VALUE ADDED TAX – MIDDLE EAST LESSONS LEARNT

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VALUE ADDED TAX – MIDDLE EAST LESSONS LEARNT

This report *Value Added Tax – ME Lessons Learnt* is the third in the series of reports on Value Added Tax (VAT) in the Middle East. From the pre-launch or transition period leading up to the implementation of the Gulf Cooperation Council (GCC) VAT laws on 1 January 2018 to the current days of mainstreaming into compliance mode. The businesses in the region have gone from denial mode to acceptance and execution mode in a very short period of time.

Before this, it was clear to regional governments that fiscal budgets were coming under stress from revenue scarcity and that the heady days of reliance on petrodollars were over. The GCC region had, over the years, attracted accountants, finance and legal professionals from across the world, including from jurisdictions with complex tax regulatory frameworks. Likewise, multinational companies operating in the GCC had systems in place that allowed them simply to replicate their VAT operations, accounting and reporting systems already in use in other markets. Nevertheless, as this report will show, for each region the adoption of new laws and regulations has its own nuances and cultural contours, which shape VAT compliance. In general, Middle Eastern countries have been offering a largely tax-free environment to attract foreign direct investment.

This report, written in collaboration with ACCA's partners at Al Tamimi, also shows the complementary relationship between the law fraternity and professional accountants. Both these professions are pillars of integrity serving business employers and clients. The report also includes the views of a select group of finance professionals who have been through the transition phase and led teams at the forefront of VAT planning, execution and compliance. Their views illustrate the investment of human resource, time and money that goes into preparing for fiscal transformation.

Foreword

Fazeela Gopalani
Head of ACCA Middle East

Up until 1 January 2018, the Middle East (ME) region was a relatively tax-free haven attracting companies and individuals to its high-disposable-income shores.

The GCC countries have relied on their public sector enterprises and large infrastructure projects to drive economic growth but since 2008, following the sub-prime financial crisis, many GCC countries have been exposed to a run on global debt. The audit profession once again came under scrutiny, with public demands for greater transparency and disclosure. The ME, however, is a complex region and, apart from its exposure to the global financial crash, it experienced a concatenation of events, with political upheaval and falling demand for oil. This situation began reversing the fortunes of the GCC nations and triggered a fresh look at their finances.

The growing trend of consumerism in the GCC nations represented an unmissable opportunity to collect a tax based on consumption, easy to collect at source, with a simple formula, and tried and tested globally. The accountancy profession and the legal fraternity have together provided the compliance safety net for businesses and I am delighted that we had this opportunity to work with our partners Al Tamimi advocates to bring you this *Value Added Tax – ME Lessons Learnt* report.

Shiraz Khan
Partner, Head of Tax,
Al Tamimi

With the objective of diversifying their economies and reducing dependence on hydrocarbons, the GCC countries have undergone significant tax reform in recent years.

In addition to modernising their existing tax systems to bring them in line with international standards and regulations, the GCC states have sought to expand their tax base to include indirect taxes. By 2017, all the GCC countries had signed a common VAT Agreement, committing to the introduction of VAT in the GCC for the first time, with a standard VAT rate of 5% across the members states. The UAE, the Kingdom of Saudi Arabia and Bahrain have already implemented VAT and shortly Oman, and eventually Qatar and Kuwait, will follow.

As Al Tamimi is the largest law firm in the Middle East and VAT has its roots in law, we have played a significant role in advising clients on the implementation of VAT across the GCC. This report explores the introduction of VAT in the GCC and examines the approaches taken by individual GCC countries to the implementation of VAT as well as the lessons learned from the VAT implementation in the countries that have already introduced it, from which the countries that will follow could benefit. It is important for the legal and accountancy professions to collaborate and share experience and knowledge and, to this end, it has been a pleasure to work together with our partner, ACCA, in preparing this *Value Added Tax – ME Lessons Learnt* report.

Contents

1. Implementation of VAT across the Gulf Cooperation Council (GCC) **8**

Introduction of VAT in the GCC 8

Initial attempt at a coordinated roll-out of VAT 9

Objective of a coordinated VAT roll-out 9

The reality: a staggered implementation of VAT 10

Reasons for delays/staggered VAT implementation 10
- Oman 10
- Kuwait 11
- Qatar 11

Lessons learned from VAT implementation 11

How the UAE, the KSA, and Bahrain have dealt with delays in VAT implementation in the other GCC states 12
- UAE 13
- KSA 13
- Bahrain 13

VAT policy for long-term contracts straddling VAT implementation date 14
- UAE 14
- KSA 14
- Bahrain 14

The policy choices in terms of different industry sectors 14

The approach to VAT implementation in the UAE, the KSA and Bahrain 15

2. VAT registration thresholds in the GCC **16**

UAE 16

KSA 17

Bahrain 17

Reasons for the registration thresholds 18

3. VAT returns and payment across GCC **19**

UAE 19

KSA 20

Bahrain 20

Kuwait, Oman and Qatar 20

4. VAT penalty regimes across the GCC **23**

5. VAT relief measures across the GCC in response to COVID-19 **27**

UAE 27

KSA 28

Bahrain 28

6. Assessment of tax websites across the GCC	**29**
UAE	30
Ease of use	30
Content and information available	30
Contact Information	30
FAQs	30
KSA	31
Ease of use	31
Content and information available	31
Contact information	31
FAQs	31
Bahrain	32
Ease of use	32
Content and information available	32
Contact Information	32
FAQs	32
Oman	32
Content and information available	32
Contact information	32
Kuwait and Qatar	32
7. Stakeholders' interactions of tax authorities across the GCC	**34**
Impact of VAT implementation on businesses	34
UAE	35
KSA	36
Bahrain	37
8. Use of VAT across the GCC	**38**
UAE	38
KSA	38
Bahrain	39
Appendix A – VAT and lessons learnt across the GCC block	**40**
Key comments from the virtual roundtable discussion	40
Appendix B – EXPERT INTERVIEWS	**42**
VAT – ME Lessons learnt interview: **Robert van der Klauw, Munich Re**	42
VAT – ME Lessons learnt interview: **Mustafa Malik, Philips KSA**	43
VAT – ME Lessons learnt interview: **Mufaddal Sardari, BDO**	45
VAT – ME Lessons learnt interview: **Nasheeda CC, Nishe Consulting**	46
Appendix C – CASE STUDY: Exceptional Interior Decoration LLC	**49**
References	**50**

1. Implementation of VAT across the Gulf Cooperation Council (GCC)

Introduction of VAT in the GCC

The GCC is a cooperation between six countries in the Arabian Gulf: the United Arab Emirates (UAE), Kingdom of Saudi Arabia (KSA), Kuwait, Bahrain, Oman and Qatar (together known as the 'GCC countries' or 'GCC states'). The GCC was formally established when the GCC states signed the GCC Charter on 25 May 1981, with a view to enhancing cooperation in various fields. Later in the same year, on 11 November, the GCC countries signed the Economic Agreement and this was subsequently replaced by the new Economic Agreement signed on 31 December 2001. The objective of the GCC under the GCC Charter and the Economic Agreement, as amended in 2001, is to establish economic unity and integration, to promote the GCC economy and to develop similar legal foundations in the six states and harmonise their economic and financial legislation and policies. A customs union and a common market were some of the measures taken to achieve harmonisation at the GCC level.

Value Added Tax or VAT is an indirect tax which is imposed on the supply of goods and services at each stage of the supply chain and on the import of goods and services. VAT is a consumption tax levied on the final destination principle; that is, VAT is payable in the country where the goods and services are ultimately consumed. As VAT is intended to be borne by the final consumer, it is not a cost for most businesses. VAT-registered businesses charge VAT on the goods supplied to customers and pay VAT on goods and services received from suppliers. Businesses are generally entitled to recover any VAT they have incurred on their business expenses and typically only pay VAT to the tax authority on the difference between the VAT collected from their customers and the VAT paid to their suppliers. Although businesses merely collect VAT from their customers on behalf of the tax authority, there is an associated compliance burden and cost for taxpayers.

VAT is a popular fiscal measure for governments for a number of reasons. It is a source of significant additional revenue and usually accounts for a large proportion of the overall tax revenue in countries that have a VAT regime. While there is a compliance burden and cost for businesses in accounting for VAT, unlike corporate tax, VAT is generally investment neutral because it does not result in a tax cost for businesses. VAT is also a simple and efficient tax for governments because it is easy to administer and enforce, as the compliance burden is transferred to businesses so it is cheaper to operate than direct taxes. It also allows governments to generate sustainable tax revenue, which is collected on the value added at each stage of the production and distribution chain on a periodic basis.

The introduction of VAT has been under discussion in the GCC since 2004. However, with depleting oil revenues over recent years, these discussions gathered pace in 2015. The International Monetary Fund (IMF) had recommended the GCC countries to reform their tax systems and introduce VAT to tackle fiscal deficits and increase government revenue. The IMF estimated that the potential revenue from VAT at 5% would represent around 1.5% to 2% of the gross domestic product, depending on the individual country.

With a view to diversifying government revenue and reducing dependence on oil and gas revenues and to enable GCC countries to fund public expenditure, the Supreme Council of the GCC decided in December 2015 to implement VAT at the standard rate of 5% in the GCC and for the GCC countries to agree a common legal framework to implement this tax. In line with this decision, individual GCC countries signed the unified GCC VAT Agreement in 2016 and 2017, with Bahrain being the last GCC country to sign the agreement on 1 February 2017. At 5%, the GCC VAT rate was the lowest in the world at the time.

The GCC VAT Agreement is a country-level agreement which establishes and sets out a common framework for the implementation of VAT in the GCC region. Each GCC country was required to enact domestic VAT legislation to implement VAT in line with the underlying principles of the GCC VAT Agreement. It was compulsory for GCC countries to adopt some measures under the GCC VAT Agreement, for example, the standard rate of VAT was fixed at 5% across the GCC (though the KSA has unilaterally increased its standard rate of VAT from 5% to 15% effective from 1 July 2020), and the VAT registration thresholds to be incorporated within the domestic VAT legislation were set by the GCC VAT Agreement. In addition, the GCC VAT Agreement determined the VAT treatment for certain supplies. Nonetheless, for certain other matters GCC countries were given some discretion and were free to decide the measures and VAT treatment according to their individual policy choices. Some of the areas where GCC countries were given the freedom to choose include the VAT treatment of the supply in certain industry sectors, the implementation of special VAT schemes such as the profit margin scheme, the inclusion of a VAT refund scheme for foreign businesses and tourists, the method for the recoverability of input VAT, the length of the tax period, the filing/payment deadlines and the transitional provisions.

It is worth noting that the GCC VAT system is a hybrid based on a combination of both the EU VAT system and the more recent Goods and Services Tax (GST) systems implemented in some Southeast Asian countries such as Singapore and Malaysia. Like the EU, the GCC is an economic union of a number of countries and various intra-GCC supply provisions mirror the internal supply rules in the EU. However, similar to the Southeast Asian GST systems, the GCC VAT regime is relatively more simple as compared to the EU with only two rates of VAT across the GCC (e.g. standard rate of VAT and zero rate) and very limited exceptions in terms of supplies that are subject to the zero rate or that are exempt. By way of contrast, the EU has multiple rates in individual EU countries with different rates applicable across EU and a broad range of exemptions from VAT.

Initial attempt at a coordinated roll-out of VAT

Initially, there was a joint effort to implement VAT across all six GCC states simultaneously, or all within a short period of time. The suggested period for the implementation of VAT throughout the GCC was from 1 January 2018 to 1 January 2019. Even so, perhaps in recognition of the practical difficulties of coordinating the introduction of VAT across the GCC and the implementation of VAT in individual countries, the GCC VAT Agreement does not bind the individual GCC countries to levy VAT across the GCC at the same time, instead allowing each state to remain outside the scope of implementation of the agreement until domestic VAT laws are issued by and become effective in the concerned state. The GCC VAT Agreement would also not enter into force until two states deposited their ratification documents at the General Secretariat of the GCC.

Objective of a coordinated VAT roll-out

The objective behind the attempt to introduce VAT in all the GCC countries in the relatively short time between 1 January 2018 and 1 January 2019 was to promote harmonisation, to enable standardisation of procedures and to ensure tax neutrality for businesses throughout the GCC.

A non-coherent approach to implementation across the GCC would provide opportunities for tax arbitrage and result in certain GCC countries being viewed as more advantageous places in which to conduct business, live, or supply and receive goods and services than others. Significant time-lags between the implementation of VAT in individual GCC states would allow businesses to exploit the tax differences between the countries. This could have had the unwanted consequence of increasing competitiveness among GCC states as well as undermining the common internal market and economic union, which would harm the GCC's foundational objectives of economic coordination and integration. Therefore, the GCC states were keen to ensure that the roll-out was coordinated to preserve the fundamental objectives of the GCC, to maintain consistency in the indirect tax regimes within the GCC and to prevent businesses from taking advantage of any tax mismatches.

As the GCC VAT Agreement provides specific rules for the place of supply and deductibility of input VAT for certain intra-GCC supplies, a coordinated introduction of VAT across the GCC was important for GCC businesses to allow them to use the benefits of the special intra-GCC VAT rules from the very beginning of the VAT regime. If GCC states did not coordinate their roll-out, with some states implementing VAT while others significantly delaying implementation, these provisions would not be fully operational.

Furthermore, the GCC VAT Agreement contains provisions requiring the creation of electronic services systems by individual GCC states and the exchange of information between their tax authorities about internal supplies, in addition to provisions on administrative cooperation, including the harmonisation of auditing procedures and mutual assistance in collection of taxes between states. In order for these procedures to serve their purpose and for the GCC electronic services system to be fully functional, all GCC states needed to implement VAT in a coordinated and timely fashion.

The reality: a staggered implementation of VAT

Currently, only three out of six GCC countries have implemented VAT.

The UAE and KSA implemented VAT, effective from 1 January 2018, and Bahrain followed on 1 January 2019.

The UAE ratified the GCC VAT Agreement in May 2017 and became the second country to submit its ratification documents to the GCC after the KSA, bringing into force the GCC VAT Agreement. The UAE issued the Tax Procedures Law in July 2017 and the executive regulations on tax procedures in September 2017 establishing a procedural framework for the introduction of Federal taxes in the UAE. The UAE issued its VAT Law and executive regulations in late August 2017 and November 2017 respectively. The effective date of both the UAE VAT Law and executive regulations was 1 January 2018.

