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VAT

# Oil and Gas Guideline

Edition 1

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# 1. Introduction

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

The Unified VAT Agreement for the Cooperation Council for the Unified Arab States of the Gulf (the "VAT Agreement") was approved by KSA by a Royal Decree No. M/51, dated 31438/5/ H. Pursuant to the provisions of the Unified VAT Agreement, the KSA issued the VAT Law under Royal Decree No. M/113 dated 21438/11/ H ("the VAT Law") and its corresponding Implementing Regulations were subsequently issued by the Board of Directors of the General Authority of Zakat and Tax ("GAZT") by Resolution No. 3839 dated 141438/12/ H ("the Implementing Regulations").

## 1.2. General Authority of Zakat & Tax ("GAZT")

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

## 1.3. What is Value Added Tax?

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

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

- Collect VAT from their customers equal to a specified percentage of each eligible sale; and
- Pay VAT to their suppliers equal to a specified percentage of each eligible purchase.

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

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

Further general information about VAT can be found in the KSA VAT Manual or at [vat.gov.sa](http://vat.gov.sa)

## 1.4. This Guideline

The purpose of this guideline is to provide further clarification to taxpayers regarding the VAT implications of transactions in the oil and gas sector, including the following sector areas:

- “Upstream” activities such as exploration and production,
- “Midstream” activities such as transport and trading, and
- “Downstream” activities, including refining and distribution.

This guideline does not set out to cover the VAT implications of oil and gas retail activities. VAT concepts surrounding the sale of products at retail is discussed in a separate guideline on retail.

This guideline represents GAZT’s views on the application and fair treatment of the Unified VAT Agreement, the VAT Law and the Implementing Regulations to the oil and gas sector as of the date of this guideline. This guide amounts to a guideline, and does not include, or purport to include, all the relevant provisions in relation to oil and gas from those laws. It is not binding on GAZT or on any taxpayer in respect of any transaction carried out and it cannot be relied upon in any way.

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

## 2. Definitions of the main terms used

**Economic Activity** is a term referring to the activities which fall within the scope of VAT. This includes not only the activities of legal persons but also any other ongoing regular activities which may be carried out by any person, whether natural or legal. The term “Economic Activity” is defined by the Unified VAT Agreement for VAT purposes as:

*“An activity that is conducted in an ongoing and regular manner including commercial, industrial, agricultural or professional activities or Services or any use of material or immaterial property and any other similar activity.”<sup>1</sup>*

**Kingdom** is a defined term for VAT purposes as:

*“The territory of the Kingdom of Saudi Arabia, including the areas located outside the territorial waters in which the Kingdom of Saudi Arabia practices the rights of sovereignty over its water, the seabed, the layers under the soil and natural resources, pursuant to its laws and international law.”<sup>2</sup>*

**International waters** is not a defined term for VAT purposes. It is used in this guideline to refer to any area of the sea outside of the territory of any country (under which neither the Kingdom nor any other country claims sovereignty).

**Goods** is defined term for VAT purposes as:

*“All types of material property (material assets), including water and all forms of power including electricity, gas, lighting, heating, cooling and air conditioning.”<sup>3</sup>*

**Supply of Services** is a defined term for VAT purposes which refers to any supply that does not fall in the definition of Goods for VAT purposes.<sup>4</sup>

**Place of Supply** is a concept detailed in the Unified VAT Agreement to determine in which country a supply of goods or services takes place for VAT purposes.<sup>5</sup>

**Oil and Gas** are not defined terms for VAT purposes. For the purpose of this guideline, they refer to all petroleum hydrocarbons in a liquid or gaseous form. Chapter 5 describes the types of oil and gas in more detail.

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<sup>1</sup> Article 1, Definitions, Unified VAT Agreement.

<sup>2</sup> Article 1, Chapter 1, Preliminary Provisions, KSA VAT Law.

<sup>3</sup> Article 1, Definitions, Unified VAT Agreement.

<sup>4</sup> Article 7, Supply of Services, Unified VAT Agreement.

<sup>5</sup> Chapter 3 (Articles 1022-), Place of Supply, Unified VAT Agreement

The **pipeline distribution system** is not a defined term for VAT purposes. GAZT considers that this includes any integrated network of pipelines or similar infrastructure that can transport Oil and Gas from one stage of the supply chain to another, such as transmission networks, distribution networks, and associated facilities connected to those networks whereby refined oil or gas are distributed to distributors or consumers. By contrast, a single transmission pipeline used for transporting crude oil or gas to or from a refinery is not likely to be viewed as a pipeline distribution system.

**International Transport** is a defined term for VAT purposes as:

*“The provision of a transportation service by means of a vehicle, aircraft or vessel together with a driver or pilot and with a crew where necessary for the purpose of that service, provided that the transportation service involves transport of Goods or passengers either to a place outside the Kingdom, or from a place outside the Kingdom into the Kingdom.”<sup>6</sup>*

The hire of a means of transport without a driver, pilot or crew is not a supply of international transport.

**Qualifying Means of Transport** is a defined term for VAT purposes as:

*“A qualifying means of transport means any vehicle, vessel or aircraft designed or adapted to carry a minimum of (10) people, or designed to carry Goods on a commercial basis, which is used predominantly for international transportation and not domestic passenger transportation.*

*Any means of transport adapted for or intended for recreation or private use is not a qualifying means of transport.”<sup>7</sup>*

**Import of Goods** is a defined term for VAT purposes as:

*“The entry of Goods into any Member State from outside the Council Territory in accordance with the provisions of the Unified Customs Law.”<sup>8</sup>*

During the transitional period, the receipt of Goods into the Kingdom from another Member State by a Taxable Person will be treated as an import of goods to the KSA<sup>9</sup>. These transitional measures are discussed in further detail in section 9 of Imports and Exports guide. Any movement of goods to the KSA during this transitional period will be considered an Import of Goods for the purposes of this guideline.

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6 Article 34(7), Transportation services for Goods and passengers outside the Kingdom and Supplies relating to transportation,

7 Article 34(8), Transportation services for Good or passengers outside the Kingdom and Supplies relating to transportation, Implementing Regulations.

8 Article 1, Definitions, Unified VAT Agreement

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

**Importer**, the person liable for paying VAT on the Import of Goods, is defined for VAT purposes as “the person appointed or acknowledged as an importer pursuant to the Common Customs Law<sup>10</sup>”. The Common Customs Law defines Importer to mean “the natural or legal person importing the goods”.<sup>11</sup>

**Export of Goods** is a defined term for VAT purposes as:

*“Supply of Goods from any Member State to the outside of the GCC Territory in accordance with the provisions of the Common Customs Law.”<sup>12</sup>*

The export of goods therefore must involve a supply of those goods. A movement of a person’s own goods outside of the GCC Territory is not a supply for VAT purposes, other than in the case of a Nominal Supply.

During the transitional period, a supply of goods involving transport of the goods from the KSA to another GCC Member State shall be treated as an Export of the Goods for VAT purposes<sup>13</sup>. These transitional measures are discussed in further detail in section 9 of Imports and Exports guide. Any supply of goods from the KSA during this transitional period will be considered an Export of Goods for the purposes of this guideline.

**Trade Terms** or **Incoterms** are not defined terms for VAT purposes. These are agreed terms of trade for international contracts, designed to communicate which party is responsible for various costs and risks surrounding the transport of goods. The Incoterms trade terms are often denoted by three letter abbreviations such as CIF (for Cost Insurance and Freight). Trade terms are indicative, but are not determinative of the contractual position agreed between the parties.

**Customs duty suspension situation** means any of the Cases where customs duties and taxes are suspended in accordance with Section VII of the Common Customs Law.

**Free circulation** is not a defined term for VAT purposes. It is used commercially and within this guideline to refer to the status of goods for which formal importation procedures for import into the Kingdom are completed, and the goods are not within a customs duty suspension situation.

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10 Article 42, Person Obligated to Pay Tax in respect of Import, Unified VAT Agreement

11 Article 2.29, Common Customs Law

12 Article 1, Definitions, Unified VAT Agreement

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

## 3. Economic Activity and Registration

### 3.1. Who carries out an Economic Activity?

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

It will be presumed that a legal person that has a regular activity making supplies carries on an Economic Activity.

Natural persons may perform certain transactions as part of their Economic Activity, or as part of their private activities. There are therefore specific rules to determine whether a natural person falls within the scope of VAT or not.

