.1. Services subject to the Special Cases for place of supply

The zero-rate for services provided to a Non-GCC Resident cannot apply in case the place of supply is within the KSA based on any of the Special Cases mentioned in section 3.2 of this guideline.

- **Leasing Means of Transport to a Non-Taxable Customer<sup>23</sup>**

This Special Case is expected to typically apply to the hire of road vehicles to individuals

- **Goods and Passenger Transportation Services<sup>24</sup>**

This includes the freight transport of Goods, the transport of passengers, and transport-related services. Please see the Transportation Guideline for a description of transportation and transport-related services and the application of these terms in the KSA.

- **Supply of Real Estate Related Services<sup>25</sup>**

These are services which "affect or are related to a specific area of real estate", and include "services such as those supplied by estate agents, auctioneers, architects, surveyors, engineers and others involved in matters relating to Real Estate"<sup>26</sup>. Please see the Real Estate and Professional Services Guidelines for more details and application.

- **Supply of Wired and Wireless Telecommunication Services and Electronically Supplied Services<sup>27</sup>**

This includes many automatically provided services and content delivered over electronic networks. However, It is important to note that not all content-related services that are delivered through a telecommunications network or via the internet will constitute electronic services.

<sup>23</sup> Article 17, Leasing Means of Transport, Unified VAT Agreement

<sup>24</sup> Article 18, Supply of Goods and Passenger Transportation Services, Unified VAT Agreement

<sup>25</sup> Article 19, Supply of Real Estate Related Services, Unified VAT Agreement

<sup>26</sup> Article 23, Real Estate related services, Implementing Regulations

<sup>27</sup> Article 20, Supply of Wired and Wireless Telecommunication Services and Electronically Supplied Services, Unified VAT Agreement



For more detail and examples, please see the Telecommunications and Digital Economy Guidelines.

- **Catering, educational, and other services supplied in the place of actual performance<sup>28</sup>**

Please see the Professional Services and Recreation & Entertainment Guidelines for further detail and examples.

*Example (2): The provision of architectural design services relating to a Dammam real estate project by a Saudi-resident supplier to a French customer is a service relating to Real Estate. This service is a Special Case and is not eligible for zero-rating.*

*Example (3): The provision of an electronic version of a project report by a Saudi-resident management-consulting supplier to a US-resident customer is not an electronic service. This service is therefore not a Special Case and will be eligible for zero-rating, provided that no other exceptions apply.*

## 5.2. Customer has residence in a GCC Member State

An exception to zero-rating applies in all cases where the Customer has a fixed establishment or other place of residence in the KSA or in another Member State.

Practically, this means that a Customer who is a resident of a non-GCC country, but also has a branch, representative office or other fixed establishment in a GCC State will not be considered a “non-GCC Resident Customer”, and will not be eligible to receive zero-rated supplies under this provision.

*Example (4): A German telecommunications provider has an established branch in the KSA with an office, employees and a Commercial Registration. The German head office requests legal advice from a KSA law firm. The supplier law firm cannot apply the zero rate, because the Customer has a place of residence in the KSA from its fixed establishment. KSA VAT must be charged at 5% on the invoice.*

## 5.3. Customer or other Person benefits directly from the Service in a Member State

In certain cases, even though a Customer has no place of residence in the KSA, the Customer or some other Person can receive the direct benefit of the services, while that Person is situated in the KSA. In these cases, an exception to the zero-rating may apply:

*“if the Customer or any other Person benefits directly from the services when that Customer or Person is situated in a Member State, and the other Person is not permitted to deduct the input tax on such services in full;”<sup>29</sup>*

To determine if the exception to zero-rating applies, it is necessary that both of the two tests below are considered and met:

- There is someone (the Customer or another Person) who directly benefits from the Services whilst situated (either through a usual residence or temporary physical presence) in the KSA or another GCC State (direct benefit test – see 5.3.1 and 5.3.2 below); and

<sup>28</sup> Article 21(a), Supply of Other Services, Unified VAT Agreement

<sup>29</sup> Article 2)33)(c), Services provided to non-GCC residents, Implementing Regulations. This domestic provision gives effect to the requirement of GCC law (Article 1)34)(d), Supplies to Outside the GCC Territory, Unified VAT Agreement) that the Customer must benefit from the services outside of GCC Territory for zero-rating to apply.