In the KSA, the GCC VAT Agreement was ratified in February 2017 and published in its Official Gazette, Umm Al-Qura, in April 2017. Subsequently, a draft VAT Law was published in May 2017, which was followed by a one-month public consultation, before the final law was issued in July 2017. The KSA published the draft VAT implementing regulations in July 2017, which was also followed by a one month public consultation period, before the final regulations were issued at the end of August 2017. The KSA VAT Law and implementing regulations came into force on 1 January 2018.

Bahrain approved the GCC VAT Agreement and published its VAT Law in October 2018, with the VAT Executive Regulations issued in December 2018. The VAT legislation in Bahrain became effective on 1 January 2019.

Oman recently published its VAT Law in the Official Gazette of Oman in October 2020, which states that VAT would be effective in Oman within 180 days of the publication of the law in the Official Gazette (ie 16 April 2021). Kuwait had originally postponed the introduction of VAT until 2021 and this is expected to be extended further. Qatar has not announced any schedule for the implementation of VAT.

Unlike the other GCC countries, each of which already had a tax authority, the UAE and Bahrain established tax authorities for the first time, specifically to administer, collect and enforce tax. The Federal Tax Authority (FTA) was established in the UAE at the end of 2016 to manage Federal-level taxes and National Bureau for Revenue (NBR) was set up in Bahrain during 2018 to administer VAT.

Reasons for delays/staggered VAT implementation

Some GCC countries have faced challenges in implementing VAT for various reasons, including difficulty in finalising the VAT laws and undertaking the relevant procedures to enforce the legislation, a lack of political will or public desire, and the time required to prepare key stakeholders and for tax authorities to prepare the necessary procedures, systems, IT infrastructure and resources.

A combination of the above procedural, administrative, political and economic factors caused a delay in the implementation of VAT in these GCC countries, which ultimately led to a staggered implementation of VAT across the GCC rather than the expeditious and coordinated implementation initially envisaged. The staggered approach and difficulties faced were perhaps foreseeable, owing to the novelty of an indirect taxation system in the GCC. Below are some of the specific reasons behind the delays in individual GCC countries that are yet to introduce VAT, which have led to the staggered implementation.

Oman

Although the IMF has consistently urged Oman to implement VAT quickly in order to avoid a cash crunch, Oman did not pass VAT legislation until very recently owing to multiple internal challenges, including the non-readiness of businesses and tax authorities, given that this is the first indirect tax regime to be introduced in the country. Moreover, a shortage of VAT-trained personnel and a lack of robust IT infrastructure required for electronic VAT filing and payment also contributed to the delay.

Economic issues were an additional factor creating heightened sensitivity to the introduction of any additional taxes. As Oman is grappling with increased unemployment, particularly among the country's youth population, the introduction of VAT in the prevailing economic climate was considered to be very unpopular, which contributed to Oman's reluctance to proceed with its implementation. Nonetheless, Oman published its VAT Law in October 2020, with the effective date of VAT implementation set at 16 April 2021.

Kuwait

In May 2018, the Kuwait Parliament's budget committee announced that VAT implementation would be postponed in Kuwait until 2021.

Kuwait has a semi-democratic political system and its parliament wields significant power compared with legislatures in other GCC countries. The main reason for the delay in the implementation of VAT in Kuwait was resistance at parliamentary level. The Kuwait parliament considered that VAT would be an unnecessary burden on citizens and Kuwait's huge reserves meant VAT was not a top priority at the time.

To date, Kuwait has not published any draft VAT legislation and there has been no official indication as to whether VAT will be implemented in Kuwait in 2021 or postponed further. ■

Qatar

Qatar's cabinet had approved the draft VAT Law and the related executive regulations in May 2017. However, Qatar's Ministry of Finance announced in 2018 that it was still assessing the potential impact of a VAT regime on the Qatar economy and VAT would not be introduced in 2019. Subsequently, the Qatari 2020 budget did not include any plans for implementing VAT. Therefore, Qatar will not introduce VAT until 2021 at the very earliest. No further official announcements have been made on the introduction of VAT.

It is understood that Qatar's General Tax Authority has already put the necessary systems and processes into place to enable the introduction of VAT, but further government approval is required to proceed with VAT implementation. It is not clear, at this stage, whether this approval will be provided during 2021. While the blockade of Qatar by other ME countries may have contributed to the delay in the implementation of VAT, Qatar's recent implementation of an excise tax based on the underlying principles of the GCC excise tax framework appears to suggest that Qatar may still be committed to implementing VAT in the future. ■

Lessons learned from VAT implementation

Although the delay in implementing VAT in Kuwait, Oman and Qatar has caused a lack of alignment in the regional policy approach towards a harmonised VAT system, the delay will be a boon for both local governments as well as businesses, giving them the opportunity to learn from the lessons of VAT implementation in the UAE, KSA and Bahrain.

Given the experience of the UAE, KSA and Bahrain in introducing a new indirect tax regime, the implementation of a VAT regime in Kuwait, Oman and Qatar should be a relatively smooth transition. Kuwait, Oman and Qatar are in a better position to address the major challenges faced by the other GCC countries that have implemented VAT and benefit from the approach taken by these states.

The experience of the UAE, KSA and Bahrain suggests that tax authorities in Kuwait, Oman, and Qatar should consider engaging key stakeholders, industry sector groups and the general public to understand the impact of the various policy choices. A consultation period could be considered by these tax authorities in the same way as was done in KSA, to enable businesses to give feedback on draft laws and regulations before finalising the legislation. The tax authorities in these countries could also consider undertaking awareness sessions before the launch of VAT, to help business understand how they will be affected and to educate businesses on their compliance obligations. Businesses need sufficient time to prepare for the introduction of VAT and to facilitate their compliance with the prospective VAT rules so the VAT legislation should be published well in advance of the effective date.

It will be important for tax authorities to ensure that they have adequate human and technological resources to administer the VAT system and to deal with public queries to facilitate taxpayers' compliance with the VAT legislation. A website is integral to allow online VAT registration, filing and payment. Finally, tax authorities should also seek to ensure that detailed guidance is issued in the form of VAT guides and FAQs ahead of the launch of VAT in order to maximise certainty and facilitate compliance.

Overall, despite the uneven timing of VAT implementation across the GCC, the introduction of a VAT regime in UAE, KSA and Bahrain has been a major step in the efforts of the GCC countries to align their evolving tax policies with international standards and policies.

How the UAE, the KSA, and Bahrain have dealt with delays in VAT implementation in the other GCC states

As noted above, in order for the GCC VAT Agreement to come into force, two GCC countries were required to submit their ratification instruments to the GCC Secretariat. If only one country had submitted the ratification instrument to the GCC Secretariat, the GCC VAT Agreement would not have entered into force. This would have caused the GCC VAT Agreement to be unenforceable and the country that had ratified it would have lacked the legal basis under the GCC VAT Agreement to implement VAT. Therefore, in order to comply with the GCC VAT Agreement, the UAE and the KSA both filed their ratification documents in the first half of 2017 and introduced VAT in their respective countries on the same day.

Notwithstanding the importance of a coordinated roll-out with minimal time-lags, it is interesting to see how the UAE, the KSA and Bahrain have dealt with the delays in implementation in the other three GCC states and adapted their VAT legislation to minimise issues arising from staggered implementation, in the light of the difficulties some states were expected to face in adopting VAT.

In order to maintain consistency across the GCC and ensure that this was achieved by certain rules intended for GCC states that had implemented VAT, it was important for countries to carve out the application of these rules for businesses in GCC states that had not yet enacted VAT legislation. This also circumvents potential arbitrage issues referred to earlier, which could result from the slow VAT roll-out across the GCC, by excluding the provisions relating to intra-GCC supplies for GCC states that have not implemented VAT. Furthermore, these rules ensure that there is a uniform VAT treatment across all countries and identical rules are applied for countries that are outside the GCC and states within the GCC that have not introduced VAT, thereby achieving a level playing field. In this way, any possible manipulation or exploitation of the rules by businesses to take advantage of the delayed introduction of VAT in some GCC countries has been prevented.

Although the GCC VAT Agreement had already stipulated that any GCC state that had not implemented VAT would remain outside the scope of the agreement until the local VAT legislation was enacted and had become effective, individual GCC countries that implemented VAT have taken different approaches to determining whether a GCC country would be considered an implementing state in their domestic VAT legislation, irrespective of whether it had yet introduced VAT.

The UAE, the KSA and Bahrain have all included transitional rules in their VAT legislation under which they have defined the circumstances in which a GCC country would constitute an implementing state for local VAT purposes. The classification by a GCC country that has implemented VAT of another GCC country as an implementing state or non-implementing state under the local VAT legislation is significant from a VAT perspective. The characterisation of a GCC country as an implementing or non-implementing state could potentially dictate the place of supply for VAT purposes, since the rules are different for implementing and non-implementing states. In addition, it could determine the VAT treatment of the supply as well as affect the recovery of input VAT on imports in the case of transhipments within the GCC, and the availability of VAT refunds to non-resident businesses.

There are special rules for intra-GCC supplies which would apply only if the customer or recipient of the goods or services were resident in an implementing state. For example, the supply of services by a taxable supplier in a GCC country that has implemented VAT to a taxable recipient in an implementing state would be outside the scope of VAT under the local VAT legislation of the country of the supplier. On the other hand, such a supply would be considered an export of services to a non-GCC country if the GCC country in which the recipient is resident is considered a non-implementing state. Further, the classification of a GCC country as an implementing state or non-implementing state is also relevant in determining whether a company resident in another GCC country would qualify for a VAT refund since the VAT refund for non-resident businesses is only available for companies in another GCC country that is a non-implementing state.

The approaches of the UAE, the KSA and Bahrain to the definition of an implementing state for domestic VAT purposes are discussed below.

UAE

The UAE VAT legislation contains transitional rules under which a GCC country would only be recognised as an implementing state if that GCC country treats the UAE as an implementing state and has fully complied with the provisions of the GCC VAT Agreement. Therefore, a GCC country that does not meet these conditions will not be regarded as an implementing state for UAE VAT purposes even if it has introduced VAT under its domestic legislation.

Currently the UAE is treating the KSA and Bahrain as non-implementing states on the basis of the above transitional rule. A consequence of being a non-implementing state is that the country is treated in the same way as a country outside the GCC. ■

KSA

The KSA has a transitional rule which requires any GCC state that has not introduced VAT or does not apply an electronic services system with the KSA to be considered a country outside the GCC for VAT purposes. Hence, an internal supply to such a GCC state is regarded as a being made to a third country outside the GCC and residents in such a GCC state are treated as being resident in a country outside the GCC.

Further, the KSA has an additional transitional rule which specifically states that until the electronic services system is introduced in all the GCC countries, a VAT-registered business receiving goods into the KSA from another GCC country will be deemed to have imported the goods into the KSA and supplies involving the transport of goods from the KSA to another GCC country will be treated as an export of goods for VAT purposes.

The KSA is currently treating the UAE and Bahrain as countries outside the GCC for VAT, notwithstanding that both countries have introduced VAT, because neither country has implemented an electronic services system with the KSA. ■

Bahrain

Bahrain adopted a hybrid approach for determining whether a GCC state is an implementing state, taking elements from both the UAE and the KSA transitional rules.

Under Bahrain's transitional VAT rules, a GCC state will be treated as a non-implementing state on the basis of reciprocity and when the local VAT legislation is not fully compliant with the provisions of the GCC VAT Agreement. A non-implementing state is regarded as a country outside the GCC and the supply of goods and services from such a state is treated as a supply from a state outside the GCC, with residents of such a GCC state being treated like residents of countries outside the GCC.

The Bahrain transitional VAT rules, much like those of the KSA, stipulate that intra-GCC supplies involving the transfer of goods from Bahrain to another implementing state will be treated as an export of goods until such a time that the electronic services system is applied in all the GCC countries. In addition, the Bahrain transitional rules state that a GCC state will be considered a country outside the GCC for the purposes of VAT until the National Bureau of Revenue (NBR) announces that it is being considered as an implementing state.

As is the case with the UAE and the KSA, Bahrain is currently treating all countries that have introduced VAT as non-implementing states for VAT purposes and, as such, both the UAE and the KSA are currently non-implementing states under the Bahrain VAT legislation. ■

VAT policy for long-term contracts straddling VAT implementation date

Before the implementation of VAT in the GCC, many businesses had entered into long-term contracts that did not contain any provisions for VAT because its introduction was not envisaged at the time the contracts were finalised.

As VAT was being introduced for the first time, it was important for each GCC country to consider the policy it would adopt in determining the VAT treatment of such contracts that straddled the VAT implementation date. In the event that the supplies under the contract are treated as inclusive of VAT, in the absence of a VAT clause (as is the general rule in many countries), the supplier would be liable to pay the VAT, which would have the effect of increasing the supplier's cost. On the other hand, individual GCC states had the option of giving transitional relief to suppliers notwithstanding that the contracts were silent on VAT. Each GCC country that implemented VAT took a different approach.

UAE

In the UAE, where a contract was silent on VAT and concluded before the implementation date, the price was deemed to be inclusive of VAT. Even so, the price was required to be treated as exclusive of VAT, allowing suppliers to pass on the VAT to the customer if the customer was required to register for VAT and had the right to recover VAT on the supply, provided the supplier requested the customer to confirm the same before the VAT Law became effective. ■

KSA

In the KSA, the supplies under contracts that did not anticipate the application of VAT and were concluded before 31 May 2017 could be zero rated until the earlier of renewal or expiry of the contract or 31 December 2018 where the customer was entitled to deduct VAT incurred on its supplies and provided a written certification to the supplier that the input VAT was recoverable in full. ■

Bahrain

In Bahrain, there was no special relief for contracts that were concluded before the VAT legislation came into force and were silent on VAT. The supplies under such contracts were considered to be inclusive of VAT. ■

The policy choices in terms of different industry sectors

It is interesting to note the policy choices of individual GCC countries in terms of deciding the VAT treatment of different industry sectors based on local socio-economic considerations.

As noted above, under the GCC Agreement, all GCC states were required to adopt a specified VAT treatment for certain supplies whereas there was a discretion to determine the VAT treatment for other sectors. For example, all GCC states are required to zero rate the export of goods and services, the international transportation of goods and passengers, the supply of investment grade precious metals and the supply of certain medicine and medical equipment, whereas financial services are required to be exempt with a degree of flexibility. On the other hand, it is optional to zero rate a list of 94 food items, the oil and gas sector and certain sea, land and air means of transport; or zero rate or exempt the education, healthcare, real estate and local transportation sectors.

The KSA only zero rated supplies that were required to be zero rated under the GCC VAT Agreement. The supply of public healthcare and education are treated as outside the scope of VAT and the lease of residential real estate and margin based financial services are exempt in the KSA.