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

### 3.2. Mandatory registration

Registration is mandatory for all persons whose annual turnover exceeds a certain threshold. If the total value of a person's taxable supplies during any 12 months exceeds SAR 375,000, (the "mandatory VAT registration threshold"), that person must register for VAT <sup>14</sup> on the supplies made, subject to the transitional provisions provided for in the Implementing Regulations.

Taxable supplies do not include:

- Exempt supplies– such as exempt financial services or residential rental which qualifies for VAT exemption;
- Supplies taking place outside the scope of VAT in any GCC state; or
- Revenues on sales of capital assets – a capital asset is defined as an asset allocated for long-term business use <sup>15</sup>.

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

- Persons who are not resident in the Kingdom of Saudi Arabia are required to pay the VAT in respect of supplies made or received by them in the Kingdom of Saudi Arabia and to register for VAT irrespective of the value of the supplies for which they are obliged to collect and pay the VAT <sup>16</sup>.

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<sup>14</sup> Article 3, Mandatory registration - Supplies exceed the Mandatory Registration Threshold, Implementing Regulations

<sup>15</sup> Article 1, Definitions, Unified VAT Agreement.

<sup>16</sup> Article 5(1), Mandatory registration of Non-Residents obligated to pay Tax in the Kingdom, Implementing Regulations.

- During a transitional period up to 1 January 2019, businesses will only be required to register where annual turnover exceeds SAR 1,000,000. Starting from 2019, the mandatory registration shall be required when annual turnover exceeds SAR 375,000 as required in the Unified VAT Agreement. For persons whose annual turnover will exceed SAR 375,000 during the 2019 calendar year, an application for registration must be submitted no later than 20 December 2018.<sup>17</sup>

In the oil and gas industry, exporters and traders might make exclusively zero-rated supplies of goods for export. Resident or non-resident persons who carry on activities in the KSA which solely involve making zero-rated supplies are not required to register for VAT, but may elect to do so voluntarily.<sup>18</sup>

More information on mandatory registration for VAT is contained at [vat.gov.sa](http://vat.gov.sa)

### 3.3. Optional VAT registration

Any Resident person in the Kingdom of Saudi Arabia who has taxable supplies or taxable expenses exceeding the “Optional VAT registration threshold” of SAR 187,500 in a twelve-month period may register for VAT on a voluntary basis<sup>19</sup>.

Optional VAT registration may be desirable where a business wishes to claim VAT charged to it on their costs before invoices are raised or the occurrence of an onward supply. Section 6 of this guideline provides more detail on optional registration in an exploration context.

More information on voluntary registration for VAT is contained at [vat.gov.sa](http://vat.gov.sa)

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<sup>17</sup> Article 79 (9), Transitional provisions, Implementing Regulations

<sup>18</sup> Article 9(1), Registration provisions applying to specific circumstances, Implementing Regulations

<sup>19</sup> Article 7, Voluntary Registration, Implementing Regulations

## 4. Territorial scope of KSA

### 4.1. Definition

Persuant to the Unified VAT Agreement, VAT shall be imposed on the following transactions:

1. *“Taxable supplies by a Taxable Person in the **Member State Territory**.”*
2. *Receipt by a Taxable Customer of Goods or Services supplied to him by a Non-Resident and non-Taxable Person in the Member State in instances where Reverse Charge Mechanism applies.*
3. *Importation of Goods by any Person.*<sup>20</sup>

The KSA only applies VAT on transactions which take place within the territory of the Kingdom, under the place of supply rules (discussed in chapter 5 of this guideline). For these purposes, the territory of the KSA includes:

- The **territorial lands**, (including the air space, layers under the soil and natural resources) and its **internal waters**;
- The **territorial waters** of the KSA, which are defined to extend twelve (12) nautical miles from the coast of the legally adopted baseline of the maritime zone of the Kingdom in the Red Sea, Gulf of Aqaba and the Arabian Gulf<sup>21</sup> (including the air space, layers under the soil and natural resources).

In addition, the VAT Law clarifies that the Territory of the Kingdom of Saudi Arabia also includes

- *“the areas located outside the territorial waters in which the Kingdom of Saudi Arabia practices the rights of sovereignty over its water, the seabed, the layers under the soil and natural resources, pursuant to its laws and international law<sup>22</sup>.”*

These areas which fall under the rights of sovereignty, but outside of territorial waters are referred to as the Exclusive Economic Zone<sup>23</sup>. The Exclusive Economic Zone extends to the maritime boundaries with the Kingdom’s neighbouring and opposite states.

Note that the concept of the Territory for VAT purposes is different to the “customs zone” as defined in the Common Customs Law<sup>24</sup>. The KSA’s VAT Territory might in some cases extend further than the customs zone.

<sup>20</sup> Article 2, Scope of Tax, Unified VAT Agreement.

<sup>21</sup> Law of Maritime Zones of the Kingdom of Saudi Arabia, Royal Decree M/6, dated 181433/1/ H.

<sup>22</sup> Article 1, Preliminary Provisions, VAT Law.

<sup>23</sup> Article 12, Law of Maritime Zones of the Kingdom of Saudi Arabia, and United Nations Convention on the Law of the Sea

<sup>24</sup> Article 2, General Provisions and Definitions, Common Customs Law

## 4.2. Application to activities in the oil and gas sector

In the oil and gas sector, exploration and production activities, and related services of third party providers, may be carried out in offshore waters. Likewise, the supply of crude and refined products can take place at an offshore facility, or on a means of transport in offshore waters.

It is therefore important to ascertain if activities and the corresponding supplies are made within the KSA territory, particularly in the case of offshore activities and activities taking place across a land border or maritime boundary.

Offshore activities, provided they are carried out in the sovereign Exclusive Economic Zone, are considered to be carried out within the KSA's Territory for VAT purposes.

In other instances where oil and gas activities take place across any land border or maritime boundary between the Kingdom and another state, or between the Kingdom and international waters, the person carrying on those activities must be able to determine to what extent supplies are made inside the Kingdom's Territory, and to what extent supplies are made outside the Kingdom's Territory for VAT purposes.

Reference should be made to international treaties and domestic regulations to determine the Kingdom's territory in specific cases.

## 5. Supplies of Oil and Gas

### 5.1. Oil and Gas

The table below categorizes the main types of oil and gas supplied within the sector.

Crude oil	HS code 27 09	Unrefined oil extracted directly, or condensates produced as a by-product of hydrocarbon refining processes. Crude oil may be supplied but must be refined before it is used.
Natural gas	HS codes 27 11 11 and 27 11 21	Natural gas may be supplied and transported in a gaseous form. Natural gas may also be liquefied and transported or supplied as Liquefied Natural Gas (LNG).
Refined products	Most other petroleum oils or gases in HS chapters 27 10 or 27 11	Hydrocarbons in a liquid or gaseous form which have been refined for use as fuel (for example: for heating, cooling, industrial use, or in any means of transport).

The supply of crude oil, natural gas or refined products is a supply of goods for VAT purposes. All domestic supplies of oil or gas within the Kingdom are subject to VAT at 5%.

### 5.2. Place of Supply rules for Goods

All supplies of oil and gas which do not take place through a pipeline distribution system (such as supplies of products transported in barrels, tanks or other containers, vessels, or product directly pumped into a vehicle or machine) are subject to the standard rules to determine the place of supply of those Goods.

In these cases, the place of supply is determined as follows:

- The place of supply of Goods that occur without transportation or dispatch thereof shall be the physical location of the Goods on the date they are placed at the Customer's disposal <sup>25</sup>. For example, if a Supplier sells a certain quantity of aviation fuel to a Customer who uplifts this at King Khalid International Airport for a direct "wingtip" supply to the airplane, the place of supply is at the airport.
- The place of supply of Goods that occur with transportation or dispatch thereof by the Supplier or to the account of the Customer shall be the physical place of the Goods when the transportation or dispatch begins<sup>26</sup>. For example, when a Supplier delivers oil barrels from its storage premises to the Customer's warehouse, the place of supply is the Supplier's storage premises.

<sup>25</sup> Article 10, Supply of Goods without Transportation, Unified VAT Agreement.

<sup>26</sup> Article 11, Supply of Goods with Transportation, Unified VAT Agreement.

Supplies of oil and gas which have a place of supply in the KSA are subject to VAT, irrespective of the fact whether the customer is a Taxable or non-Taxable Person. The standard VAT rate of 5% applies to domestic transactions, and the zero-rate applies to exports.