- If this direct beneficiary is another Person than the Customer, the direct beneficiary would not be eligible to fully deduct any KSA VAT which would have been charged to him on the supply of those Services (deductibility test – see 5.3.3 below). The deductibility test is not relevant where a Customer or its employee directly benefits from services whilst situated in a Member State – in these cases the zero-rate does not apply.

### 5.3.1. Direct benefit test: does the Customer receive a direct benefit?

If the Customer is a non-resident with no fixed establishment in a Member State, that Person – including employees of that Person – can receive the performance of services, and the direct benefit from those services whilst they are visiting the KSA or another Member State. In this way, the employee or individual Person's physical presence means they are situated in a Member State.

If the Supplier and Customer have agreed that the services will be delivered to the Customer (if the Customer is a natural person) or an employee of that Customer, to a person who is physically present in the KSA or another Member State to receive the services, the Customer is considered to directly benefit from the services whilst in that State. If this is the case, zero-rating cannot apply as the Customer does not benefit from the services outside of GCC Territory. The deductibility test discussed at 5.3.3 is not relevant for these cases.

*Example (5): Employees of Terra SpA, an Italian design consulting agency without a Saudi establishment, visit Riyadh for two weeks to prepare for and make a proposal bid to a Saudi client. It engages Al Murdi, a Saudi supplier, to provide administrative and technical support with the bid. Al Murdi provides a team who interacts directly with the visiting employees of Terra SpA.*

Al Murdi provides its services to a Non-Resident Customer, but the Non-Resident Customer directly benefits from the services whilst its employees are temporarily situated in the KSA. Al Murdi cannot apply the zero-rate to the services.

*Example (6): Ali is a Jordanian lawyer. Ali attends a consultation with a lawyer in Jeddah concerning a specific matter of Islamic Financing law. The Saudi lawyer delivers a documented meeting note of the consultation to Ali two weeks later, when Ali has returned to Jordan. In this case, the advice provided during the in-person consultation is a significant part of the services. Ali receives the direct benefit of the services whilst situated in the KSA. Therefore, the Saudi lawyer must not apply the zero-rate to the services.*

However, the Customer is not considered to directly benefit from the services in the KSA or another Member State in the following cases:

- The Customer or the Customer's employees is present in the KSA to meet with the Supplier, and any services provided to the Customer during those meetings are not substantial and are ancillary to the main services which are provided directly to the Non-Resident Customer.
- The Customer is travelling to and situated in the KSA or another Member State at the time the services are provided, but the Customer's presence is not related to the provision of the Services.

*Example (7): Ali returns to Saudi Arabia for a business trip during the next year. Before the trip, he has requested Omar, a different Saudi lawyer in Riyadh to provide a report for Ali to use in an international project. Ali visits Riyadh during his trip and meets briefly with Omar. Omar says he is still working on the report and asks Ali to confirm how he would like the report to be structured.*

Omar completes his report and sends during the next week. Ali is in Dammam, visiting another business contact, when he receives an electronic copy of the report. In this case, Ali receives the report whilst in the KSA but is not considered to “directly benefit” from the services whilst in the KSA. Omar must apply the zero-rate to his fee for the report.

*Example (8): A UK law firm asks an affiliated Saudi law firm to meet with a client representative whilst visiting Riyadh to discuss a matter. During the discussion, the representative provides information on the matter. The Saudi law firm makes some high-level comment on laws which may apply and suggests these aspects are considered further, but does not provide any specific advice to the representative during the meeting.*

Following the meeting, the Saudi law firm agrees to provide formal advice to the UK law firm, which the UK law firm will use to provide a memo to the UK client. In this case, whilst a representative of the ultimate client visited the KSA, the direct benefit of the Saudi law firm’s services is not provided to that representative (or to any other person in the KSA). The Saudi law firm should apply the zero-rate to the services.

Please note that many services commonly received by visiting business travellers (such as hotel or transportation services) fall within the Special Cases of place of supply – and are not eligible from zero-rating (as explained in section 5.1).

### **5.3.2. Direct benefit test: does another Person receive a direct benefit?**

In some cases, a Non-Resident Customer can instruct a Supplier to supply a service, and enter into the contract for the provision of the services, but the Customer and Supplier agree that the service is provided for the benefit of another known Person.