By way of comparison, the UAE zero-rated and exempted a wide range of supplies in addition to the supplies that were required to be zero rated or exempted under the GCC VAT Agreement. The UAE zero rated certain essential healthcare, certain education services, the first supply of residential real estate within 3 years of completion, crude oil and natural gas as well as the supply of sea, land and air means of transport. The sale and lease of residential property other than the first supply within the 3 years of completion, margin based financial services, life insurance, the supply of bare land and local passenger transportation are exempt from VAT in the UAE.

Similar to the UAE, Bahrain adopted a broad range of supplies that are exempt or subject to the zero rate. In Bahrain, essential healthcare, education services supplied by licensed schools or educational institutions, supply and import of specified food items, local transportation, the construction of residential or commercial buildings, the supply and import of pearls and precious stones, the first supply of precious metals after extraction for commercial purposes and upstream and midstream activities including sale of fuel to consumers at petrol stations are all zero-rated. The supply of commercial or residential buildings by way of sale or lease, the supply of bare land, life insurance and margin based financial services are exempt from VAT.

The approach to VAT implementation in the UAE, the KSA and Bahrain

While the UAE, the KSA and Bahrain all introduced VAT within the suggested time frame of 1 January 2018 to 1 January 2019, it is interesting to note that they took divergent approaches to implementing VAT in terms of both the legislative framework and the manner of implementation.

From a legislative perspective, both the UAE and Bahrain enacted separate VAT legislation based on the common principles agreed in the GCC VAT Agreement. However, the KSA incorporated the GCC VAT Agreement within its domestic VAT legislative framework and, as such, the GCC VAT Agreement is a part of the KSA VAT legislation.

The UAE implemented VAT on 1 January 2018 for all businesses without any exception.

The KSA also implemented VAT on 1 January 2018 but allowed smaller businesses to defer VAT registration by one year until 1 January 2019.

Bahrain introduced VAT in phases, requiring large businesses to register for VAT effective from 1 January 2019, medium sized businesses to register effective from 1 July 2019 and all other businesses that were obliged to register for VAT effective from 1 January 2020.

The approaches adopted by individual GCC countries are discussed further below.

2. VAT registration thresholds in the GCC

Although the VAT registration rules and procedures vary across the GCC countries that have implemented VAT, as noted above, along with the standard rate of VAT, the GCC VAT Agreement fixed the thresholds for VAT registration across the GCC.

Under the GCC VAT Agreement, a resident business is required to register for VAT if the annual value of taxable supplies in the country exceeds the mandatory registration threshold of 375,000 Saudi Riyals (SAR) (approximately USD 100,000).

In addition, the GCC VAT Agreement prescribed a voluntary registration threshold of SAR 187,500 (approximately USD 50,000), allowing businesses to register for VAT on a voluntary basis if the value of annual supplies exceeds this lower threshold.

The annual taxable supplies should exceed the mandatory and voluntary registration thresholds at the end of the current month and the previous 11 months, or should be expected to exceed these thresholds at the end of the current month and the following 11 months.

In the case of non-residents, there is a requirement for them to register for VAT if they are liable to account for VAT in the country. There is no minimum threshold, however, so non-residents who are required to register must register irrespective of the value of supplies. Non-residents may register directly or through a tax representative.

The GCC VAT Agreement enables a taxpayer who makes exclusively zero-rated supplies to request to be excepted from the requirement to register and gives GCC countries the discretion to allow businesses to meet the voluntary registration threshold on the basis of their expenses. In addition, the GCC VAT Agreement permits each GCC country to allow the formation of VAT groups and the treatment of such groups as a single taxpayer for VAT purposes. The UAE, the KSA and Bahrain have all implemented these measures in their domestic VAT legislation.

Even though the mandatory VAT registration thresholds established by the VAT Agreement are set at the GCC level, in the first year of VAT implementation the UAE was the only country to follow the requirements strictly. Both the KSA and Bahrain adopted transitional relief measures for VAT registration, enabling smaller businesses to defer VAT registration in the first year.

UAE

The UAE set the mandatory registration threshold at AED 375,000 and the voluntary registration threshold at AED 187,500, broadly in line with the GCC VAT Agreement.

The UAE departed from the GCC VAT Agreement with regard to the period in which the mandatory registration threshold and voluntary registration threshold should be met, requiring resident businesses to register if their annual taxable supplies exceed these thresholds in the previous 12 months or are expected to exceed them in the next 30 days.

Non-residents are required to register if they supply goods or services in the UAE and there is no other person liable to account for VAT on such supplies, without any minimum threshold.

The UAE implemented VAT for all businesses on 1 January 2018, having required all businesses whose annual taxable supplies exceeded the mandatory VAT registration threshold to apply for VAT registration by 20 December 2017 and to be registered effective from 1 January 2018. ■

KSA

The KSA followed the mandatory registration threshold of SAR 375,000 and the voluntary registration threshold of SAR 187,500 as set out in the GCC VAT Agreement, and followed the periods set out there in which these thresholds should be met.

Resident businesses are required to register for VAT if, at the end of any month, the annual taxable supplies for the past 12 months exceed the mandatory registration threshold, or are expected to exceed this threshold in the next 12 months.

Regardless of the value of their supplies, non-residents are obliged to register and account for VAT in the KSA if they make any taxable supplies in the KSA for which no one else is required to account for VAT.

The KSA introduced transitional provisions for VAT registration, providing relief to smaller businesses by allowing them to defer VAT registration by one year. Businesses with an annual turnover over SAR 1m were required to apply for VAT registration by 20 December 2017, and to be registered for VAT effective from 1 January 2018, whereas businesses with an annual turnover between SAR 375,000 and SAR 1m were required to apply for VAT registration by 20 December 2018, to be registered for VAT effective from 1 January 2019.

In 2017, the KSA tax authority, the General Authority of Zakat and Tax (GAZT), had already started registering large businesses automatically on the basis of their existing income tax and zakat (a religious levy imposed under the KSA law on companies in the KSA who have Saudi or GCC national shareholders) records. Businesses that were not automatically registered and were required to or entitled to register were requested to register online. ■

Bahrain

Bahrain also implemented the VAT registration thresholds set out in the GCC VAT Agreement, with a mandatory registration threshold of BHD 37,500 and a voluntary registration threshold of BHD 18,750. The periods in which these thresholds should be met are broadly aligned with the GCC VAT Agreement.

Resident businesses are required to register if their annual taxable supplies in the previous 12 months exceed the mandatory registration threshold at the end of the current month, or it is anticipated that the annual value of taxable supplies would exceed this threshold at any time in the next 12 months. Regardless of the value of their supplies, non-residents are obliged to register and account for VAT in the KSA if they make any taxable supplies in the KSA for which no one else is required to account for VAT.

Bahrain implemented transitional VAT registration measures for 2019 and introduced VAT in three phases, depending on the annual turnover of businesses. Businesses with annual taxable supplies exceeding BHD 5m were required to register by 20 December 2018, effective 1 January 2019. Businesses with annual taxable supplies of more than BHD 500,000 but less than BHD 5m, were required to register by 20 June 2019, effective 1 July 2019. All other businesses that exceed the mandatory registration threshold were required to register by 20 December 2019, effective 1 January 2020. ■

THE MAIN REASON FOR ADOPTING THESE THRESHOLDS WAS TO GIVE SMALL BUSINESSES THE OPTION OF REGISTERING AND RECOVERING VAT WHILE EXEMPTING THE VERY SMALL BUSINESSES FROM THE BURDEN OF VAT ADMINISTRATION.

Reasons for the registration thresholds

In 2016, a mandatory registration threshold of SAR 3.75m and a voluntary registration threshold of SAR 1.875m were proposed at the GCC level to alleviate the compliance and administrative burden on small businesses that would be required to comply with various obligations, including registering for VAT, filing VAT returns, issuing tax invoices in a prescribed format and keeping local books and records.

In a significant change in VAT policy, however, these thresholds were fixed ultimately at SAR 375,000 and 187,500 respectively in the GCC VAT Agreement. The main reason for adopting these thresholds was to give small businesses the option of registering and recovering VAT while exempting the very small businesses from the burden of VAT administration.

3. VAT returns and payment across GCC

While the individual GCC states are obliged to adopt the VAT rate and VAT registration rules agreed at the GCC level, they were given complete freedom to determine their own VAT compliance rules, including the rules for tax periods (with the exception that a tax period cannot be less than one month), the time frames for the submission of VAT returns and payments, the information to be included in tax returns and the provisions for amending tax returns.

The due date for the tax return and payment is determined by reference to a tax period which is assigned by the tax authority at the time of registration. The rules for determining the tax periods and the due dates of the tax return and payment vary between individual GCC countries.

UAE

Under the UAE domestic VAT legislation, the standard tax period is three calendar months. As an exception, the Federal Tax Authority (FTA) has discretion to assign a non-standard tax period where it considers that it is necessary or beneficial, among other things, to reduce the administrative burden on the tax authority or the compliance burden on the taxpayer. As a matter of practice, the FTA typically assigns the tax period according to the complexity and size of the business. A monthly tax period is usually assigned to large businesses rather than the standard tax period of three calendar months, to ensure that VAT is collected on a more regular basis.

As for the due dates for the filing of the VAT returns and the payment of VAT, the UAE domestic VAT legislation requires taxpayers to submit the tax returns and pay the VAT due to the FTA for each tax period by the 28th day following the end of the relevant tax period. For example, if a UAE business is registered for VAT and has been assigned with the standard tax periods 1 January to 31 March, 1 April to 30 June, 1 July to 30 September and 1 October to 31 December, the due date for the filing of the VAT return and payment of VAT for the tax period 1 January to 31 March would be 28 April.

VAT returns are submitted online via the FTA's e-Services portal. The payments may also be made on the FTA's portal via credit card or e-dirhams. Alternatively, payments may be made by bank transfer or via exchange houses in the UAE using the company's Generated International Bank Account Number (GIBAN) number.

There are no provisions in the UAE VAT legislation allowing payments in instalments.

The UAE also has a voluntary disclosure regime requiring taxpayers to disclose errors discovered in previous VAT returns within 20 business days of becoming aware of them, where the difference in VAT payable resulting from the error in the VAT return is more than AED 10,000. Smaller errors may be adjusted and accounted for in the next VAT return.

KSA

Unlike the UAE, in the KSA the domestic VAT legislation determines the tax period on the basis of the annual taxable supplies. The tax period for taxpayers whose annual taxable supplies exceed SAR 40m is one month. The standard tax period for all other taxpayers is three months.

The KSA domestic VAT legislation requires taxpayers to submit VAT returns and pay VAT to GAZT for each tax period by the end of the month following the end of the relevant tax period. Therefore, a business with annual taxable supplies of more than SAR 40m must file its VAT returns and pay VAT on a monthly basis, whereas businesses with annual taxable supplies of less than SAR 40m must file their VAT returns and pay VAT on a quarterly basis.

VAT returns are submitted online via the General Authority of Zakat and Tax (GAZT) portal. Upon submission of the VAT return, a SADAD[1] invoice is automatically generated, containing the invoice number and amount due. The payment may be made online by bank transfer through the SADAD payment gateway or through an ATM using the SADAD invoice number.

In the KSA, subject to GAZT's approval, the VAT and related penalties may be paid in instalments if the taxpayer submits a request in writing and can demonstrate inability to pay the VAT on the due date or show that the payment would cause hardship.

In cases where the taxpayer becomes aware of an error in a past VAT return which resulted in an underpayment of VAT exceeding SAR 5,000, the taxpayer is required to notify the GAZT and submit a correction to the VAT return within 20 days of becoming aware of the error. Smaller errors may be adjusted and accounted for in the next VAT return. ■

Bahrain

In Bahrain, businesses are required to file VAT returns on a monthly basis if their annual taxable turnover exceeds BHD 3m. All other businesses are required to file VAT returns on a quarterly basis. VAT returns and payments are due within one month of the end of the tax period.

Under Bahrain's implemented transitional measures for 2019, however, businesses were required to submit quarterly VAT returns if their annual taxable turnover exceeded BHD 5m and they were required to register for VAT for 1 January 2019. All other businesses that registered on 1 January 2019 or before 20 June 2019 were required to submit a single return for the tax period from the date of registration to 30 June 2019 and two quarterly VAT returns for the remaining six months of 2019.

VAT returns are submitted online via the NBR's portal. VAT payments may be made through the Fataweer service via online and mobile banking, the BenefitPay mobile application (for individuals) or at a branch of their bank. Alternatively, payments may be made via credit card through Bahrain's e-government portal.

Subject to the approval of the NBR, the taxpayer may pay VAT for a tax period in instalments if they can prove their inability to pay the VAT in full within the statutory deadline.

In the event that a taxpayer discovers an error in a submitted VAT return and the difference in the due VAT is more than BHD 5,000, the taxpayer is required to submit an amended VAT return within 30 business days of discovering the error. Smaller errors may be adjusted and accounted for in the next VAT return. ■

Kuwait, Oman and Qatar

Although Kuwait, Oman and Qatar have neither implemented VAT yet nor published their draft VAT legislation (except for Oman, which has currently only published its VAT Law), it is expected that these jurisdictions will follow a similar approach to the UAE, the KSA and Bahrain in their rules for filing VAT returns and making VAT payments. ■

The VAT filing and payment rules for all GCC countries have been summarised in Table 3.1.

1 SADAD is a Saudi centralised bill paying system.

TABLE 3.1: VAT filing and payment rules across the GCC

GCC COUNTRY	VAT RETURN DUE DATE	VAT PAYMENT DUE DATE	VAT RETURNS AND PAYMENTS FREQUENCY
UAE	28th day following the end of relevant tax period.	28th day following the end of relevant tax period.	MONTHLY – for businesses assigned a tax period of one calendar month. QUARTERLY – for businesses assigned the standard tax period of three calendar months.
KSA	Last day of the month (ie 30th or 31st of the month) following the end of the relevant tax period.	Last day of the month (ie 30th or 31st of the month) following the end of the relevant tax period.	MONTHLY – for businesses whose annual taxable supplies are more than SAR 40m. QUARTERLY – for businesses whose annual taxable supplies are less than SAR 40m.
Bahrain	Last day of the month (ie 30th or 31st) following the end of the relevant tax period.	Last day of the month (ie 30th or 31st) following the end of the relevant tax period.	MONTHLY – for businesses whose annual supplies are more than BHD 3m. QUARTERLY – for businesses whose annual supplies are less than BHD 3m.
Kuwait	Not Applicable	Not Applicable	Not Applicable
Oman	Within 30 days following the end of the tax period.	Same as the due date of submission of tax return.	To be determined by the VAT regulations.
Qatar	Not Applicable	Not Applicable	Not Applicable


5074

4. VAT penalty regimes across the GCC

It is common globally for countries with a VAT system to apply penalties in the event of non-compliance with the VAT legislation. The GCC VAT Agreement does not have any provisions specifying the level of penalties for specific violations and instead gives the individual GCC countries the freedom to choose their own penalty regime.