**Example (1):** Saudi Fuel Station (“SFS”) is a registered Company for KSA VAT purposes. Its fuel station is located in Dammam. SFS purchases 20 tons of fuel from a KSA licensed Distributor at a predetermined price and uploads the fuel in its container at the Distributor’s premises in Abqaiq. Afterwards, SFS is able to dispose of the fuel as it chooses: it could sell to another Customer in Abqaiq, or it could choose to transport the fuel back to its own storage facility.

In this case, the Distributor (Supplier) is making a supply of Goods without transportation. If SFS as Customer chooses to transport the goods, this is not anticipated as a consequence of the Distributor’s supply. Therefore, the place of supply of the Goods is in the KSA (at Abqaiq) – being place where the Goods are located when they are placed at the Customer’s disposal.

Note: Transitionally, a supply involving the movement of goods outside of KSA territory to other GCC member states is also considered an export subject to the zero rate<sup>27</sup>. Please see the guidelines for Transitional provisions or Import and Export for more details.

### 5.3. Place of Supply of Oil or Gas through a Pipeline Distribution System

As an exception to the standard rules, the place of supply for oil or gas through a pipeline distribution system by a Taxable Person who is established in a Member State to a Taxable Trader established in another Member State shall be the place where the Taxable Trader is established<sup>28</sup>.

**Example (2):** Local Processing Company (“LPC”) is a Saudi Company licensed to distribute clean natural methane gas to Fractionator Plants in all GCC Member States. LPC sells 10 million cubic meters of clean natural methane gas through a pipeline distribution network to a Fractionator Plant, a UAE Taxable Person, which intends to make onward supplies to other UAE manufacturing companies for the purpose of using the gas as feedstock to their operations.

In this case, the UAE Fractionator Plant is a Taxable Trader for VAT purposes, and the place of supply of this transaction is the place where the Taxable Trader is established – i.e. UAE. Therefore, this supply is considered as outside the scope of KSA VAT.

<sup>27</sup> Article 79(7), Transitional provisions, Implementing Regulations.

<sup>28</sup> Article 14 (1), Supply of Gas, Oil, Water and Electricity, Unified VAT Agreement.

A different rule applies to supply of products through a pipeline distribution system which are made to a person who is not a Taxable Trader. Such supplies are not expected to be common within the oil and gas sector (other than supplies made by gas utility providers). The VAT implications for supplies through a distribution system are discussed in a separate taxpayer guideline on electricity and utilities.

## 5.4. Imports of Goods into the KSA

Imports of goods into the KSA from outside the GCC Territory are subject to VAT, upon the import declaration of those goods to Saudi Customs.

As a transitional measure, all imports of goods into the KSA from any other Member State are also subject to VAT, until the introduction of an Electronic Services System and the full implementation of VAT rules for intra-GCC trade. During the transitional period, Saudi Customs will also apply import VAT to goods entered from another GCC State.

The registered Importer of the Goods <sup>29</sup> is in all cases the Person liable to pay the Import VAT to Saudi Customs. Please refer to the Imports and Exports guideline for further detail on the import process.

## 5.5. Supplies of Goods before or after Import

The Import of Goods is a separate event to the Supply of those Goods. Where oil and gas (and refined products) are transported to the Kingdom and are supplied before the formal import clearance, the supply taking place before import clearance is outside the scope of KSA VAT <sup>30</sup>.

**Example (3):** Geneva Trading is a Swiss commodity trader dealing in physical energy products. It agrees with Saudi Distribution Company to sell 100,000 liters of lubricants for marine engines. The agreed trade terms are that Geneva Trading is responsible for shipping the product from storage in Rotterdam to the port in Jeddah, under the trade term Delivered At Terminal. The customer, Saudi Distribution Company, is responsible for importing the lubricant into the KSA. The Swiss trader's supply – before import in KSA - takes place outside the KSA for VAT purposes, as it is a supply of goods transported from a location outside of GCC Territory.

Saudi Distribution Company enters into an agreement to sell the lubricants directly on to another KSA company, Marine Logistics KSA. It agrees that it will not import the goods, but will instead sell these under the same trade term (Delivered At Terminal), after which Marine Logistics will be responsible for importing the goods. The supply by Saudi Distribution Company takes place before the import of goods, so is also deemed to be outside the scope of KSA VAT.

<sup>29</sup> Article 42, Person Obligated to Pay Tax in respect of Import, Unified VAT Agreement

<sup>30</sup> Article 27(3), Goods sold with transportation, Implementing Regulations

A supply of oil and gas which takes place after the goods have been imported into the KSA is viewed to be a domestic supply and subject to VAT at 5%.<sup>31</sup>

**Example (4):** Saudi Petrochemicals Company purchases benzene directly from a refinery in South Africa. It purchases the goods under the Free on Board trade term at the South African port, and arranges for these to be transported to Saudi Arabia and imported. Saudi Petrochemicals Company is the named Importer and pays VAT on the import.

Saudi Petrochemicals Company delivers these goods directly to an industrial customer's premises in the KSA. In this case, whilst the goods originate from outside the KSA, Saudi Petrochemicals Company makes a domestic supply of the goods after their import. This supply is subject to KSA VAT at 5%.

## 5.6. Exports of Goods from the KSA

Supplies which involve the export of Goods from the KSA to a place outside of GCC Territory are zero-rated for VAT purposes.

In standard cases, an export involves both:

- The completion of an export declaration by the exporter as required under the Common Customs Law <sup>32</sup>(subject to any specific procedures specified by Saudi Customs for exports of oil and gas, or different export requirements for exports transported directly from the Exclusive Economic Zone); and
- Transport of the goods outside of the GCC territory.

**Example (5):** Gulf Exploration has a licence to carry out shallow water drilling in a field situated in the Arabian Gulf, within Saudi Arabia's territorial waters and within KSA Territory for VAT purposes. The crude oil is processed at the drilling platform site by a Floating Production Storage and Offshoring vessel, and then loaded onto a tanker for direct export to purchasers in Singapore.

For VAT purposes, the oil product is exported from KSA Territory, despite the product never having been on shore (on the land territory). Gulf Exploration arranges for the relevant export documentation to be completed. Its supplies of the oil are zero-rated for VAT purposes.

It is GAZT's position that zero-rating applies to the supply of the goods which includes the transport of those goods outside KSA. In other words, where under the facts and circumstances surrounding a supply it is clear that exportation of the goods is intended to be part of the supply or is otherwise anticipated by the supplier and the customer as an imminent and direct consequence of that supply, it is likely that the supply of goods will be an export.

<sup>31</sup> Article 27(3), Goods sold with transportation, Implementing Regulations.

<sup>32</sup> Article 42, Common Customs Law

For example, if under the agreement with the customer a supplier's obligation includes the supply of certain goods *and* the transport of the goods to a specific destination, the zero rate should apply if such destination is outside the Kingdom (provided all the other conditions for zero-rating are met).

In practice, to evidence intent to export or that export was anticipated by the supplier and customer, GAZT would generally expect a supplier be able to provide at least one of the following:

- Export documentation showing the goods being exported by the Supplier or in the name of the Supplier;
- Transport documentation that shows the supplier as the transporter of the goods to a destination outside of the GCC territory; or
- Export documentation showing the goods being exported by the Customer or in the name of the Customer, provided that this documentation either names the Supplier of the goods or evidences the exact goods which were supplied by the Supplier being exported.

In all cases, a supply may only be considered as an export where the supplier and customer both intend that the goods are transported outside the GCC territory as a consequence of that supply<sup>33</sup>.

The trade terms or Incoterms agreed between the parties in respect of a supply, if any, are not determinative but may indicate which party is liable for movement of the goods, or where risk to the goods passes.

Please refer to the Import and Export guideline for further detail and examples.

### 5.6.1. Documentation to evidence Export of Goods

A supplier making an export of goods must in all cases obtain documents to evidence the goods being transported outside of GCC Territory. This evidence must include at least each of the following:

- a) export documentation issued by the Customs Department or equivalent Department of another Member State, showing the Goods being formally cleared for export on behalf of the Supplier or Customer of that Supply,
- b) commercial documentation identifying the Customer and the place of delivery of the goods,
- c) transportation documentation evidencing the delivery to, or receipt of goods outside of Council Territory<sup>34</sup>.

Commercial documentation may be an invoice, contract, consignment or inventory list, or similar formal document issued to, issued by or agreed with the customer. This should evidence the transport of the goods being made to a place outside of GCC territory.