A Person other than the Customer will be considered to directly benefit from the services if:

- The Supplier and the Customer intend that the main deliverables, output, or performance of the services will be supplied directly to another Person situated in KSA or another GCC Member State (either through that Person’s place of residence, or a temporary presence to receive the services) as a term of the supply; or
- The nature of the services is such that a different Person to the Customer, must receive the predominant benefit directly from the Supplier.

*Example (9): A multinational construction company has its main headquarters in Spain and a subsidiary entity in the KSA. The head office of the Spanish company contracts with a KSA law firm to provide legal services with respect to the KSA labour law applying to the subsidiary’s activities. In this case, the law firm is instructed by and enters into a contract with the Spanish company, but it provides its legal services directly to the team of the KSA subsidiary. The benefit of the services is therefore directly received by a person in the KSA. The KSA law firm must confirm if the deductibility test can be met before applying the zero-rate – according to the requirements described in section 5.3.3 below.*

*Example (10): A Saudi accounting firm is asked by its US affiliate to carry out the statutory audit of a local Saudi subsidiary of a multinational company. Whilst the Saudi accounting firm is instructed and paid by its US*

*affiliate, the regulatory reliance on the audit by the Saudi subsidiary means that the subsidiary must receive the predominant benefit of the services.*

Conversely, there will be many cases in which a different Person to the Customer obtains some secondary benefit, advantage or eventual performance of services resulting from a supply of services to the Customer. These will not affect the VAT treatment unless the other Person directly benefits from the Supplier's performance of the services.

### **Onward provision of services by the Non-GCC Resident Customer**

A direct benefit does not arise if the Non-Resident Customer receives the services from the Supplier and subsequently chooses to provide these to another Person in the KSA. The onward provision of services is a circumstance which is not in the direct control of the Supplier and should not affect its own supply.

*Example (11): Global Consulting UK has a global contract with Asia Trading Company Limited, which has a head office in Singapore and local companies established in many countries throughout Asia and the Middle East, including Asia Trading KSA.*

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

Global Consulting KSA charges Global Consulting UK for the time spent in carrying out the tasks as agreed under the contract. This charge can be zero-rated, as the direct benefit of the services is provided to Global Consulting UK. Asia Trading KSA will later receive some indirect benefit from the services, but it does not directly benefit from Global Consulting KSA's services.

### **Secondary or ancillary advantage of services provided to a Non-GCC Resident Customer**

A direct benefit does not arise if the services are provided to a non-Resident Customer and another Person receives a secondary or ancillary advantage from the provision of those services.

*Example (12): A Saudi advertising company designs an advertising campaign for a consumer product to be launched in the Saudi print and television media. The advertising company enters into a contract directly with the Non-Resident product manufacturer, and the campaign does not make direct reference to local manufacturers selling the products. In this case, the local manufacturers may receive an ancillary advantage from the services provided, but they do not directly benefit from the services.*

### **Business contact which does not involve provision of services**

If the Supplier has a regular business interaction with another affiliated Person in the KSA, this does not in itself indicate that the other affiliated Person receives any direct benefit. Whilst the facts will be important in each case, GAZT considers that the main output or deliverables are most important to determine whether direct benefit exists.

*Example (13) Saudi Insight, a market research company in KSA, provides research services to a customer resident in the UK (UK Co). The services contract is with UK Co and its deliverables are provided exclusively to UK Co. Saudi Insight often liaises with UK Co.'s KSA affiliate entity (in respect of administrative matters such as planning, deliverables, administration of contract), but no output is not intended for, and never provided to, the KSA affiliate. In this case, the KSA affiliate does not directly benefit from the services.*

If the supplier is aware that another Person directly benefits from the services whilst situated in the KSA, the supplier must consider the deductibility test.

### 5.3.3. Deductibility test

If services are supplied to a Non-Resident Customer, and another Person who is not the Customer directly benefits from the services in the KSA, the application of the zero-rate to the supply depends on that other Person's right to deduct VAT.

The Supplier must obtain confirmation that:

- If that same supply of services was supplied to the other Person acting as Customer, and VAT was charged on that supply;
- Would the other Person be eligible to fully deduct the VAT charged as Input Tax?