Each GCC country has set out a list of violations and determined specific penalties applicable for each violation. In general, the penalties in the GCC jurisdictions are either fixed penalties or percentage-based penalties or a combination of both, depending on the nature of the violation.

A common feature is higher percentage-based penalties for tax evasion, which usually involves intentionally concealing information from the tax authorities or providing false information with a view to reducing the VAT payable or obtaining a VAT refund. In Bahrain, some cases of extended non-compliance could also constitute tax evasion. In the UAE and Bahrain, the financial penalties for tax evasion are based on the amount of tax whereas in the KSA the penalty for tax evasion is based on the value of the supplies. In some GCC countries, serious violations such as tax evasion may also result in imprisonment.

In addition, under the GCC VAT Agreement, anyone who intentionally assists in violating any of the VAT obligations or in tax evasion is jointly liable with the taxpayer to pay the VAT and penalties. This provision has been incorporated by the UAE (in the UAE, such persons are jointly and severally liable), the KSA and Bahrain into their domestic VAT legislation.

Generally, the VAT penalties in the GCC are significantly higher than in most other countries across the globe with a similar tax regime. The potential for imprisonment for certain violations demonstrates that the GCC countries view deliberate non-compliance very seriously. The tough penalty regime reflects the determination of the governments to protect and safeguard tax revenue, given the importance of indirect taxes and such revenue to the diversification of government income. As such, the penalties were set very high to deter taxpayers from violating the VAT legislation and to ensure that they take their VAT obligations seriously rather than expecting leniency from the tax authority. Given the substantial penalties, non-compliance can be very costly and detrimental to a business.

Since the beginning of VAT implementation in the UAE and the KSA, with limited exceptions, the tax authorities have been very aggressive in imposing penalties on defaulting taxpayers. In the UAE, the FTA waived late registration penalties for businesses provided they registered for VAT by 30 April 2018, to give taxpayers more time. In contrast, in Bahrain in the first year, the NBR has been relatively lenient with non-compliance violations such as the late submission of VAT returns and late payment of VAT.

The administrative penalties for VAT non-compliance across the GCC are summarised in Table 4.1.

TABLE 4.1: Administrative penalties in GCC states

<table>
<tr><th>TYPE OF VIOLATION</th><th>UAE ADMINISTRATIVE PENALTY (AED)</th><th>KSA ADMINISTRATIVE PENALTY (SAR)</th><th>BAHRAIN ADMINISTRATIVE PENALTY (BHD)</th></tr>
<tr><td>Failure to apply for VAT registration within the statutory time frame</td><td>AED 20,000</td><td>SAR 10,000</td><td>Penalty not exceeding BHD 10,000</td></tr>
<tr><td rowspan="2">Late submission of the VAT return</td><td rowspan="2">AED 1,000 for the first time. AED 2,000 for repetition within 24 months</td><td rowspan="2">Penalty between 5% and 25% of the value of the VAT due</td><td>For VAT returns submitted within 60 days of the due date – penalty between 5% and 25% of the value of the VAT due</td></tr>
<tr><td>For VAT returns submitted over 60 days after the due date – penalty between 100% and 300% of the VAT due or imprisonment for a period of 3 to 5 years, or both</td></tr>
<tr><td rowspan="2">Late payment of the VAT due</td><td rowspan="2">2% of the unpaid tax is due immediately
4% is due on the seventh day following the deadline for payment
1% daily penalty will be charged on any amount that is still unpaid one calendar month after the deadline for payment, up to a maximum of 300%</td><td rowspan="2">5% of the VAT due for each month</td><td>For VAT payments made within 60 days of the due date – penalty between 5% and 25% of the value of the VAT due</td></tr>
<tr><td>For VAT payments made over 60 days after the due date –penalty between 100% and 300% of the VAT due or imprisonment for a period of 3 to 5 years, or both</td></tr>
<tr><td>Submission of incorrect VAT return</td><td>Two penalties are applied.
1. Fixed penalty of: AED 3,000 for the first time and 5,000 for any repetition
2. Percentage-based penalty on the VAT unpaid to the Authority as a result of the error as follows:
• (50%) if the taxpayer does not make a voluntary disclosure or he makes the disclosure after being notified of the tax audit and the Authority has started the tax audit process, or after being asked for information relating to the tax audit, whichever takes place first
• (30%) if the taxpayer makes a voluntary disclosure after being notified of the tax audit and before the Authority starts the tax audit
• (5%) if the taxpayer makes a voluntary disclosure before being notified of the tax audit by the Authority</td><td>50% of the value of the difference between the calculated tax and the tax due</td><td>Penalty between 2.5% and 5% of the unpaid VAT, per month</td></tr>
</table>

TYPE OF VIOLATION	UAE ADMINISTRATIVE PENALTY (AED)	KSA ADMINISTRATIVE PENALTY (SAR)	BAHRAIN ADMINISTRATIVE PENALTY (BHD)
Submission of correction to VAT returns or voluntary disclosure of errors in VAT returns	Two penalties are applied: 1. Fixed penalty of: AED 3,000 the first time and 5,000 for any repetition. 2. Percentage-based penalty on the VAT unpaid to the Authority as a result of the error as follows: • (50%) if the taxpayer does not make a voluntary disclosure or he made the disclosure after being notified of the tax audit and the Authority has started the tax audit process, or after being asked for information relating to the tax audit, whichever takes place first • (30%) if the taxpayer makes a voluntary disclosure after being notified of the tax audit and before the Authority starts the tax audit • (5%) if the Registrant makes a voluntary disclosure before being notified of the tax audit by the Authority	The same penalty as for submission of incorrect returns applies	The same penalty as for submission of incorrect returns applies
A person who has not kept tax invoices, books, records and accounting documents for the specified period	AED 10,000 the first time and AED 50,000 for each repeat violation	Up to SAR 50,000 per tax period	Up to BHD 5,000
Failure to display prices of the goods or services inclusive of tax	AED 15,000	Up to SAR 50,000	Up to BHD 5,000
Failure to issue tax invoices	Up to AED 5,000	Up to SAR 50,000	Up to BHD 5,000
Evasion of VAT	Imprisonment or penalty not exceeding 500% of the value of VAT or both	A minimum penalty of 100% of the VAT up to a maximum of 300% of the value of the supply	Penalty of between 100% and 300% of the VAT due or imprisonment for a period of 3 to 5 years, or both. The penalties are doubled for repetition within 3 years

5. VAT relief measures across the GCC in response to COVID-19

The COVID-19 pandemic has had a major impact on the operations of many businesses as a result of worldwide lockdowns, travel restrictions and social distancing guidelines introduced by governments. In addition to lower revenues and profitability, cash flow has been a key problem for companies, ultimately threatening the survival of businesses.

In response to COVID-19, governments have rolled out stimulus packages to support their economy and businesses with cash flow preservation and the reduction of business costs, the primary objective of the fiscal policy measures. The key global tax measures have included the following:

- introduction of new tax incentives
- deferral of tax filing deadlines
- suspension of advance payments
- postponement of tax payments
- reduction in tax and VAT rates, particularly for small businesses and industry sectors affected by COVID-19, such as hotels, airlines, restaurants, transportation, tourism and medical businesses
- tax exemptions
- suspension of tax audits
- accelerated refunds
- waiver of penalties
- suspension of recently introduced VAT regimes, and
- customs relief for essential supplies.

A number of the above tax measures were adopted with a view to promoting, stimulating and encouraging consumption.

The GCC countries have taken various measures to mitigate the impact of COVID-19 and to support the local business community. Nonetheless, tax measures have not been the focus of the multi-billion dollar stimulus packages provided by the GCC countries. Other than the KSA, which provided comprehensive tax reliefs to businesses, the VAT-relief measures in the GCC have been very limited.

A summary of all the VAT-relief measures implemented by GCC states in response to the COVID-19 pandemic is set out below.

UAE

In the UAE, the only COVID-19 VAT relief measure announced by the FTA was a one-month extension of the filing and payment of VAT for the monthly or quarterly tax period ending on 31 March 2020. Therefore, the VAT filing and payment deadline for the tax period ending on that date was extended from 28 April 2020 to 28 May 2020.

KSA

Unlike the UAE and Bahrain, KSA's GAZT provided a range of VAT-relief measures, including:

- three month deferral for payment and filing of monthly VAT returns for the February/March/May 2020 tax periods
- three month extension for payment and filing of the quarterly VAT return for the 1 January to 31 March tax period
- suspension of administrative penalties
- no freezing of funds or suspension of government services until 31 August 2020
- suspension of General Secretariat of the Tax Committees (GSTC) hearing sessions
- suspension of VAT on import of goods from 18 March 2020 until 30 September 2020 (with taxpayers required to account for VAT in their VAT return under the reverse charge mechanism)
- expediting requests for VAT refunds in the period 18 March 2020 to 30 September 2020, and
- approval of more requests to pay VAT by instalments until 31 December 2020
- introduction of an amnesty scheme between 18 March 2020 to 30 June 2020 and its subsequent extensions to 30 September 2020 and then 31 December 2020, allowing the registration for VAT, submission of VAT returns, correction of VAT returns and payment of related VAT without the imposition of administrative penalties during this period.

On the other hand, the KSA also increased the standard rate of VAT from 5% to 15% with effect from 1 July 2020, owing to the impact of COVID-19 on government revenues. ■

Bahrain

The NBR has not provided any VAT relief measures to taxpayers in response to COVID-19. ■

6. **Assessment** of **tax websites** across the **GCC**

With the advent of digital technology and the movement of many countries across the globe to electronic filing and payment systems, it is important for tax authorities to have a dedicated website to facilitate the management and administration of the tax system.

The website of a tax authority is also a useful tool for taxpayers, providing them with important information such as the latest versions of tax laws and regulations, their tax obligations and compliance requirements, and guidance from the tax authority on technical tax issues as well as information on tax procedures and processes.

A taxpayer-friendly tax website is even more important in the GCC than in other more mature tax jurisdictions. In mature tax jurisdictions such as the UK, the US and EU countries, there is a wealth of tax literature, third-party tax websites and common knowledge, given that taxes have been established in these countries for more than a century and are the main source of government revenue. But taxes are relatively new in the GCC and are only a small contributor to overall government revenue. Given the wealth of natural resources in the region in the form of hydrocarbons, historically tax has not played a significant part in GCC economies.

The KSA was the first GCC country to introduce income tax in the 1950s and Qatar, Kuwait and the other GCC countries followed suit. While tax laws in the GCC have undergone significant reform over the last two decades, there were until recently very few taxes in the GCC. Before the introduction of indirect taxes in the GCC, the KSA, Kuwait, Oman and Qatar already had an income tax for businesses and there is a more limited industry-sector-specific corporate tax in place in the UAE at the Emirates level, and in Bahrain. Amongst other tax incentives in GCC countries are free zones with tax exemptions and tax holidays designed to attract foreign investment, and no personal income taxes for employed individuals.

Therefore, unlike the mature tax jurisdictions, tax remains novel in the GCC and historically tax information was not readily available. Until recent years, the KSA was the only GCC country with a dedicated tax website for corporate income tax. The UAE and Bahrain did not even have tax authorities or tax websites until the recent implementation of excise tax and VAT. As VAT is still a very new tax in the GCC, it is critical that GCC countries have tax websites that are easy to navigate and contain relevant information and material to enable taxpayers to understand their VAT obligations and comply with VAT legislation.

The tax website of each GCC country that has implemented VAT has been reviewed and assessed against the following criteria, with a particular emphasis on VAT:

(a) ease of use
(b) content and information available
(c) public availability of tax legislation
(d) contact information, and
(e) the FAQs section.

A TAXPAYER-FRIENDLY TAX WEBSITE IS EVEN MORE IMPORTANT IN THE GCC THAN IN OTHER MORE MATURE TAX JURISDICTIONS. ”

UAE

Ease of use

Navigating the website is very straightforward, with multiple headers and sub-headers on the home page directing the user to the relevant parts of the website, such as VAT legislation, guidance and forms. The home page is regularly updated to provide recent VAT-related news and the upcoming VAT due dates, as well as a VAT calculator and tax registration number verification, which are very helpful. The website also provides a direct a link to the tax authority's e-services portal, which enables taxpayers to create an online account with the tax authority, register for VAT, file VAT returns, apply for refunds and make VAT payments.

Overall, the FTA's website has been designed in a very user-friendly manner and its home page gives a snapshot of everything related to VAT. The only drawback is that the website appears rather difficult to find if the URL is not known, as a google search directs users to the UAE government portal and the FTA's e-services portal, rather than the main homepage.

Content and information available

The FTA's website contains a vast amount information on VAT, including all the relevant VAT and tax procedures legislation, industry-specific user guides, clarifications on the interpretation of the VAT legislation, VAT infographics, e-forms for reconsideration and clarification as well as e-learning modules on various VAT topics.

The FTA in the UAE has been very active since the implementation of VAT. As of November 2020, it had published more than 25 VAT guides dealing with VAT procedures and VAT-specific issues across a number of industry sectors. The FTA has also published on its website 20 public clarifications on problematic VAT issues, to facilitate taxpayers' compliance with the VAT legislation.

In addition to the VAT-related information, the website provides details of accredited VAT software vendors and a list of registered tax agents who can support taxpayers. A link is also provided for applying for a commercial activities certificate to enable taxpayers to obtain a VAT refund in other jurisdictions.

The website also has a media centre which contains press releases issued by the FTA.

Contact Information

The UAE FTA website provides a helpline phone number, dedicated VAT email address and a direct enquiry form for taxpayers.

FAQs

The website includes an extensive FAQs section which addresses commonly asked VAT questions and provides quick guidance to taxpayers. The FAQs are split into various subsections addressing general questions such as the registration process and VAT refunds, as well as specific questions relating to certain types of taxpayer, such as businesses and tourists. There are also categories focusing on specific industries, such as e-commerce and real estate. All in all, the FAQs are very extensive, with succinct and accessible answers.

There is also a general section on VAT topics covering issues such as 'what is VAT?', 'getting ready for VAT', 'registration for VAT' and 'filing returns and payment'. ■

KSA

Before the introduction of VAT in the KSA, GAZT had launched a website dedicated specifically to the implementation of VAT. During 2020, the content of the VAT website was merged with the GAZT's general tax website. The review below relates to the general tax website, which now includes VAT.