<sup>33</sup> Article 27(1), Goods sold with transportation, Implementing Regulations.

<sup>34</sup> Article 32(3), Exports of Goods from the Kingdom, Implementing Regulations

Transportation documentation is a formal bill of lading or equivalent document issued by a carrier or transportation company, or other verifiable third party evidence of transport where the Goods are transported using a courier or other third party.

Documentation must be obtained by the supplier within ninety days of the date of the supply. This is particularly relevant in cases where the customer is responsible for physical transport, and will hold the relevant transportation documentation.

A supplier may therefore apply the zero-rate at the date of supply if he expects to receive appropriate documentation in the normal course of events. If no documentation is obtained by this date, the supplier must treat his supply as a domestic supply (as if the supply had not involved an export) and apply VAT accordingly.

## 5.7. Supplies made after export clearance

In the oil and gas sector supplies of crude or refined products can often be traded (purchased and sold) whilst on a ship which is awaiting departure from a KSA port, or in transit whilst carrying out an international movement.

In this way, in cases where a cargo of goods has already been the subject of an export supply, the same cargo of goods could be subsequently supplied whilst those goods are physically located in the Kingdom (i.e. within its territorial waters<sup>35</sup>), despite having been earlier cleared for export.

Any subsequent supply of goods made after the export supply, and after the export clearance has taken place, can also be treated as an export of goods and zero-rated<sup>36</sup>.

**Example (6):** KSA Refinery Company enters into a contract to sell 200,000 litres of bitumen to an Italian customer. The goods are sold under the Cost Insurance and Freight (CIF) trade term, with the named destination port of Trieste, Italy. Under this trade term, KSA Refinery Company is liable for clearing the goods for export and for the costs and risk of transport to the destination port. KSA Refinery Company makes an export of goods for VAT purposes.

After the goods are cleared for export and loaded onto the vessel, the Italian customer accepts an offer to sell the same quantity of 200,000 litres of bitumen to a Swiss commodity trader for an increased price, under the same trade terms (Cost Insurance and Freight to the destination of Trieste). The sale – and the transfer of ownership of the bitumen – takes place in KSA territorial waters, but this is also zero-rated as the goods are already cleared for export.

<sup>35</sup> Article 1(1), VAT Law – Definition of the Kingdom

<sup>36</sup> Article 32(5), Exports of Goods from the Kingdom, Implementing Regulations

## 5.8. Supply of Goods to or within a Customs Duty Suspension situation

An import or supply which involves goods within or travelling to a location that is controlled by Saudi Customs as a customs duty suspension situation (such as customs-suspended warehouses or free zones) <sup>37</sup> is subject to special rules for VAT.

The Import of Goods from outside the Kingdom into a customs duty suspension situation has VAT suspended (together with any customs duty due). The VAT becomes payable when the goods are released from the duty suspended status <sup>38</sup>.

A Supply of Goods that takes place within a customs duty suspension situation (in accordance with the place of supply rules detailed above) is zero-rated <sup>39</sup>.

A Supply of Goods which involves the movement of those Goods from free circulation in the Kingdom into a customs duty suspension situation as a consequence of the supply is zero-rated <sup>40</sup>.

In order to apply a zero-rate to a Supply of goods to or within the customs duty suspension situation, the Supplier of the Goods must retain documentary evidence of:

- the location of the Goods within the customs duty suspension situation at the time of Supply; or
- of the Goods moving into the customs duty suspension situation as a consequence of their Supply.

Any physical area which forms part customs duty suspension situation is considered to be an integrated part of the Kingdom's territory. Other than described above, any supplies involving a customs warehouse, free zone or other customs duty suspension situation (such as a supply of services connected to the customs duty suspension situation) will be subject to VAT in accordance with applicable VAT rules and implementing regulations.

<sup>37</sup> Section VII, Cases Where Customs Taxes "Duties" Are Suspended and Drawback, Common Customs Law.

<sup>38</sup> Article 39, Suspension of Tax, Unified VAT Agreement

<sup>39</sup> Article 34, Supplies to Outside the GCC Territory, Unified VAT Agreement

<sup>40</sup> Article 34, Supplies to Outside the GCC Territory, Unified VAT Agreement

## 6. VAT considerations for Upstream Activities

### 6.1. Exploration

In the oil and gas sector, the activity of “exploration” involves identifying deposits of hydrocarbons and assessing the commercial and economic viability of specific locations for extraction of the crude oil and gas. An exploration company will sign a petroleum concession agreement with the Government to obtain exploration and production rights to a contractual assigned area.

Exploration is considered to be an Economic Activity for VAT purposes. On the assumption that the person carrying out the exploration will also have rights to extract or “produce” the oil or gas and sell this to purchasers, that Person’s Economic Activity intends to make taxable supplies of the oil and gas. In this way, the exploration activities should result in a right to input tax deduction on any KSA VAT charged on imports or purchases made by that person in the course of the exploration.

Provided that the person carrying on exploration is eligible to register in the KSA as a Taxable Person, it is entitled to VAT deduction – even in cases where it does not (yet) make any taxable supplies.

**Example (7):** Peninsula Exploration Group, a KSA Company located in Abqaiq, is specialized in the exploration of oil and gas within Saudi Arabia.

The Group obtains a licence to carry on exploration activity in a specified licence area in the KSA’s territorial waters. The Group sets up a specific Company, Peninsula Offshore Limited, which is licensed to conduct preparatory activities in the Kingdom from 1 January 2021 such as:

- Geological assessment
- Exploration drilling to confirm the presence of hydrocarbon reservoirs
- Appraisals to determine whether the reservoirs are economically feasible to develop and start producing oil and gas.

If the reservoirs are commercially feasible, Peninsula Offshore will carry out the production activity and sell the crude oil and gas to the domestic or export markets.

Peninsula Offshore Limited carries out ongoing and regular exploration activities for Oil and Gas in the Kingdom which meet the definition of an Economic Activity. Whilst it will not make any taxable supplies during the exploration phase, it expects to incur expenditures which significantly exceed the Optional Registration Threshold during 2021. It is therefore able to register from 1 January 2021, and deduct VAT incurred where this can be linked to intended future taxable supplies.

### 6.1.1. Unsuccessful exploration

An exploration activity is an Economic Activity even in cases where it does not result in the project being feasible for commercial extraction or production. In such cases, the VAT registration of a Person, and the deduction of VAT incurred during an exploration process (based on the intention to extract and make taxable supplies of oil or gas) is not required to be retrospectively adjusted.

GAZT considers that – in the case of an exploration project intended for extraction and taxable sales of oil and gas - the right to VAT deduction exists in principle for VAT incurred on exploration costs incurred up until a decision not to commercially extract oil and gas, and also for the VAT incurred on any necessary costs for decommissioning of the exploration area. All such costs are connected to the Economic Activity which, if successful, would have involved making taxable supplies.

## 6.2. Development

The development phase of upstream activity involves preparation of the site for production and establishment of the necessary infrastructure for production.

As in the exploration phase, the development phase forms part of the Economic Activity and is connected to the intended future taxable supplies of oil and gas (or other services).

An extractive company will incur capital and operational expenditure from third party suppliers during this period. For projects in the KSA territory, VAT incurred on this expenditure should in most cases be assumed to be subject to KSA VAT. The extractive company incurring such costs should be eligible to deduct this VAT as input tax, subject to the usual criteria for input tax deduction. Please refer to chapter 9 of this guideline.

## 6.3. Production

The production phase involves the extraction of crude oil and gas from the ground, for the purpose of refining, processing or for immediate sale in an unrefined state. The eventual sale may be for direct export, sale to the local market or sale to a government or commercial intermediary for sale to market (this may depend on the terms of the petroleum concession agreement signed with the government).

In all cases, the sale of the extracted product as crude or refined product extracted from within KSA territory is a supply of goods. These supplies can either be:

- A taxable supply at the 5% rate, for domestic sales in the KSA;
- A taxable supply at the 0% rate, for goods exported from the KSA as part of their sale; or
- A supply which takes place after the extractive company exports it outside of KSA territory, where the supply does not itself involve the export of the goods. This supply would fall outside the KSA under place of supply rules and is not subject to KSA VAT, but would have been taxable if it had been made in the KSA.

Sales of oil or gas extracted in KSA territory should therefore give the extraction company the right to deduct VAT on production activities.

If an extraction company uses some portion of the oil and gas within its activities (e.g. to power its processing equipment), this is not a supply for VAT purposes. Provided this oil or gas is used within the taxable Economic Activity, this use does not affect the right to input tax deduction on the extraction company's costs.