If the other Person would be eligible to full deduction, the Supplier should apply the zero-rate to the supply of services.

For the purpose of this Deductibility test, it is necessary that the other Person who directly benefits from the services would be entitled to deduct the VAT in full, on the date the services were provided. This means that at the time of the services:

- This other Person must have been registered for VAT,
- The Services were used by the other Person for the purpose of an Economic Activity in the course of making Taxable Supplies<sup>30</sup>.

If the other Person is only entitled to partial VAT deduction for this supply of services (i.e. not 100%), the deductibility test has not been met.

In order to document the ability to zero-rate supplies in these cases, GAZT considers a supplier should obtain the following evidence from the other Person:

- Full name of the other Person
- Tax Identification Number
- Confirmation of full right to Input Tax Deduction in respect of that Supply, if it had been received directly by the other Person.

If the Supplier makes multiple supplies of similar services to a Customer during a calendar year, for which a single other Person directly benefits from those services, GAZT accepts the other Person can provide a single confirmation of the right to full Input Tax Deduction in respect supplies during that calendar year.

GAZT does not expect the Supplier performs any additional checks to verify the other Person's ability to deduct VAT. However, if the Supplier has reason to suspect the services would be used for exempt or non-Taxable purposes, it may request additional evidence to support the

<sup>30</sup> Right to deduction as prescribed by Article 46, Proportional Deduction, Unified VAT Agreement. Please see the Input Tax Deduction guideline for further detail.

application of the zero-rate.

## 5.4. Services are performed in relation to tangible goods located within a Member State during the supply

If the services provided are performed in relation to tangible goods located in the KSA, this is another exception where the zero-rate cannot be applied<sup>31</sup>.

GAZT considers this exception applies to any service which physically affects tangible goods in a Member State, or a service which has known and identified tangible goods in a Member State as the central subject matter of the service.

*Example (14): A logistics provider charges a Korean supplier of mobile phones and accessories for storage and distribution of a stock of goods held in the KSA. The services relate to tangible goods located in the KSA, and the supply may not be zero-rated. The logistics provider charges KSA VAT at 5% on the storage and distribution services.*

*Example (15): A KSA resident marketing company charges a Japanese manufacturer of cars for marketing services provided to promote a special model of vehicle which is sold in the KSA. A stock of these vehicles will be located in the KSA at the time when they are sold, but the Japanese manufacturer who sells the cars to the KSA is not a GCC resident. Even though these services have some relation to vehicles which will be located in the KSA, these vehicles are not known and identified as part of the service. The service can be zero-rated.*

*Example (16): A Saudi insurer provides a contract of insurance to a French construction company to insure a piece of imported machinery during a two-year period whilst it is used on a construction project in Saudi. The insurance policy has a known and identified good located in the KSA as the central subject matter of the insurance service. The insurer charges KSA VAT at 5% on the policy.*

## 5.5. Eligibility for zero-rating under other articles of Implementing Regulations

The exceptions detailed in this chapter 5 of the Guideline only relate to the application of the zero-rate to services provided to a Non-GCC Resident (in accordance with Article 33 of the Implementing Regulations).

Zero-rating could possibly be available under different zero-rating categories outlined in other articles of the Implementing Regulations, even if the exceptions in this Guideline apply.

*Example (17): A KSA established company provides international transportation services for goods from the KSA to a Korean company who is a non-GCC Resident Customer. These services relate to goods located in the KSA (a Special Case), and due to this exception cannot be zero-rated as a service provided to a non-GCC Resident (under article 33 of the Implementing Regulations). However, the service can still be zero-rated as a supply of international transport (which is based on Article 34 of the Implementing Regulations).*

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<sup>31</sup> Article 2)33)(d), Services provided to non-GCC residents, Implementing Regulations

## 6. Amendment to article 33

Article 33 of the Implementing Regulations was amended by Decision Number (199-3-) dated 30-1440-10H (032019-07- G.) with the changes taking effect from 18 July 2019. GAZT considers the effect of the new provision is similar to the effect of the former article. However, the application of the zero-rate must be carefully applied based on the specific facts in each case, and the prior wording of article 33 will be relevant in respect of supplies made before July 2019.

## Appendix: Decision tree for zero-rating supplies of services