Ease of use

The GAZT website has a user-friendly design, with headers and sub-headers guiding taxpayers to the available content and providing access to an array of information on all taxes, including VAT, at the click of a button.

On the home page, major announcements, GAZT's events and latest news are displayed at a glance along with e-services identified by reference to the type of tax. There is also a section on VAT registration for individuals and entities and for return filing, as well as a section that allows the reporting of tax evasion.

Content and information available

The GAZT website provides extensive information on VAT to assist taxpayers. A section on rules and regulations includes the full text of the VAT legislation and a knowledge centre that includes guidelines and FAQs on all taxes, including VAT.

The KSA tax authority has been very proactive since the implementation of VAT. As of November 2020, GAZT has published more than 30 VAT guides on general VAT issues, administrative and procedural matters (eg VAT registration, filing of VAT returns, invoicing and VAT rulings), the assessment and appeals process and industry-specific issues as well as technical aspects of VAT.

There is an e-service section with a service description available for each service, including VAT registration, filing a return, deregistration, payments, refunds, submitting requests for a VAT certificate or ruling and submitting an objection.

The website also contains a media centre which contains recent news, announcements and publications as well as an events calendar to keep taxpayers informed of recent developments.

Contact information

The website provides a helpline phone number, dedicated VAT email address and a direct enquiry form for taxpayers.

FAQs

The website provides an FAQs section for all taxes including VAT, with relevant sub-headings categorising different VAT topics, such as registration, payments and refunds, filing objections, as well as an 'Inquiries' section for general questions. Even so, the FAQs are not as extensive as those on the UAE FTA's website and the responses are relatively brief.

Bahrain

The NBR's website is broadly modelled on the dedicated VAT website which was previously launched by GAZT before the introduction of VAT in the KSA.

Ease of use

Like those of the UAE and the KSA, the NBR's website is easy to navigate and provides users with direct access to the VAT legislation, VAT guidance, e-services and forms as well as giving a summary of all the VAT content, on the home page. The home page is regularly updated to provide recent VAT news, VAT announcements made on twitter and the upcoming VAT due dates and infographics.

Content and information available

The NBR's website is newer than those of the UAE and the KSA. The NBR has, however, been very active and included a significant amount of content on the website in a short period of time.

The website includes information such as the VAT legislation, basics on the working of the VAT regime and guides on VAT compliance matters and industry-specific issues. As of November 2020, the Bahrain tax authority website contained more than 15 VAT-related guides, clarifications and manuals. The website has a facility for looking up and verifying taxpayers who are registered for VAT, which is useful.

The website also provides a direct a link to the e-services portal which enables taxpayers to create an online account with the NBR, register for VAT, file VAT returns, apply for VAT refunds and make VAT payments.

The website has a media centre which publishes recent VAT announcements and press releases to keep the taxpayers well informed about developments.

Contact Information

The Bahraini tax authority website provides a helpline phone number and dedicated VAT email address or taxpayers.

FAQs

The Bahraini FAQs section is divided into two sections, one dealing with general FAQs about the introduction of VAT in Bahrain and the other dealing with technical FAQs. The general FAQs are very informative and answer questions about why VAT was introduced and how the VAT system works, providing taxpayers with knowledge of the general concept of VAT. The technical FAQs cover specific queries on administrative and technical VAT aspects. ■

Oman

Content and information available

As the VAT Law was only recently published in Oman and VAT has not yet been implemented, there is currently very limited content on VAT on the website of the Oman tax authority. The only VAT material available on the website consists of the Oman VAT Law and FAQs for individuals and businesses covering basic questions about VAT, its application, exemptions and zero-ratings and registration. There is also a video and an information sheet outlining the basic concepts of VAT, including the rate and available exemptions.

It is expected that as the VAT regime is rolled out the Oman tax authority will develop additional VAT content for the website.

Contact information

The Oman tax authority website provides an email address and phone number for taxpayers to contact the authority. ■

Kuwait and Qatar

To date, Kuwait does not have a dedicated tax website. It is expected that Kuwait will launch such a website before the implementation of VAT.

In Qatar, although the General Tax Authority has an active website in place for corporate income tax, the VAT content has not been integrated to date since no VAT has been implemented yet. ■

AS VAT IS STILL A VERY NEW TAX IN THE GCC, IT IS CRITICAL THAT GCC COUNTRIES HAVE TAX WEBSITES THAT ARE EASY TO NAVIGATE AND CONTAIN RELEVANT INFORMATION AND MATERIAL TO ENABLE TAXPAYERS TO UNDERSTAND THEIR VAT OBLIGATIONS AND COMPLY WITH VAT LEGISLATION.

7. Stakeholders' interactions of tax authorities across the GCC

The interaction between tax authorities and stakeholders was an integral element of the introduction of VAT in the GCC region. In order to ensure a smooth transition towards a new tax regime, it was necessary for tax authorities to engage with key stakeholders, including taxpayers, and to raise awareness of VAT.

Impact of VAT implementation on businesses

The introduction of VAT was a major change for businesses operating in the GCC. In order to prepare for it, businesses had to analyse the impact of VAT on their operations and across many different functions, including legal, finance, IT, human resources, procurement, sales, marketing and strategy.

Businesses had to review and determine the VAT treatment of all their sales and purchase transactions and understand their compliance obligations. In addition, they had to assess the capability of their existing IT system or software to produce automatic VAT reporting and consider whether an upgrade would be sufficient or if they would need a new system. It was also important for organisations to make changes to their business processes, including invoicing and record keeping so they were compliant with the new VAT legislation. In addition, it was necessary for businesses to review existing contracts with customers to check if they needed to renegotiate contracts that had no VAT clause in order to avoid bearing any VAT cost. They also had to check that all new contracts dealt with the application of VAT and set out which party was responsible for bearing the VAT liability. It was also important for businesses to arrange internal training for their staff on the implications of VAT and to hire in-house or external VAT expertise in order to assist with VAT implementation and ongoing compliance post-implementation in order to minimise errors.

Communication was necessary to prepare for the introduction of VAT and to manage relationships with customers. It was also important to communicate with suppliers to ensure they were going to issue VAT-compliant invoices, which would facilitate the recovery of VAT. Finally, businesses had to evaluate the cash flow implications and their working capital requirements as a result of now having to pay VAT before they received payments from customers.

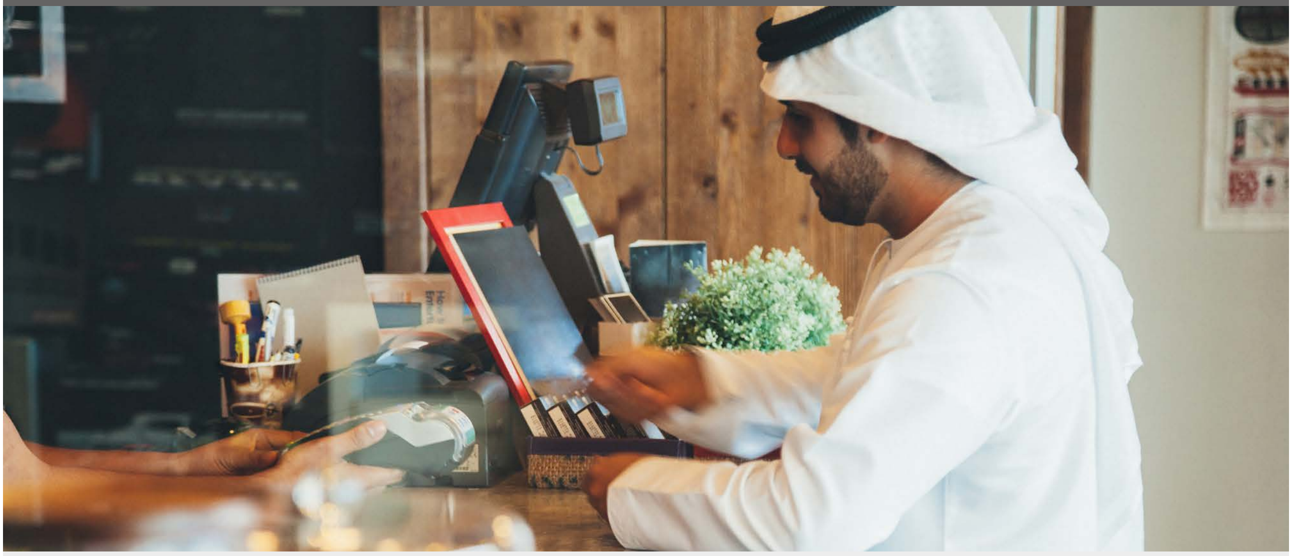
Therefore, to be ready for VAT, businesses had to undertake a significant amount of work. Companies typically needed around three to six months to prepare for the change, depending on the size and complexity of their operations and transactions.

In practice, a common mistake in the UAE, the KSA and Bahrain was that many businesses took a reactive approach, rather than a proactive approach, to implementing VAT, which increased the risk of errors and non-compliance.

Another common problem in the UAE, the KSA and Bahrain was that the VAT legislation was fast tracked leaving little time for the publication of the laws and regulations for the benefit of businesses and the public. While significant VAT guidance was made available in all three countries, most of the industry sector specific guides were issued after the implementation date which heightened the risk of non-compliance. In the UAE and Bahrain, new tax authorities were established which created additional practical challenges before VAT implementation.

In view of the above, the tax authorities have an important role in engaging with stakeholders and educating businesses before implementing VAT. The interaction between stakeholders and authorities before the implementation of VAT in the UAE, the KSA and Bahrain is considered below.

UAE



In the UAE, to educate and prepare businesses and raise awareness of the VAT legislation, various government authorities launched awareness campaigns for stakeholders well ahead of the implementation date of 1 January 2018.

The FTA and other government authorities began to roll out a VAT awareness campaign in early 2017 even before the publication of the VAT Law in July 2017. The first phase of this involved an extensive series of 25 workshops held up to mid-May 2017, which were attended by over 15,000 people. The second phase began in August 2017 and continued until October 2017, entailing around 18 sector-specific workshops for businesses and nine workshops for the government sector.

Following the introduction of VAT on 1 January 2018, the awareness campaign continued in early 2018, with the FTA releasing a series of eight educational videos targeting businesses to inform them, among other things, of the four-step process for submitting tax returns. In April 2018, the FTA reviewed the first 100 days of VAT, indicating that they had issued 60 guides, 3 e-learning modules, and 22 infographics covering most aspects of VAT, as part of an awareness programme. It was also revealed that around 100,000 telephone queries and 70,000 email queries were responded to by the FTA between the beginning of January and 8 April 2018. The FTA indicated that it went to great lengths ensure that this awareness campaign targeted as wide a range of stakeholders and members of the business community as possible. In a joint government effort, the FTA collaborated with the Ministry of Finance, Ministry of Foreign Affairs and International Cooperation, the Ministry of Economy and Commerce, UAE Central Bank, the Federal Customs Authority, customs departments, finance departments, and the Emirates post, Municipalities and Free Zones authorities in the UAE, as well as private sector entities, including banks, audit firms, clearance companies, and courier companies.

Overall, the UAE developed a highly coordinated and intensive awareness campaign to ensure a smooth transition into the new VAT regime. The UAE did not wait until the VAT legislation was released in August 2017 to begin its campaign. Instead, it took a proactive approach by raising awareness from early 2017, and building upon that when the legislation was released, and continuing its efforts even after the implementation date in January 2018. Therefore, it appears that it was the complacency of businesses rather than a lack of interaction, or delay in spreading awareness, from the government authorities which contributed to the issues faced by businesses in getting ready for the introduction of VAT.

Although some of the large multinational groups in the UAE began their preparations at the beginning of 2017, many businesses in the UAE decided to wait until the publication of the complete VAT legislation in November 2017 before taking any action. There was also an expectation in the UAE business community that the implementation of VAT would be delayed there despite strong indications that everything was on track for implementation on 1 January 2018, with the VAT Law also confirming that VAT would be implemented by this date, when it was published in August 2017.

In hindsight, once the UAE government had taken a decision to implement VAT on 1 January 2018 and this fact was confirmed by the VAT Law, businesses could have done more and been more proactive with their

UAE

VAT preparations. VAT is not a new tax and it or a similar tax implementation exists in more than 160 other countries around the globe. In addition, the UAE VAT Law is largely based on the EU VAT rules and the GST systems in some South-East Asian countries such as Singapore and Malaysia. The GCC VAT Agreement on which UAE VAT legislation was based was also published in the first half of 2017. Therefore, although the final VAT executive regulations were not published until November 2017, most of the information in these regulations had already been made publicly available by the FTA earlier in 2017 as part of the awareness campaign.

It would have been more beneficial for businesses to begin preparation before the VAT executive regulations were issued, using the known information at that time (including the information circulated by the tax authorities as part of the awareness campaign), and then validate any assumptions or confirm positions after the regulations were issued in November 2017. Unfortunately, in the UAE, many businesses took the wrong approach and instead waited for the regulations before even beginning this work, which meant they only had one month to get ready. That said, the early publication of the VAT legislation by the authorities would have been helpful for businesses though this was difficult to achieve by individual countries given the short timeframe within which VAT had to be implemented.

Additionally, stakeholder interaction should be assessed through the issue of clarifications by the FTA on its application of the VAT legislation; such clarifications provide certainty to taxpayers. The FTA regularly issues clarifications on its interpretation of the VAT legislation and makes available to the public clarifications that are of general application or interest. These clarifications usually contain a summary of the relevant law, an explanation of the FTA's interpretation, as well as useful examples illustrating the application of the law, ensuring that even readers with little understanding of tax laws are able to understand their tax position. As noted above, the FTA also issued many VAT guides providing general VAT and industry sector specific guidance on the application of VAT.

To increase interaction, the FTA has established a helpline to assist taxpayers with queries of an administrative nature and usually assigns a relationship manager to large businesses to manage communications.

KSA

Like the FTA in the UAE, GAZT also conducted an awareness campaign and engaged with various businesses and stakeholders before the implementation of VAT in the KSA. This campaign involved holding a series of seminars, including industry-specific sessions, to educate businesses on their VAT obligations.

GAZT also sent an SMS alert to companies to take part in a survey which was aimed at assessing companies' awareness of, and readiness to implement, VAT. The survey included 30 questions, as the authorities tried to understand the complexity of businesses and their readiness to implement VAT. Before the survey, it was said that the authorities might select large companies (with turnover of over SAR 100m) to address concerns and key possible questions about the implementation of VAT.