An extraction company may also charge for services provided. These are discussed further below in sections concerning Service Providers and Exploration and Production Consortia.

### 6.3.1. Royalties

Any royalties, license payments or production sharing payments which the extraction company is required to make to Government under the petroleum concession agreement is not, in principle, likely to be consideration for a supply made by the Government as part of an Economic Activity. VAT is not expected to be chargeable on these amounts.

## 6.4. Service Providers

Many services in the upstream sector will be carried out by third party service providers. In some cases, an exploration or extraction company may itself charge for the provision of these services to other companies.

### 6.4.1. Place of Supply – General Rule

As a default principle, the place of supply of services made by a Taxable Supplier who is resident in the KSA is in the KSA <sup>41</sup>.

A resident includes a company legally established in the KSA, or a company established elsewhere with a fixed establishment in the KSA. For VAT purposes, a fixed establishment includes:

“Any fixed location for a Business other than the Place of Business, in which the business is carried out and is distinguished by the permanent presence of human and technical resources in such a way as to enable the Person to supply or receive Goods or Services.” <sup>42</sup>

GAZT considers that in most cases, a non-resident company who is licensed to operate within the sector in the KSA will have a fixed establishment in the KSA.

In cases where a Supplier is resident in both the KSA and another country, the place of residence, and the place of supply under the default rule, will be considered to be in the place most closely connected with the supply. <sup>43</sup>

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<sup>41</sup> Article 15, Place of Supply of Services, Unified VAT Agreement. Note that this is subject to special rules for intra-GCC services, to come into effect after an Electronic Services System is introduced. Please see the guideline on Imports and Exports for detail. Further information will be provided upon the introduction of the Electronic Services System.

<sup>42</sup> Article 1, Definitions, Unified VAT Agreement

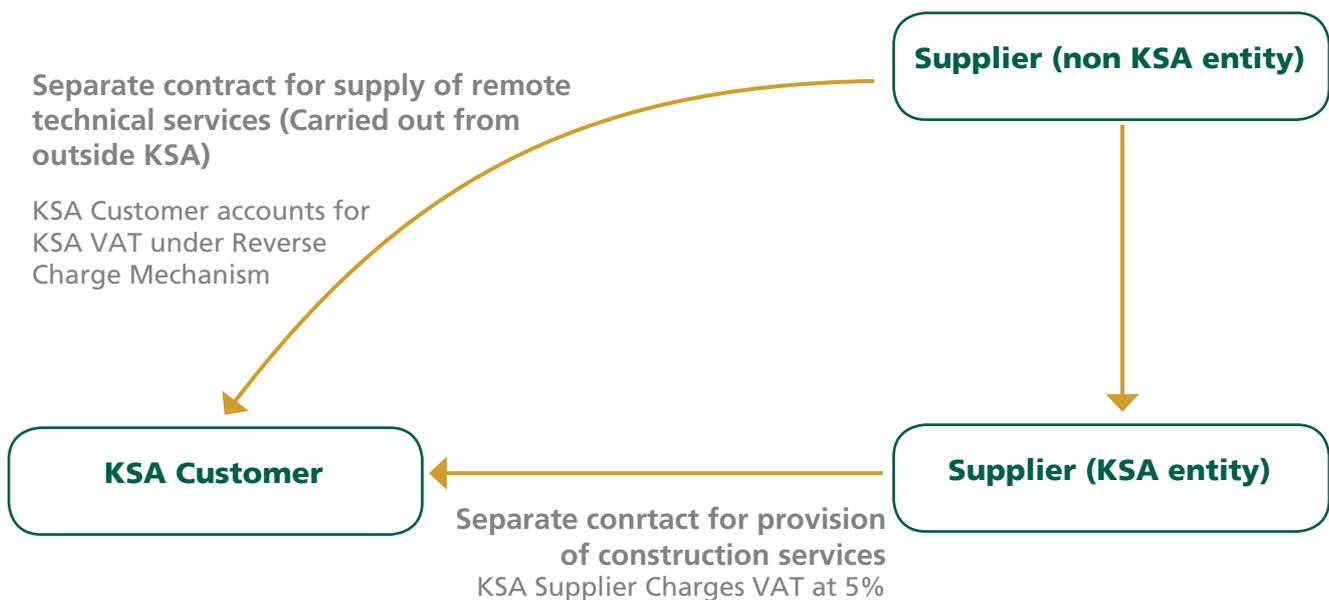
<sup>43</sup> Article 1, Definitions, Unified VAT Agreement

This means that supplies made by a non-resident company, but connected to a KSA branch or fixed production facility will be considered to be made from the non-resident company's KSA establishment.

In some cases, it is possible that a non-resident will enter into a contract for the supply of "remote" services, which can be provided without physical presence in the KSA (typically Services such as design, off-site engineering and use of intellectual property). If the non-resident provides a distinct bundle of remote services from a non-KSA establishment, and these are separate to services provided by the local branch, the non-KSA establishment may in principle be viewed as the Supplier of the remote services for VAT purposes. The place of supply should be carefully reviewed based on the facts of each case.

The diagram below shows a supplier making separate supplies of remote services from its non-KSA establishment, and local construction services from its KSA branch.

#### TWO DISTINCT SUPPLIERS IN SAME MULTINATIONAL GROUP



**Example (8):** Swan PetroServices is an Australian company with a KSA branch. The KSA branch of Swan PetroServices enters into an agreement with KSA Exploration Limited to construct a fixed production facility in the KSA. Separately, Swan PetroServices Australia enters into a separate agreement with KSA Exploration for the provision of remote Services which are wholly carried out by experts in the Perth head office. Both Supplies are Services connected to the facility located in the KSA.

Swan PetroServices KSA issues an invoice for the first milestone payment of the contract

Swan Petro Services KSA Limited TIN 30000 28809 00003	Date: 30 September 2024
Construction Milestone 1	SAR 1,600,000
VAT at 5%	SAR 80,000
<b>Total due for payment</b>	<b>SAR 1,680,000</b>

Swan PetroServices Australia issues a separate invoice to reflect the remote Services directly provided to KSA Exploration Limited. This invoice does not include KSA VAT, but KSA Exploration Limited is required to account for VAT at 5% under the Reverse Charge Mechanism, in its VAT return.

#### 6.4.2. Place of Supply – Special Cases

In certain special cases, alternative rules for determining place of supply apply instead of the general rule <sup>44</sup>.

Special cases which are particularly relevant to services provided in the upstream sector include:

- Supplies of real estate related services take place where the real estate is situated <sup>45</sup>. Real estate is defined to include “any specific area of land over which rights of ownership or possession or other rights in rem can be created” <sup>46</sup>, and therefore includes a specified exploration area and any facilities established on it. Real Estate related services are those which affect or are related to a specific area of Real Estate. In an upstream context, GAZT considers that this includes any services which are linked to a specific exploration area on the land or seabed.
- Supplies of transportation services and transport-related services take place in the country where the transport begins <sup>47</sup>. Transportation services include transport of passengers on any means of transport, and transport of oil or gas in a vessel or in a pipeline. Please see the Transportation guideline for further detail.

<sup>44</sup> Article 22, Place of Supply – priority of special provisions, Implementing Regulations

<sup>45</sup> Article 19, Supply of Real Estate Related Services, Implementing Regulations

<sup>46</sup> Article 23, Real Estate related services, Implementing Regulations

<sup>47</sup> Article 18, Supply of Goods and Passenger Transportation Services, Unified VAT Agreement

### 6.4.3. Supply of Services to non-resident Customers

A supply of services to a non-resident Customer who benefits from the service outside the GCC Territory can be zero-rated<sup>48</sup>, subject to conditions specified in the Implementing Regulations<sup>49</sup>.

Please see the Import and Export guideline for detail on these conditions. In many cases, services provided in connection with the KSA upstream sector will have a benefit within the KSA. The table below provides an indication of cases where zero-rating is unlikely to be applicable.

### 6.4.4. VAT Treatment of Common Upstream Services

This table is provided as an indicative guide of the likely treatment of common services. Individual service agreements should be reviewed based on the exact scope and nature of services provided.