At the time of writing, GAZT is the only tax authority in the GCC that has published both the draft VAT Law and the related implementing regulations for public consultation, ahead of the implementation of VAT, in order to obtain feedback from the stakeholders and businesses before finalisation. Although the UAE and Bahrain had extensive awareness campaigns neither made the draft laws or regulations available for public consultation before implementing VAT like the KSA did. In addition, in the KSA, the complete legislation was published by August 2017 giving businesses at least 4 months to prepare for VAT whereas the VAT regulations in the UAE and Bahrain were published at the end of November 2017 and in December 2018 respectively leaving businesses with around one month only to understand the provisions before the implementation of VAT.

The KSA also has a rulings process through which taxpayers can request GAZT's view on the application of the VAT legislation. Although these rulings are not legally binding, they give the taxpayer an indication of the tax authority's view on the interpretation of the VAT rules. Unlike those in the UAE, however, these rulings are private and not made publicly available. Furthermore, as noted above, the GAZT has regularly issued many VAT guidelines in a sign of continued interaction post-implementation of the VAT legislation.

GAZT also has a helpline to assist businesses with their administrative queries and allocates relationship managers to large businesses to facilitate interaction.

Bahrain

Like the UAE and the KSA, Bahrain was very keen to ensure that stakeholders and businesses were prepared for the introduction of VAT. The NBR undertook and continues to undertake a broad awareness campaign with a series of VAT seminars to assist businesses and ensure compliance with the VAT legislation. However, there was no public consultation allowing businesses to give feedback on the draft VAT legislation. In addition, the VAT Law was published a few months before VAT implementation and the VAT regulations were published less than one month before the effective date giving businesses very little time to prepare.

Before the implementation of VAT, Bahrain also introduced a self-review tool to enable businesses to assess their own VAT readiness. A dedicated relationship manager was also allocated to large businesses in Bahrain.

The NBR has also released various VAT guides and infographics to help taxpayers understand their tax obligations and to give them certainty on the VAT treatment of specific VAT issues. ■

8. Use of VAT across the GCC

In the GCC region, detailed and specific data on the actual use of taxes and levies is generally not available to the public.

In essence, the main reason for the introduction of VAT was to enable GCC countries to generate additional revenue and to fund public expenditure. Therefore, it is likely that the use of VAT revenues will depend on the annual budget of the individual GCC country.

An analysis of the use of VAT revenues in individual GCC states that have implemented VAT, based on information that is already known, is considered below.

UAE

The UAE is the only GCC country with a constitution that sets out some indicators on the use of Federal taxes. The UAE constitution provides that the taxes collected at the federal level are part of the 'general revenues' of the UAE. Although there is little indication on the use of the general revenues, the UAE constitution provides that the UAE allocates a certain sum of money from its revenues to building and construction projects, internal security and social affairs, according to the urgent needs of some of the Emirates. This appears to indicate that at least part of the VAT collected by the UAE is being spent on infrastructure, security, and social affairs at the Emirate level. This is consistent with the fact that supplies in the VAT return are required to be reported separately for each Emirate.

The UAE had initially estimated that it would raise AED 12bn in 2018 through VAT collections, but significantly exceeded expectations by raising AED 27bn. For 2019, the estimated VAT revenue was AED 20bn, and although the actual amount raised has not been announced, the 2019 estimate had already been exceeded by the actual VAT revenue for 2018. The UAE government has announced that the VAT collected from 1 January 2020 to 31 August 2020 was AED 11.6bn. It was also announced that the distribution of the revenues would be 30% to the Federal government and 70% to the Emirates governments, which may be an indicator on how the VAT revenue in the UAE is allocated more generally. ■

KSA

The use and distribution of VAT revenues in the KSA is not publicly available information.

Nonetheless, in announcing the tripling of the Kingdom's VAT rate from 5% to 15%, effective from 1 July 2020, the finance minister indicated that this increase was necessary to 'maintain financial and economic stability', suggesting that VAT is perhaps being used to balance the government's coffers in light of declining oil prices, as well as to diversify the economy and reduce the dependence on hydrocarbon revenues.

For the year 2018, the KSA raised SAR 46.7bn from VAT collection, which was nearly one-third more than the original expected revenue of around SAR 35bn. ■

Bahrain

Bahrain does not specifically provide any rules or information about how taxes generated by the government will be spent, but it is expected that tax revenue is being used to meet the country's expenditures as set out in the annual budget. A major reason for the implementation of VAT in Bahrain was to generate additional revenue and reduce the budget deficit.

For the year 2019, Bahrain had expected to raise BHD 150m in VAT revenue, but like the UAE and the KSA, it significantly exceeded that estimate, raising BHD 250m.

Appendix A

VAT and lessons learnt across the GCC block

Key comments from the virtual roundtable discussion

PARTICIPANTS

Nasheeda CC, Managing Director – Nishe consulting (moderator and member ACCA Global Tax Forum)
Shiraz Khan, Partner, Head of Tax – Al Tamimi & Company
Robert van der Klauw, Regional Head of Finance – Munich Re
Mustafa Malik, CFO – Philips KSA
Saad Maniar, Senior Partner – Crowe Horwath
Jignesh Sanghvi, CFO Dubai Multi Commodities Authority

VAT Accounting Software Needs

Categorise this between the global companies Versus the local companies. What I noticed was that, the global companies had that setup in the background, because they have been dealing with VAT in the UK, in the Eurozone, and all the other countries where VAT is entrenched. So they had that, set up already in the background and when the time came in the Middle East, all they had to do is understand the local regulations FTA/GAZT and turn the VAT accounting, reporting and compliance switch on. On the other hand local firms, for example in Saudi Arabia that had to go through, the Big Four accounting firms and other consultant/suppliers who were also selling their VAT software.

We were looking for a simple tool with a calendar function, a repository of all past filings, perhaps workflow supported. Really more of a dashboard that helps compliance. For example we discovered that we were late with filing withholding taxes in Saudi Arabia, a technology solution would help to prevent that.

Regardless of the size and scale of the business, everyone had to invest in the technology and with the technology also invested in the consulting side for this implementation. For the smaller players, they have invested the smaller amount, because of the lesser complexities, however, the bigger organisations would have invested the larger amounts. So in my experience, overall the investment has been huge when this implementation came through. The timing was also very critical, because we did not have much time from the moment the law came into effect and the time it was required to comply, which I recall was just a couple of months, in order for us to bring our companies in compliance with the VAT laws.

We have been using Oracle ERP that has the functionality required for tax reasons. But given our diversified business, we had to customize to ensure that the finance team gets the report in the appropriate format and assures us that the numbers being reviewed and presented are accurate.

There is no system with this kind of one size fits all. So for each business would have their own unique requirement and that it then customised. So there will be always some element of input and customization required in my view.

There are some VAT software's in the market which smaller businesses are using and may not be approved by the FTA, so if any investigation is launched by the FTA such enterprises may face questioning. This is just a caution that we need to warn businesses and practitioners in the marketplace.

Dealing with the Tax Authorities

'Extremely challenging' when the VAT Law was first rolled out, there was a lot of unclarity on how things were going to be interpreted and they provided clarity along the journey. I do feel that there is a lot more they can do in terms of education and providing clarity, not just to the to the companies, but also to the population in general.

Generally, they (tax authorities) take about 40-45 days to respond. As mentioned earlier about the role of a relationship manager, is always useful, but the relationship managers are allocated only to for the very big companies. So this is a challenge for the small and midsize companies.

I can only comment on the clarification guidelines we have received so far. In truth, we have found them to be very useful. Of course, our specialists tax consultant helps us interpret them and understand how best to implement them.

Crucially, without that expert counsel, there is risk of misreporting. So, we always prefer to go back to our consultants to make sure that they validate our interpretation.

But, yes, I agree with earlier comments that smaller and mid-sized businesses operating without services from specialist tax consultants may find it challenging at this early stage.

Audit and Penalties

In my experience they target on the smaller things like the (i) missing transaction numbers, (ii) the address not being complete, (iii) the name of the company was not correctly captured are just a few examples. The most common one, which we have found out was claiming the VAT on a motor vehicle, which is not permitted and if someone have to claim then there are some restrictions that the vehicle has to be 100% in the possession of the business at all times, only for the use by the employee for the specific business purpose, only then can one claim the VAT back. These were the kind of issues which were picked up by the VAT audit team. There were fines also issued in this regards for not preparing the correct VAT returns.

Been in a refund position on a couple of occasions, but we have opted for the credit balance to remain with the FTA which gets adjusted in the following filing. As such, we haven't experienced any sort of refund challenges so far, or audits.

It may be that because this is early stage of the VAT legislation and operations the tax authorities want to preserve their liquidity as a performance indicator which may be resulting in investigations and delays in refunds.

The current challenges around VAT refunds also reflects the crisis facing governments trying to balance their budgets; with huge mega projects and state expenditure versus falling petrodollars they really need these tax revenues and are not going to automatically allow refunds without a thorough investigation.

There are different penalties that can be applicable (i) penalties specifically on voluntary disclosures and (ii) penalties applicable on late payments. Now the FTA is actively imposing the late payment penalties in addition to the penalties on voluntary disclosure for companies that have been submitting voluntary disclosures and coming forward and disclosing their errors to the FTA on a voluntary basis. Those late payment penalties are calculated on a daily basis of 1% which obviously adds up on a cumulative basis as high as 300%.

All the tax authorities have been focussed on strictly applying the law based on their own interpretation. For example, the FTA in the UAE and GAZT in the KSA have been actively applying penalties to taxpayers that have been considered non-compliant. In the UAE, there is a mechanism under which the taxpayer can request the FTA to reduce penalties based on mitigating circumstances. In the KSA and Bahrain, the tax authorities may approve the taxpayer to pay the VAT in instalments where they can demonstrate that they are unable to pay or otherwise would suffer hardship. In any case, all three countries have an appeals process under which taxpayers can challenge decisions of the tax authority if they do not agree.

Supply Chains

the challenges are continuously happening. It's also related to how we are setting up the invoices for the customers, or how you're writing the contract. There may be certain equipment that is VAT free, and then you have certain other services that are 'VATable'. This can influence our negotiations with the customers vis a vis our competitors.

Covid-19 Response by the Vat Authorities

The tripling of the VAT percentage in the KSA indicated that government was not in a mood to foregoe revenues. In my opinion the measures that government provided, both on corporate income tax side and VAT side, they were more from a deferred payment perspective Ie 'you don't have money right now you can pay me later on'. Whereas we would have expected more of you have a certain threshold maybe we raise the threshold and give you some sort of pecuniary relief. Ultimately the VAT is being charged to the end customer who is really impacted by the COVID restrictions.

In the absence of formal agreement between GCC countries, the KSA is the first country which has unilaterally increased the VAT which is interesting because the KSA is the only country which has incorporated the GCC VAT Agreement as part of its domestic VAT legislative framework. In the UAE and Bahrain, for example, though the principles agreed in the GCC VAT Agreement have been implemented in the local VAT legislation, the GCC VAT Agreement is not a part of the local tax legislation. It is likely that other GCC countries will follow KSA's lead to increase the VAT rate in the future, though countries which are yet to implement VAT are likely to introduce VAT at 5% initially before increasing the rate. Oman will be the next country to introduce VAT and it has already confirmed that the standard rate of VAT will be 5% in line with the GCC VAT Agreement.

Insurance companies and may be some other sectors may sometimes conduct business under a single license. That means that a company may offer customers both 'VATable' and non-'VATable' services, and you need to allocate your expenses across these two segments. If not well documented, this might be challenged during an inspection.

The insurance industry (for eg) had to absorb so-called transitional VAT. For small insurance policies with premiums paid annually, it was not possible after the implementation to go back to policy holders and ask for payment of VAT. These were added costs for insurance companies. But VAT processes are now well established and everyone has managed to implement VAT.

Many industries have been affected by the introduction of VAT because much of the uncertainty is common to all industries. However, the financial services sector have been particularly impacted because margin based transactions are exempt from VAT which means that input VAT cannot be recovered in full. In the UAE, the Financial Services industry was actively engaged with the FTA before the introduction of VAT and the Financial Services VAT guide was subsequently published by the FTA in early 2019 based on these earlier discussions, but some of the interpretations adopted by the FTA were inconsistent with their expectation of the VAT rules should have been applied.

Concluding Comments?

Documentation is the key. So for all the companies, I emphasise the need to maintain the documentation in proper order. So for when the investigation happened, all the document should be readily made available to authority, otherwise, they will be in deep trouble. Also the auditors would want to review the documentation in order for them to get assurance and issue a clean opinion.

This (VAT) is here to stay for a long time now. We just need to make sure that we are gearing up ourselves for this continuous change, because, you know, there's a lot of unclarity, and we need to educate our suppliers or customers in our capacity to make sure that we maybe avoid these tax audits, as just mentioned, because these are quite challenging and time consuming.

Appendix B

EXPERT INTERVIEWS

VAT – ME Lessons learnt interview

Robert van der Klauw
Head of Finance for Munich Re across the Middle East and Africa Region

I oversee finance risk management, accounting, and reporting for our reinsurance business. We also have a technology company and a business process outsourcing company across the region. I've been in my current role for nearly two years now. Previously, for five years I was the CFO of MetLife life and health insurance business across the Middle East and Africa region, spanning 10 countries.

Does VAT in the region present the single biggest tax challenge for you?

Well, I think the challenge is always when you implement something new, like VAT in the UAE a couple of years ago, you need to adjust your processes and your system to that. So I guess it is, from that point of view, the largest tech challenge and it's actually taken quite some preparation to become fully compliant.

How large is your team?

We had to find staff for this organisation across the region and we have a team of about 30 people, not entirely dedicated to tax matters, but this includes all accounting, accounts payable, receivables management, reporting and financial planning analysis.

Who was in the team implementing VAT compliance? And who led the team?

I want to refer to my previous role at MetLife. So the UAE implemented VAT a few years back and this was a major undertaking and we appointed a project manager who was from our global tax function or regional tax function to lead that initiative. It was also made clear from the beginning that this was a business project and not a finance project so we involved all relevant business functions in this project, and it took about a year of preparation. The complexity of the insurance business is such that, typically, insurance is exempt from VAT. This meant we had to adjust our systems and processes, which is not common in this industry.

You mentioned the one-year time frame; when did the VAT compliance planning start?

So this started the year before the effective date of implementation by the Federal Tax Authority here in the UAE, simply because the project is impacting various processes, obviously finance processes, but also business processes, for instance, distribution. Insurance companies distribute insurance products, if they become subject to VAT, you need to negotiate with your distributors, etc., which is why it was treated as a business project and we really needed a year of preparation to become compliant.

I think in terms of technology, the insurance back-end systems had to be coded to cope with VAT, and that's just not common in the insurance industry. So life insurance is exempt but health insurance is not exempt from VAT, which also means that some of your accounting systems need to be adjusted for that: your ledger systems require adjustment or calibration. I wouldn't say that this was a large investment in monetary value, it was just quite an effort to achieve digital compliance.

We did incur a relatively material cost with what I would call transitional VAT. So I'll give you an example to try to make that clear. Let's say you implement a new VAT regulation on 1 April, but you've sold an insurance policy with an annual premium on 1 January, it means that you should actually go back on 1 April to your customer and asked them to pay 8 out of 12 months of VAT (output). Now, that is just practically impossible for relatively small insurance policies, which means that transitional VAT expense unfortunately had to be absorbed by the company at that time, we just didn't see any real cost benefit from trying to recover that from our clients. So let's say, this was a material amount that was caused by the implementation of a VAT. There's just no way to avoid that, unfortunately.

Did VAT affect your profitability?

In the long term, not really. So for, for those products, where VAT is deductible, obviously, you can offset input and output VAT. For those products, which are exempt from VAT, the related expenses, which will become subject to VAT, such as rent or anything, any kind of purchasing that you do, at some point in time, will get absorbed in the pricing of your products. Since the VAT rate is quite moderate. I wouldn't say that this has had a material impact on profitability. In the long term, I guess pricing will get adjusted for that if it is not recoverable. There was just that one-off transitional VAT cost that had to be absorbed in that particular year.

How would you rate the communications from your VAT authority?

This is an interesting question because this is new for everybody in the region. I think in the end they did quite a good job to implement this. At least at our end we were ready for it. Maybe along the way, certain items were not clear, but I can also understand that for the Federal Tax Authority in the UAE and in some other markets it's just a major undertaking to put this in place and, if there were any issues, we could reach out to relevant advisers to give a clarification or direction.

I think overall, if I look at the result, now, a few years down the road, I think we've overcome all those hurdles, and this process works quite smoothly.

If I would have had one recommendation, it would have been nice if all the GCC countries that had signed up for implementing VAT had come online with VAT on the same date. That would have been easier for those companies, like ours, that work across different countries.

Was your process for compliance perfect from day one? And if not, what were your challenges?

I don't think that anything is perfect when you go live, but if I look at the various tax filings we do, where I work today and with my previous employer, there were no penalties incurred. So I think that's an indication that we were able to manage a filing without material mistakes. As I said, it took quite some preparation to put this all together to be ready for this. And I think that paid off.

What skills are needed to meet the compliance needs and the VAT planning and management needs now, and in the future, in your opinion?

Maybe a few recommendations that I would want to give here are that you should make it a business project rather than a finance project. So multiple stakeholders are affected in the company. I think, secondly, if your business is quite complicated, you need to manage this as a project, managing all stakeholders, but also manage, obviously, the technical implementation. I think going forward, and this is just something that I follow throughout my career, in order to remain compliant, we must team up with a professional tax adviser. So that's an external counterparty, who helps you to remain compliant. They will point out any changes in upcoming regulations so that you can respond in time, and that really helps you to comply.

We're in the middle of a global pandemic, and businesses of all shapes and sizes have been affected. Considering this, do you think that the VAT authorities have shown enough empathy with businesses, and what more can they do to help?

in some markets, as we've seen in Europe, there was temporary relief on VAT. I can imagine that for certain retail businesses that might stimulate consumption and might help to sustain certain businesses. I think for our business, this is not relevant as we have a business-to-business model; basically, VAT passes through our books. We collect VAT net, but there's no real impact there on the end client from our perspective. Yes, I was a bit surprised to see some markets increasing VAT. I'm sure they had very good reasons for that, but nevertheless it came as a surprise. But in general, VAT levels are relatively low across the region and the kind of impact of VAT on businesses is probably not that large, as you might see in countries where VAT rates are double digit, even in the low 20s, for instance.

VAT – ME Lessons learnt interview

Mustafa Malik, CFO Philips KSA

I am an ACCA member. I've been a member since 2013. I started my professional career in 2009 with Ernst and Young and spent about a year and a half with them. I then moved to General Electric Energy Company. I've held multiple roles with them as a financial analyst, and then moved into the corporate audit staff, which is a part of their leadership programme. We used to rotate around different companies or different business groups within General Electric, and auditing and providing project support, working on some extremely high-visibility projects, which were critical to the to the success of GE. Last year, in April, I joined Philips as the CFO for Saudi Arabia.

Does VAT in the region present the single biggest tax challenge for you?

While it does present challenges, I wouldn't say it's the single biggest, but it's definitely one of the biggest challenges that I'm facing in my job right now.

And currently, how large is your team?

I'm managing a team of around 11 people, who include people in tax, from credit and collections.

Who was in the team implementing VAT compliance? And who led the team?

The compliance process started in 2017, when the government had announced the taxation. Obviously, I wasn't part of the team at that time, but what I know is that we had local teams involved as well as the people who are in my team now, who are also qualified members of ACCA. We also had global teams supporting us from the UK, in the implementation of the tax. Along with them, we also had external consultants, Deloitte, who helped us in setting up the systems, understanding the harmonised system (HS) codes as well as the different requirements.

What new investments have you had to make to meet the VAT compliance demands, particularly for hiring and software?

For hiring, I don't think we had to hire additional people because the people that we had in the in the company were very aware of the taxation rules, because they already had the relevant experience. For software, we implemented SAP enterprise resource planning software all together for the company. I wouldn't say that we had to do a separate investment. What I can say is that we completely changed the ERP system, in 2018, altogether. Tax compliance became a part of the new instance of SAP that was rolled out.

Were there any other major expenditures that were incurred?

I would say the biggest expenditure that we had to incur was to do with the amounts that we had to pay to the consultancy firm.

Did VAT reduce your profitability?

This is an interesting question. I will answer this in two parts. In the healthcare industry, the government has exempted some of the health care products. So, for example, if you talk about MRI [magnetic resonance imaging] machines, or CT [computerised tomography] scanners, or if you talk about X-ray and ultrasound machines – they are all VAT exempt. Our customers did not feel the pain too much and neither did we. I had challenges in the interpretation of the law itself. They would say as regards the exempt equipment, it is only the equipment that is mentioned by the authorities. What then about the services that come along with it? It's open to interpretation. So, what we learned was that, for the services, we were going to have to charge the VAT, but every time we went back to the customers, it became a topic of contention with them, because they did not realise that the healthcare services were also taxable. We stayed compliant and we went ahead and paid the government. The collection was a bit of a challenge from the customer's side. The second part of it is that the government did not fully factor in the changes, so there were contracts that were entered before 2018, but were in the time range of the 2018 period. I don't think we did enough to go back and tell the customers that 'the delivery and execution of these contracts was going to be within 2018, which means these supplies would be 'VATable'.

How would you rate the communication from your VAT authority?

The taxation authority in Saudi Arabia is pretty good in communicating. We had received a lot of emails, there were a lot of seminars, webinars, conducted by the GAZT. These were also conducted by the professional accountancy firms who were helping the authorities to implement the VAT. The challenge I think we faced was with the implementation. The equipment was supposed to be zero rated, or VAT exempt. This is where the challenge was. The Ministry of Finance and GAZT issued a letter of certification, saying that any invoice in which the suppliers provide the VAT amount, will be honoured (they will honour the VAT). Unfortunately, in practice it became a little bit more of a challenge, simply because the government authorities have a set procedure, whereby they tried to match the quotation with the purchase order and the invoice. If all three do not match in absolute value, then it becomes a bit of a challenge. We did have a lot of operational issues in the implementation.

Was your process for compliance perfect from day one? If not, what were your challenges?

This is an interesting one. I cannot say that any company that implemented VAT had a perfect process from day one. Obviously, we had to learn along the way. Some of the challenges I have already mentioned, but some of the others lay in just understanding the HS codes. For example, we did realise at a certain point that the HS codes that we are using in Saudi Arabia were a little different than the HS codes that we had globally. That would have been one challenge because a lot of our equipment comes from Europe. The HS codes that are being used there were different from the HS codes that are being used in Saudi Arabia. In reality, however, they shouldn't have been different. We also learned that as a company we needed to provide a lot of clarity to the customers up front. What used to happen was that we would send a quotation without mentioning the VAT. However, when we sent them the invoice, the invoices had the VAT, so the customers did not have the absolute understanding of what the VAT amount was going to look like. This gave rise to a lot of the disputes in settling the invoices at the time. We learned from our issues and we started calculating the VAT upfront and putting it into the quotation as a solid number so that the customer can reserve the budget for the full amount as opposed to just the principal amount.

What skills are needed to meet the compliance needs and the VAT planning and management needs, now and in the future?

In terms of skills, I think we need to be aware of the VAT regulation inside the Kingdom. I think there have been significant changes since the time VAT was first implemented. Even recently, the government announced a change to the VAT rules related to the real estate sector. One needs to have a very detailed understanding of what the regulations are saying. What is required to be compliant? What are the processes and procedures involved in communicating with GAZT? I think we tried to build the knowledge in house as well, just to reduce reliance on the external firms. I think internally, our teams are well aware of the VAT processes. We also take time to educate our customers, every time there's a new project, every time there was a new condition to be sent out, we proactively worked with the government authorities, we actively work with the private customers to educate them and try to try to develop those skills ourselves and within them.

Have there been any gaps in the VAT trail in your supply chain and how have you overcome these gaps?

We used to get invoices that were non-tax-compliant. Having an understanding of VAT is one thing but the compliance around it means that you have to have the invoice both in Arabic and English as stipulated by law. I think we faced a lot of challenges with our suppliers as well, because the invoices were not VAT compliant or taxation compliant. We had to go back to the suppliers multiple times and we had to repeatedly ask for a change in the invoice.

COVID-19 has taken its toll on industries of all shapes and sizes. Do you feel that VAT authorities have shown enough empathy with your business, and what more can they do?

This is a hard question to answer. GAZT has been lenient in two aspects. In the filing aspect, which is the compliance and also in the cash flow management. They've provided relaxation to the companies so they don't have to pay their VAT dues in the same month. They can delay payment for a couple of months. We saw this happening in March. Certainly, as you're also aware, there was also a VAT increase from 5% to 15%, in July of 2020, which was during the COVID pandemic. I think we saw an inflation rise of about 6%. I would say there was a mixed approach. On one hand, they did allow the businesses to file their returns a little later or to pay their VAT dues a little later. However, on the other side, we then got hit by 15%VAT, which was not seen by the companies in general, but obviously the public in general was hit by the higher inflation rates.

VAT – ME Lessons learnt interview

Mufaddal Sardari, Manager Tax Advisory Services BDO

I am Mufaddal Sardari, and I've been with BDO for almost eight years now. I started my journey in 2012 as a fresh graduate pursuing my ACCA Qualification. I was appointed in the role of tax services in early 2017, when there was an announcement made by the GCC that they were going to implement VAT in the region.

Does VAT in the region present the single biggest tax challenge for you?

At the moment, yes. However, we have seen several new tax measures introduced in different parts of the region recently, such as transfer pricing, economic substance, country-by-country reporting, so VAT is only part of the picture. But I would say yes, at the moment that it is the biggest challenge that I can see.

How large is your team at the moment?

We have a big team with around 15 people divided into advisory and compliance services.

How did you support your clients and manage VAT implementation? And what were the challenges around it?

Well, the VAT implementation phase was one of the busiest times of my life. We had a strong team of 20-plus people who have had experience in VAT from a number of different jurisdictions. We also had some team members who had prior VAT implementation experience in Malaysia and India. We supported our clients during the VAT implementation by dividing the process into three phases: impact assessment, implementation, and post implementation support. Impact assessment helps you to understand how the supply chain will be affected. What are the new processes that should be incorporated? What are the recommendations and how do you fill the gaps? In the second phase, which was the implementation, we gave clients the support they needed to implement the changes that were recommended in the impact assessment. The last phase was providing support in preparing the first VAT return and advising the clients on how the information should be filled and documented.

As you mentioned, for my experience, the biggest challenges during the VAT implementation phase were the documentation processes, compliance and behavioural changes – accepting the fact that VAT was going to come to the UAE from 1 January 2018. I believe that the behavioural changes proved to be the most difficult challenge. In my experience, businesses were quite comfortable with the logic of the applicability of VAT. However, the challenge was whether the people working on the job had the right technical skills and adaptability to cope with the changes. Organisations have streamlined a lot of processes and documentation to make sure that they complied with the requirement of the law. As you see, there are lots of things that should be worked around and the behavioural impact needs to be developed in order to tackle this situation. That was the biggest challenge that I saw during the implementation.

With regard to your second phase, the VAT implementation, when did the planning start? And how did you start educating your clients?

Well, it started in early 2017, because this was the first VAT in the UAE and it was going to have an impact on every organisation. So at that time, many people thought that this was a bit too early and some even doubted that it would be introduced. However, the UAE leaders were very clear in their commitment to VAT and we, as a tax advisory practice, were very confident that VAT would be implemented in 2018. Although the draft law was not out in early 2017, we based our initial work on global VAT practices and principles. Using this, we started educating our clients on the functionality of VAT, the concept of how it works and the key points that they needed to be aware of.

What new investments have you had to make to meet the VAT compliance demands, particularly in hiring and software?

As a compliance practice group, we joined hands with the leading VAT compliance solution provider – Thomson Reuters. They had developed a solution to cater for VAT in the region. We worked with Thomson Reuters to tailor a solution to deliver what we wanted to provide to our clients. In simple words, I would say that it is a very simple software, a cloud-based application, which is easy to use, and can be managed everywhere around the world, from a VAT perspective.

From your experience, do you think that VAT has had an impact on the profitability of businesses in the UAE?

In some cases, VAT can have a direct impact on the profitability. An example would be companies operating in the financial sector, and providing mixed taxable and exempt supplies. Such businesses are only entitled to partial recovery of input tax, and this results in increased expenses. Also, as UAE was previously a tax-free country, some end users had a difficult time accepting the additional cost. I have heard of a number of businesses complaining that retail customers were reluctant to pay 5% and as a result, some businesses had to absorb the cost themselves. So to conclude, while I think the profitability may have an impact in some sectors, there are many businesses where profitability has not had an effect, or where the effect is not significant.

How would you rate the communication from your VAT authority?