<b>Seismic testing and exploration drilling</b>	<p>Real estate-related service; subject to VAT for an exploration area within KSA territory.</p> <p>Should not be zero-rated if provided to a non-resident customer.</p>
<b>Lease of plant, equipment and machinery</b>	<p>General rule applies; subject to VAT when supplied from a KSA establishment. See section 6.8 for imports of plant, equipment and machinery.</p> <p>The supply by way of lease of a qualifying means of transport used for international transportation of goods or passengers, can be zero-rated, subject to conditions.</p>
<b>Drilling of wells and construction of production facilities</b>	<p>Real estate-related service; subject to VAT for an exploration area within KSA territory.</p> <p>Should not be zero-rated if provided to a non-resident customer.</p>
<b>Combined construction contracts (such as an Engineering, Procurement and Construction or EPC contract)</b>	<p>Generally considered as a single supply of a real estate-related service; subject to VAT for an exploration area within KSA territory. Provision of goods for construction, or other services by the EPC contractor under the EPC contract are ancillary to the delivery of the predominant construction service.</p> <p>Should not be zero-rated if provided to a non-resident customer.</p>

<sup>48</sup> Article 34, Supplies to Outside the GCC Territory, Unified VAT Agreement

<sup>49</sup> Article 33, Services provided to non-GCC residents, Implementing Regulations

<p><b>Engineering, maintenance and repair on production facilities</b></p>	<p>Real estate-related service; subject to VAT for an exploration area within KSA territory.</p> <p>Should not be zero-rated if provided to a non-resident customer.</p>
<p><b>Consultancy services</b></p>	<p>If connected to a specific exploration area, these will be a real estate-related service and subject to VAT for an exploration area within KSA territory.</p> <p>In these cases, the real-estate related consultancy services should not be zero-rated if provided to a non-resident customer.</p>
<p><b>Use of intellectual property</b></p>	<p>General rule applies; subject to VAT when supplied from a KSA establishment.</p> <p>A Taxable Customer in the KSA is required to self-account for VAT under the Reverse Charge Mechanism if intellectual property is received from a non-resident supplier.</p>
<p><b>Transportation of workers to production facilities</b></p>	<p>Transportation service; subject to KSA VAT if transport begins in KSA. International transport may be zero-rated, subject to conditions.</p>
<p><b>Communications and network services</b></p>	<p>Likely to be a telecommunications service; subject to VAT at 5% when supplied to a KSA recipient and used at a KSA facility. See the Telecommunications guideline for further detail.</p>
<p><b>Catering and hotel services</b></p>	<p>Place of supply in the place of actual performance. Services performed in the KSA territory will be subject to KSA VAT at 5%.</p> <p>Should not be zero-rated if provided to a non-resident customer.</p>
<p><b>Administrative and managerial services</b></p>	<p>General rule applies; subject to VAT when supplied from a KSA establishment.</p> <p>Zero-rating could apply for supplies of these services to non-residents, provided the relevant criteria are met.</p>

<b>Storage of crude, product or equipment in a KSA facility.</b>	General rule applies; subject to VAT when supplied from a KSA establishment.  Should not be zero-rated if provided to a non-resident customer.
<b>Processing or refining services performed in the KSA.</b>	General rule applies; subject to VAT when supplied from a KSA establishment.  Should not be zero-rated if provided to a non-resident customer.
<b>Transportation of oil or gas on a vessel or through a pipeline.</b>	Transportation service; subject to KSA VAT if transport begins in KSA. International transport may be zero-rated, subject to conditions.

## 6.5. Joint Operations in Exploration and Production

In the upstream sector, it is common for an association or consortium of two or more oil and gas companies to be engaged in a business enterprise regarding a contractual area. This may involve the creation of a separate legal entity, or alternatively it may be carried on without actual partnership or incorporation as a separate legal person.

Typically, the participants will enter into a Joint Operating Agreement, which regulates the management of the operation and decision-making. One participating company is appointed as the "Operator", and is in charge of the current and ordinary activities and of implementing the decisions made by the parties through the management committee.

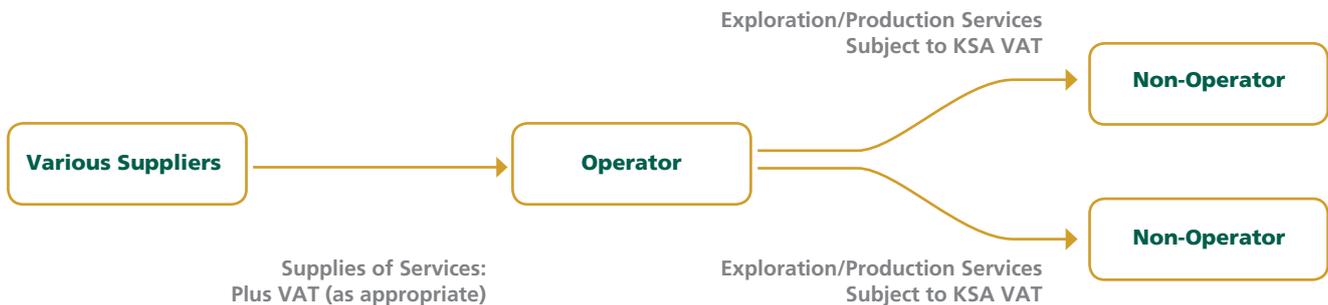
The other participating oil and gas companies, other than the Operator, are referred to in this guideline as "Non-Operators".

Typically, the party acting as Operator will enter into contracts with third party suppliers, and will then collect a portion of the costs from each of the Non-Operators in line with the Non-Operators' respective interest in the consortium. Commercially, it is possible that this can be done by:

- The Operator incurring costs on its own account and invoicing Non-Operators for the provision of these supplies (either individually or as a combined Exploration Fee or Production Fee);
- Incurring costs in the name of the Operator but on behalf of all participants, and seeking reimbursement for the individual costs. In these cases, the Non-Operators' portions of the costs are not typically recorded as an expense of the Operator.
- Conceptually, it may be possible that an Operator could incur separate costs in the name of each of the individual participants as a disclosed agent, and then recover these costs from participants by way of a disbursement. The case of a disbursement for multiple participants acting as Customer of the Supply is expected to be practically difficult.

The VAT consequences of the charges made by the Operator will depend on what capacity the Operator acts in.

If the Operator acts as principal, or in its own name on behalf of the consortium, when entering into contracts with third party suppliers, it will be viewed as the Customer of that supply for VAT purposes. The Operator's onwards supply (in the case of individual reimbursement) will have the appropriate VAT rate and treatment for that good or service when supplied to the Operator.



A combined Operator fee (such as an Exploration Fee or Production Fee) is a supply of services which is subject to VAT for activities within KSA territory (GAZT considers this is a real estate-related service connected to the specific exploration area).

It is advisable that the Joint Operating Agreement clearly sets out the anticipated role of the Operator, and that this role is reflected in the contracts entered into by the Operator and the invoicing and other commercial arrangements.

### 6.5.1. Cash calls

A Joint Operating Agreement may allow the Operator to request payment of "cash calls" to fund the exploration or production activities.

If the receipt of consideration by the Operator from a Non-Operator is related to the future supplies made by the Operator, whether combined services or onwards supplies of individual costs, the receipt of the payment (before a tax invoice is issued for the supply of services) may cause the date of supply to take place – to the extent that payment is received.

However, it is possible that Non-Operators contribute funds without any obligation to make payment for future supplies. In these cases, it could be possible that the payment of upfront funds is not consideration for a supply until the payment can be attributed to a supply made by

the Operator. It is advised that the provisions of each Joint Operating Agreement be examined to determine the exact conditions surrounding any cash calls or advances under that Agreement, and the corresponding effect on the Operator's VAT obligations.

**Example (9):** Rocket Petroleum is the Operator of an offshore exploration consortium within the KSA's maritime territory. The Joint Operating Agreement allows Rocket Petroleum to charge the Non-Operators a portion of internal and third party costs incurred over each calendar year, in accordance with their share of the exploration project. The actual costs for the 2020 calendar year are confirmed and invoiced in January 2021 as a single charge for Exploration Services, after the year is complete. This charge relates to an exploration site situated in KSA territory, and is subject to VAT at 5%.

To provide cash flow during the year, the Joint Operating Agreement allows Rocket to request quarterly cash advances, which are based on an estimate of the actual costs that will become payable. The advance payment for the known Exploration Services being provided under the Joint Operating Agreement will be subject to VAT, based on the amount of consideration received each quarter. Under these fact circumstances, Rocket Petroleum must issue a Tax Invoice for each quarterly payment received.