I would rate the communication from the tax authority as very high and proactive. Whenever there is an uncertainty or ambiguity, the FTA tries to provide as much as information and clarification as possible. If I circled back to the initial implementation days, that tax authority ensured that seminars were held to educate the organisation and the end users. This included joint seminars with licensing authorities and specific industrial sectors to ensure that businesses received proper guidance on how VAT would apply to their sectors. Recently, there has been two important public clarifications by the FTA. These two are VAT on promotion and VAT registration on sole establishment. They are good examples of how the FTA takes a proactive approach to resolving the issue that is causing the problem.

Was your process for compliance perfect from day one? And if not, what were your challenges?

In order to record an account for the right VAT amount, the compliance processes need to be perfect, but I'm aware that many businesses hit roadblocks in the initial days of VAT. Typical problems would include central bank exchange rates, which were not published during the initial days. Import and exports, non-compliant tax invoices from vendors, transitional provisions, are all some of the bigger challenges that I can recall immediately. There were also little things that often caused the biggest problems and I call them the gremlins of VAT. For example, entertainment expenses, employee expenses and recharges, tax invoices not being compliant with the reverse charge mechanism (which is not always just an accounting entry), and intercompany transactions within the group or within a tax group or outside the tax group. What is the difference between reimbursement and disbursement? In a nutshell, I would say if anything goes wrong in this particular sector, this will result in huge penalties. The penalties will be very severe. It is very important that a company or a business is compliant, and makes sure that whatever challenges they have had during their initial phases, or currently, they are doing their best to rectify those as soon as possible.

And in your opinion, what are the skills needed to meet the compliance needs and the VAT planning and management needs now and in the future?

Well, I think knowledge of law and a background of taxes in similar and mature jurisdictions is extremely helpful. A professional qualification, like ACCA's, will definitely provide an essential grounding in many of these key skills. That is the right path, I would say, to get the right amount of skills and also for the future, people who are coming into this profession need to see how things are moving forward with this.

And what should a company do to identify whether there are any gaps in the VAT trail and supply chain? And how should a company overcome these?

Well, those businesses are still relying on the impact assessment prepared by their consultants during late 2017. So, as the tax has moved on, since then, it is possible that some of that work is now outdated. To deal with this internal VAT audit, a review should be performed regularly to identify any gaps or changes. I think as discussed previously, the penalties are significant and the company needs to ensure that proper controls and procedures are in place and that the VAT training and reviews are conducted at regular intervals to make sure that the gaps have been filled.

The COVID-19 pandemic has hit industries from all sectors and from all parts of the economy fairly hard. Do you feel that VAT authorities have shown enough empathy with businesses? And what more can be done?

Well, tax authorities did provide relief by deferring the VAT return due dates. This was a welcome relief at the time when people were not going to their offices. I think that was a really welcome support from the authorities. Additionally, I think that COVID-19 has had a big impact on cash flow, and a deferral of tax payment would have been a great benefit to small and medium-sized organisations.

VAT – ME Lessons learnt interview

Nasheeda CC, Managing Director – Nishe consulting (moderator and member ACCA Global Tax Forum)

My name is Nasheeda. I currently run a firm called Nishe, which is an accounting firm: we are primarily an accounting and tax consultancy firm. I started this about four years ago. Before this, I was working with PwC for 12 years. I was in audit and assurance in PwC, starting as an associate and, in 2005, being interviewed at PwC in Dubai and then I went on to become a director in 2014, and then I left in 2016 to set up Nishe. Nishe is an accounting firm, as I said, but it is also a women-focused firm. We focus on hiring and empowering women.

Does VAT in the region present the single biggest tax challenge for you?

We operate in the GCC but primarily in the UAE. We also have clients in Bahrain and in Qatar, and we do limited work in the KSA. If you talk about UAE – yes this is the only tax challenge here right now, although there have been a few additional things coming up in the recent months. For example, there's been this economic substance regulation. We assist our clients in complying with economic substance regulations. There has also been a new cabinet resolution on proving the ultimate beneficial ownership. So that's something that we do work with. These are all new things that are coming up. And obviously because of that, they are challenges.

How large is your team currently?

Currently, we are six and a half, if that makes sense. I have five people here in the UAE. And then including me, that make six. And then we've recently hired an Arabic resource based in Jordan, but she works on a per hour basis. So that's the half.

How did you support your clients in managing VAT implementation? And what were the challenges around it?

Nishe started in 2016, and VAT started in 2018, in the UAE and the KSA. We were a very, very new firm at the time. I think in 2017 I had two people, neither of them were familiar with VAT. I had previously worked extensively on a VAT project. I had a lot of in-depth technical knowledge about VAT because I had assisted a regional government in coming up with the VAT audit manual, where I was one of the co-authors of that. That gave me a lot of in-depth understanding of VAT as a concept, but obviously I didn't have any practical expertise. And what is more, in 2017, I was doing my Master's in Professional Accountancy. I was also doing an IFRS US GAAP for the client and as I said, I had only two people for support. When the whole VAT thing was heating up, I had zero time in hand to do anything. And as it happened, someone whom I worked with, the person who worked with the client in indirect taxes, she had resigned from there, and she was taking a break, and she was available for work. I used her as a freelance consultant for a few months; she worked with me, and that was very helpful. That's how we did our VAT support for our clients. In fact, before she came on board, I had no intention of even focusing on VAT. Once she came on board with it, she gave extensive support, so we did everything from assessment of the VAT implications for the client, and then just assessing whether they are ready in terms of system process, people perspective, supporting them with the registration, even deciding on VAT grouping and deciding on the structure. We did everything up to the first return filing. We basically hand-held them for the first return filing, and then handed it over to them. This was for clients who came to us only for VAT.

The primary thing that we do is to act as the accounting department for several of our clients. For those lines, we continue to support them with their filing. And when they have any issues, when there are judgments, when there are things to be written up, or when there are communications to be held with the authorities, we help them with all of this. It's an end-to-end support. So it depended on what the clients wanted. It could be an end-to-end support, or maybe just support with a specific aspect of VAT.

As for challenges, initially I didn't have people and then there was a lot of conversation in the market on what the whole VAT issue was about. It would also have a major impact on the business culture here, because until VAT came, there were hardly any compliance requirements, especially from a financial perspective: we were not really required to submit our financial statements anywhere. Most of them, the financial discipline, the accounting discipline, didn't really exist. In many of the organisations, a number of jobs that we received were to clean up the accounting in preparation for VAT. Plus the regulations came late, and the guides only started coming out just before 2018.These were some of the challenges.

When did the planning start for VAT implementation? And how did you start educating your clients?

We had, for example, clients whom we acquired in 2016 who didn't have a fully fledged accounting system. So, one of the first things that we did tell them was, 'you do need to change your way of operating, because some of them just did their accounting only at the end of the year for the preparation of financials, and there was nothing more and it was done in Excel. We told them, 'you do need to change this, and you need to move into a system, etc'. As I said, because I was really busy with other things, I only started focusing on it towards the last quarter of 2017. In terms of supporting the clients, it was, as I said, end-to-end, supporting from the assessment to looking at their contracts to even training their employees. We did the training sessions for our clients – running them through what VAT is all about. The whole thing was completely new for the people there. So training was a key component of it.

When did the VAT compliance planning start?

In our clients' case, we only started focusing in the last quarter of 2017. Not really before that.

What were the new investments that we had to make in order to meet those compliance demands?

For my own staffing, in early 2018, I hired a new person who had helped me initially – that was just an arrangement for a few months, and then she moved on. I hired someone else who had had Big Four tax experience, and she's now my key tax person for a lot of work that I used to do. She is our key tax person here right now. Apart from that, from a systems perspective, we use a cloud-based accounting system, so there was really nothing much for us to do in terms of changing the system. It's about ensuring that the system does what we what we need it so maybe just configuring it, but apart from that, we really didn't have any system investment per se, for VAT.

Do you think that VAT has had an impact on the profitability of businesses in the UAE?

VAT by its nature has an impact on the cost, in multiple ways. If you are running a company which is exempt or a company which is below that threshold, then your input VAT becomes a cost to you. Now, it's only 5%. And some of the fundamental expenses are not covered, etc., but it still becomes an additional cost to you. Then you have certain expenses, which you cannot recover, for example, entertainment expenses. So that also becomes an additional cost to you. So that's a direct impact on the income statement. And secondly, you have all this additional work that is required for VAT: it is a transactional tax. So every single item of income and expenses, every single item of transaction has to be reviewed to ensure accurate VAT compliance, that obviously means additional people or additional systems, and it's the combination of all of these and that obviously means additional work, and additional paperwork, and so on and so forth. So, it's probably a little bit difficult to say this is the impact but I'm sure that that additional work and time and maybe even the requirement for external consultants, etc. would have affected the cost and the profitability of companies. And then there are the penalties. You know, sometimes if you do the wrong things, the penalties, especially in the UAE, are actually really high.

How would you rate the communication from your VAT authority?

We have dealt extensively with the FTA and with the National Bureau of Revenue (NBR), the tax authority in Bahrain. We have to understand they are new bodies; both these countries did not have any tax authority before we started. So, there are new bodies newly set up just before VAT was introduced. The whole concept of VAT was new to both these countries. So, obviously, if you can imagine, it would have been quite difficult for them to get up to speed. But then we also saw that once things started, the authorities started issuing guides and clarifications and whatever other documentation quite quickly. In that respect, I think they've done a tremendous job because what has happened in say Europe over a period of decades, these countries have compressed into a few years or maybe even months. Issues still exist, but I think it is improving pretty much. We've also raised clarification requests with the FTA on behalf of our clients, but we found that finally, when we did get the answer, it took some time.

In fact, the FTA itself says it will take seven to nine weeks, so it did take that amount of time. When we did get the formal answer that was pretty well written, pretty well drafted, and understandable.

In your experience, has the process for compliance been perfect for from day one? And if it hasn't, then what were the challenges?

Well, obviously, there's a lot of vagueness. So it's never perfect, you know, you're just learning on the job and learning on the go and that's what everybody has been doing, not just us, it is what everyone else is doing. It's never perfect from day one.

In your opinion, what skills are needed to meet the compliance needs and the VAT planning and management needs now, and in the future? From your experience serving clients, what are some of the recommendations you would give?

So, VAT is not a finance-only issue or a tax-team-only issue… it's a transactional tax, which means it affects every transaction that the company enters into. Obviously, that means every department in the organisation is impacted by VAT. It is a company-wide thing and everyone should be aware of the VAT implications. Now, it doesn't mean that everyone has to be an expert in VAT, but people who are actually dealing with these transactions – we probably call them the gatekeepers – these are the people who are processing the incoming or outgoing invoices or people who are entering into contracts or purchase orders, etc. These people really need to be aware that there could be bad implications. So, many organisations, especially some of the larger organisations that have set up their system in such a way that something is classified as zero rated or standard rated, have to have an understanding of why something is standard rated or zero rated or recoverable or non-recoverable, and an understanding that things could be different in a particular scenario, and the ability to diagnose that there could be a problem here. So that's number one. And number two, once you've diagnosed, then you do need to have someone to talk to, if that means you do need an expert, who can actually tell you what the solution will be in that particular scenario, and that could be internal or external. So that go-to person should also be there in every organisation. Just relying on the initial set-up of systems or whatever isn't sufficient. I think these are two things that are really, really important to ensure compliance for VAT in any organisation.

What should a company do to identify any gaps in the VAT trail in their supply chain? And how does one overcome that?

One of the things that we are now doing for our clients is going back and reviewing some of the decisions that were made earlier, and maybe take a couple of VAT returns and review them to ensure that it's all being prepared correctly, and there are no wrong judgements, etc. I think this is a good time for everyone to do it, because now a lot of guidance is available, whereas when we started off, much of this didn't exist. So it is actually a good time for everyone to go back and relook at the whole VAT process in terms of both compliance and cash flow. But on the other hand, VAT also means cash flow, because we are paying the suppliers and we're collecting from the customers and then giving the net amount to the government. There's obviously a timing difference between all these three activities. So just by, maybe, tweaking some of the arrangements we may be able to manage the cash flow better. I think it's a good idea that a full review is conducted.

I'm sure you have a fairly diverse client base and, in light of the COVID-19 pandemic, do you feel that the VAT authorities have shown enough empathy with businesses, and what more can be done?

I think different VAT authorities responded differently. In the Kingdom of Saudi Arabia, they gave an extension of dates and for filing, etc. The UAE gave an extension only for one particular month. Most of the companies in the UAE have quarterly filing and the quarters are staggered: you may have a quarter that ends at the end of January and I may have a quarter that ends in February. So it is staggered across the month. So the FTA only gave an extension of a month for those that had a March quarter end. Let's say one-third of the companies are in that quarter, the other two-thirds have different quarter ends. For me personally, I thought it would have been fairer if that was given to three quarters so that every company got a benefit, not just one third of the companies who had quarterly filings. At one level, I do understand why the tax authorities did that, particularly the way they are being so strict about penalties, and this is a country where the compliance culture probably wasn't really about their taxes; so VAT has completely new compliance requirements, and to this extent is very new to a lot of businesses. To ensure everybody comes in line, you may have to imposethese strict penalties. But I'm hoping that as the system progresses, and as time progresses, the penalties will follow suit.

Appendix C

CASE STUDY:

Exceptional Interior Decoration LLC

Exceptional Interior Decoration commenced operations in 2014 in the UAE. We perform interior-fit-out work for both commercial and residential spaces. We have done some very good projects over the years and hence have generally done well financially since commencement.

Our accounting process initially was rather rudimentary. We used to do project budgeting and monitor expenses and billing by project, using Excel. We also maintained records of petty cash in Excel. We maintained copies of all our customer and supplier invoices and related supporting documents. This was pretty much our regular accounting until VAT was announced. We didn't maintain fully fledged accounts and hence didn't really know how much overall profit we made.

In 2017, when it was clear that VAT was going to be a reality, we decided that we had to do proper accounting. We engaged a third-party accounting firm – Nishe – to set up the entire thing for us and create the books for all the prior periods, based on available records. The first question they asked us was whether we have copies of the bank statements. We hadn't maintained any, so we had to pay the bank to obtain duplicate copies of the bank statements from the inception of the company.

Nishe used the bank statements, all the various Excel sheets that we had maintained and the supporting documents to build our books of accounts from scratch. They had to make some judgements where there were gaps in our records. They discussed such judgement areas with us and together we arrived at our decisions.

Once the past was cleaned up, all the data was input into a cloud-based accounting package. Everything was ready well before VAT commenced. Subsequently, we have maintained regular books of accounts and have also got them audited on a regular basis. We have continued to use the same cloud-based accounting package.

While the decision to commence proper accounting was done because of VAT introduction, we believe that the discipline has helped us understand, analyse and control our business performance better. We continue to use a third-party accounting firm for supervision of our accounting and for ensuring ongoing VAT compliance.

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