## 6.6. Transfers of exploration or production activities

A person carrying on an exploration or production activity may decide to transfer this activity to another person, by selling its tangible assets (such as equipment) and intangible assets (such as rights to explore and produce under the concession agreement).

The transfer of the tangible and intangible assets an entire economic activity by a Taxable Person is not a Taxable Supply of goods and services supplied for VAT purposes, provided the following criteria in the Implementing Regulations are met:

- "the Goods and services transferred are capable of being operated as an Economic Activity in their own right, and the recipient immediately following the transfer uses those Goods and services to carry on that same Economic Activity,
- the recipient is a Taxable Person or becomes a Taxable Person as a result of the transfer,
- the Supplier and the recipient agree in writing that they wish the transfer to be viewed as the transfer of an Economic Activity for the purposes of these Regulations."<sup>50</sup>

Please refer to the guideline on business transfers for further information on the general interpretation of these criteria.

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<sup>50</sup> Article 17, Transactions not falling within the scope of Tax- transfer of an Economic Activity, Implementing Regulations

In an oil and gas exploration context, an Economic Activity is carried on from the time that exploration activities commence. The ability for any activity to continue being operated will depend on the facts in each case. However, as a general indication GAZT considers that the transfer of the contractual rights of exploration, together with the results of any initial exploration activity, could therefore meet the criteria of “capable of being operated as an Economic Activity”.

An independent transfer of tangible assets (goods) or intangible assets (services) by an exploration or production company, which is not connected to a Transfer of an Economic Activity, is subject to VAT according to the normal rules and provisions.

#### **6.6.1. Transfers of partial interests under Joint Operating Agreements**

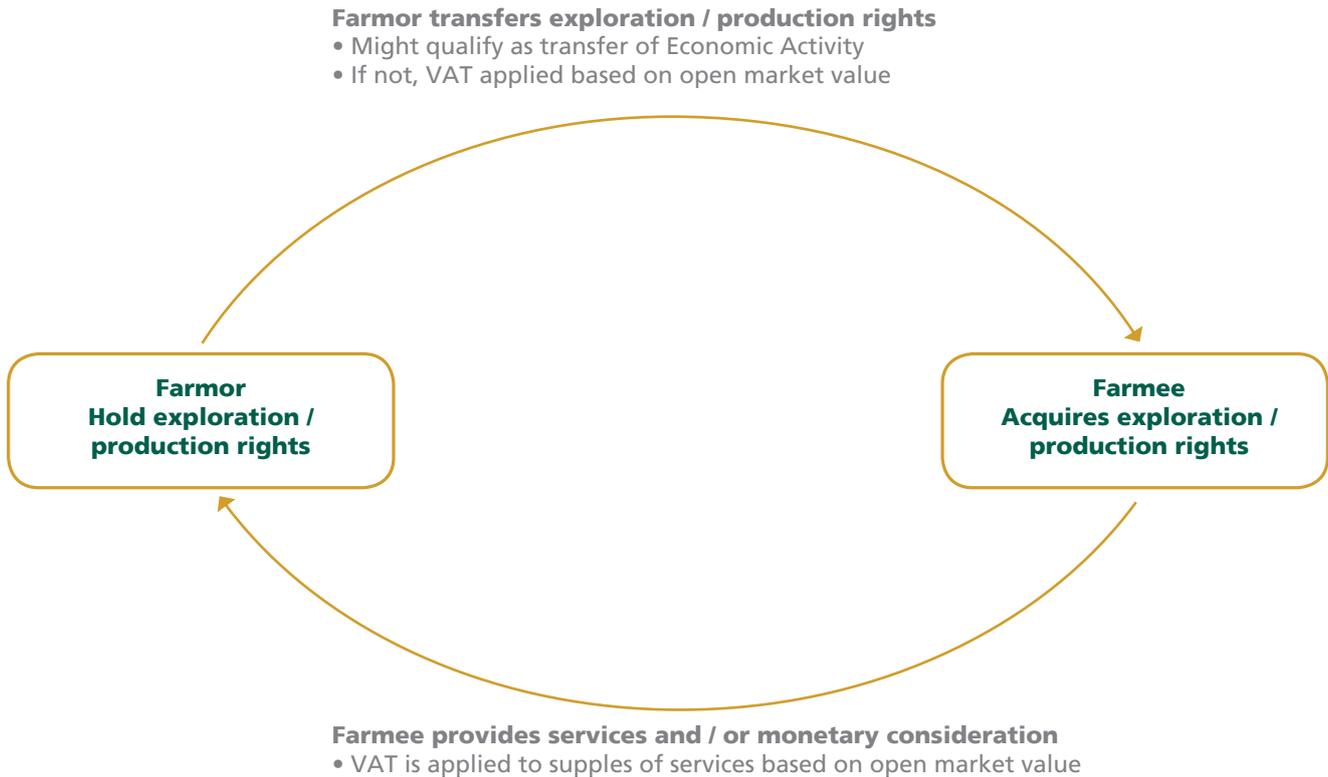
A Non-Operator holding a partial interest in an exploration or production activity will typically hold rights to a share of the eventual production from the project, rights to contribute to major decisions of the consortium based on that share, and obligations to contribute to the ongoing costs of the activity.

Under a Joint Operating Agreement, a Non-Operator may be able to transfer these rights and obligations to another Person who assumes its place within the consortium. GAZT considers that the whole of a Non-Operator’s rights in a Consortium can in principle be viewed as an Economic Activity which is capable of being operated in its own right. As such the transfer of such Non-Operator’s right could qualify as a Transfer of an Economic Activity, which would therefore not be a Taxable Supply of Goods and services (as indicated in the previous paragraph).

#### **6.6.2 Transfers under Farm-in or Farm-out arrangements**

A person may agree to pay an additional share of costs or to provide services as consideration for being granted partial participation rights in an exploration or production project (either instead or, or in addition to, a cash price). Within the industry these agreements are commonly referred to as “farm-in” or “farm-out” agreements.

If the person acquiring rights (also known as a “farmee”) agrees to provide services in return for the provision of partial participation rights, this is a form of “barter” transaction for VAT purposes, under which both parties make a supply to each other.



VAT will apply to any services provided by the farmee, with the place of supply and rate of tax based on their underlying nature. The value of services provided for non-cash consideration is the open market value.

If the transfer of rights does not constitute the transfer of an Economic Activity, the person transferring the rights (also known as a “farmor”) must apply VAT to the transfer of rights as appropriate.

## 6.7. Decommissioning

Decommissioning involves the removal of any infrastructure and the restoration of the site or area, after the completion of exploratory work or the completion of production. The decommissioning process is typically the final phase of an Economic Activity in the upstream sector.

As the decommissioning process takes place after production has ceased, the owner of the production rights is unlikely to make any taxable supplies of oil and gas during this process. However, any VAT incurred on decommissioning costs does relate to the earlier Economic Activity carried out. Provided that this Economic Activity involved making taxable supplies (or was intended to involve making taxable supplies), the production company is entitled to deduct VAT incurred on decommissioning costs.

## 7. VAT consideration for Midstream activities

Midstream activities can be viewed to connect the upstream production of oil and gas with the downstream activities of refining and marketing for consumption. This typically involves sale and purchase of the underlying products (trading), the transportation of these goods and associated services.

### 7.1. Trading

A supply of goods is defined as “the transfer of ownership of such Goods or the right to dispose of the same as an owner”.

Each time that the ownership to crude oil, refined products or gas is transferred, this constitutes a supply of goods. If the place of supply is within the KSA territory, this supply will be subject to VAT. Section 5 of this guideline provides detail on determining the place of supply in respect of oil and gas (and applying the zero rate to export transactions).

#### 7.1.1. Chain transactions

Within the oil and gas trading environment, it is possible that the ownership to the same goods transfers multiple times whilst the goods are in storage, loaded on a vessel at a departure or destination port, or during transit. These are often referred to as “chain” transactions, but will involve multiple separate supplies of the goods.

In all cases, the person transferring ownership must determine the exact characteristics of the supply and the corresponding VAT treatment. This applies even in the case of a “flash title” trade, in which a trader purchases goods and instantly sells these.

**Example (10):** Saudi Oil Production Company has an excess of 50,000 barrels of crude oil in reserve tanks which it offers to the domestic market. It sells the crude oil to Stellar Trading KSA for SAR 13.1 million (excluding VAT), with ownership transferring within its storage tanks.

Stellar Trading has identified a purchaser for the crude and immediately sells this to a local purchaser, KSA Refinery Company for SAR 13.2 million (excluding VAT). Stellar Trading arranges for the crude oil to be transported to KSA Refinery Company’s premises, but transfers risk and title to the crude oil on the same date as its own purchase.

In this case, both Saudi Oil Production Company and Stellar Trading KSA make a supply of the same volume of crude oil – even though Stellar Trading never takes physical possession to the oil. Both persons must issue Tax Invoices which mention VAT at 5% on the VAT-exclusive value.

### 7.1.2. International chain transactions

If a chain transaction involves an export or international transport of the goods, this may have the following effects for VAT purposes:

- The supply may be eligible for zero-rating as an export of goods from the KSA, subject to meeting criteria to evidence the export (refer to section 5.6 of this guideline for more details)<sup>51</sup>; or
- After the full introduction of the Electronic Services System and rules for intra-GCC trade, the place of supply of goods with transportation or dispatch to a Taxable Customer will be determined in accordance with different rules<sup>52</sup>.

Where multiple supplies are made as part of a singular transportation of oil or gas, it may be necessary to carefully examine which transaction is considered to be connected with that transport for VAT purposes.

In this respect, the Implementing Regulations provide that:

“(1) Subject to the second paragraph of this article, a Supply of Goods is made with transportation or dispatch in cases where the Supplier and Customer both agree that the goods will be transported to the Customer as a consequence of that Supply.

(2) In cases where Goods are transported directly from one country to another and it is contemplated that this transport will take place in respect of multiple Supplies of these same Goods to different Customers, only one Supply of these Goods is considered to be a Supply made with transportation or dispatch.

For the purposes of this paragraph, the supply with transportation or dispatch shall be deemed to be the first one in which either the Supplier or the Customer is responsible for organizing the transport.

(3) In cases where transportation of Goods being supplied to the Kingdom commences from outside of Council Territory, the place of Supply of the Goods will be in the Kingdom if the Goods have been imported into the Kingdom in accordance with the Unified Customs Law before the supply takes place. Any Supply of such Goods before the Import of Goods in accordance with the Unified Customs Law shall be considered as being made outside the Kingdom.”<sup>53</sup>

The trade terms or Incoterms agreed between the parties in respect of a supply, if any, are not determinative but may indicate which party is liable for movement of the goods, or where risk to the goods passes.

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51 Article 32, Exports of Goods from the Kingdom, Implementing Regulations

52 Article 12, Special Case of Internal Supplies with Transportation, Unified VAT Agreement.

53 Article 27(2), Goods sold with transportation, Implementing Regulations

This rule is demonstrated by way of the following example.

**Example (11):** A series of transactions for a marine cargo of petroleum gas is entered into on April 6, 2021.

Seller	Purchaser	Trade Terms	Responsible for International Transport
Refiner	Trader A	In-tank transfer within Refiner's storage tanks at KSA port. No export declaration filed.	N/A – no international destination
Trader A	Trader B	Free On Board at KSA Refiner Port. Trader A clears for export. Ownership transfers at manifold (entry point) onto Trader B's gas transportation vessel.	Trader B
Trader B	Trader C	Delivered At Terminal to international port in Bahrain.	Trader B

In this case, the sale from Trader A to Trader B is viewed to be the supply of petroleum gas with the transportation or dispatch from the KSA territory, as this is the first supply in which the Supplier or Customer is responsible for the transport. The sale from the Refiner to Trader A is a domestic transaction taking place within the KSA and is subject to VAT at 5%.

### 7.1.3. Transactions with future delivery date

Traders may enter into a forward or futures contract for the sale of crude oil, natural gas or refined products with a future delivery date. In some cases, these contracts will result in the delivery of the underlying goods at the nominated delivery point and date.

Any explicit fee (or "premium") paid to enter into a commodity derivative contract is consideration for a Taxable Supply, provided that the contract allows for delivery of the underlying goods to take place at a delivery point in the KSA.

A forward or futures contract remains in place until:

- The contract is exercised – at which point the Goods are physically supplied on the nominated date. VAT is due on the Supply of the Goods if delivered in the KSA.
- The contract is cancelled, either by cancellation of the original contract, or entering into an equal and opposite contract to offset the trade. In this case, no Supply of the underlying Goods takes place. Any Output VAT already accounted for regarding the Supply of Goods

may be adjusted in accordance with the adjustment rules for a cancelled Supply <sup>54</sup>. Any premium paid to enter the contract is not cancelled.

In some cases, commodity derivatives are entered into by a trader as a financial derivative, without any intention of the trader itself taking ownership or possession of the underlying commodity. For example, the trader could enter into another forward or futures contract to sell the same goods to another person, or could seek to cancel the original contract.

If the terms of the contract do not allow for the goods to be delivered (for example, the contract requires the trade to be cash settled before the delivery date), this is a financial derivative contract. Any consideration paid to enter these “non-deliverable” contracts are not for the underlying Goods. Profits earned by traders on a financial derivative are exempt from VAT.

## 7.2. Transportation of Oil and Gas

If a Person charges consideration to transport oil or gas from one location to another – whether through a pipeline or shipped using a vessel or other means of transport – this consideration relates to the Transportation of those Goods.

The Place of Supply of any Goods transportation Services is the place where that transport starts<sup>55</sup>. This rule applies regardless of the residence or VAT registration status of the Supplier or Customer.

In the case of transportation Services which start at a location in the KSA and have a destination outside of KSA territory (including another GCC State, a third country state, or any other destination outside of the KSA’s sovereign territory), the zero rate (0%) of VAT applies <sup>56</sup>.

Transport Begins	Transport Ends (Destination)	KSA VAT treatment
<b>In the KSA territory</b>	In the KSA territory	VAT at 5% - local transport
<b>In the KSA territory</b>	Outside the KSA: - another GCC State - outside of GCC Territory	VAT at 0% - intra-GCC or international transport
<b>Outside the KSA</b>	In the KSA territory	Not subject to KSA VAT
<b>Outside the KSA</b>	Outside the KSA	Not subject to KSA VAT

<sup>54</sup> Article 27, Adjustment of Tax Value, Unified VAT Agreement

<sup>55</sup> Article 18, Supply of Goods and Passenger Transportation Services, Unified VAT Agreement.

<sup>56</sup> Article 32, Intra-GCC and International Transportation, Unified VAT Agreement

The provision of ancillary services by a transport provider, such as storage, handling, and export clearance services are also zero-rated where these are provided in connection with a supply of international transport. Zero-rating also applies to services provided in respect of a qualifying means of transport at a port (for example, port fees charged for storage and handling).<sup>57</sup>

Fees charged by a transporter or port operator which represent liquidated damages for a breach of contractual obligations (such as demurrage charged in cases where the vessel owner has breached its contractual obligations) are not consideration for a supply and should not be subject to VAT. Care should be taken to ensure this treatment is only applied where such charges do in fact represent liquidated damages.

The separate provision of storage or handling services by a third party service provider, which are unconnected to the supply of international transport and are not provided in relation to a qualifying means of transport at an airport or port, does not qualify for zero-rating. Please see the Transportation guideline for further detail and examples.

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<sup>57</sup> Article 34, Transportation services for Goods or passengers outside the Kingdom and Supplies relating to transportation, Implementing Regulations

## 8. VAT considerations of Downstream activities

### 8.1. Supplies for domestic consumption

The supply of oil or gas for consumption within the KSA is subject to VAT at 5%. The date of supply is:

- the date on which the Goods were placed at the Customer's disposal; or
- the date on which transportation or dispatch of Goods began in connection with supplies of Goods with transportation or dispatch.

If a Tax Invoice is issued, or payment received, at a date earlier than the date of supply, the due date for VAT obligations arises on that earlier date.<sup>58</sup>

#### 8.1.1. Call-off or reserve stocks

In some cases a Supplier may agree to place a stock of oil product at a known customer's premises and at the disposal of that customer, allowing the customer to withdraw the oil from the stock at the moment he needs it. The goods are available to the customer for withdrawal and use at any time, but the ownership of the goods is only transferred at the moment the goods are withdrawn from the stock.

In these cases, a Supply of Goods is made on the date on which the Goods are placed at the Customer's disposal, even if ownership transfers at a later date. The Supplier must issue a Tax Invoice based on the date of supply.

### 8.2. Aviation and marine fuels

Fuel which is used in a qualifying means of transport is in principle eligible to be zero-rated, on the basis that this is a consumable good ordinarily incorporated into the aircraft or vessel as part of its maintenance and servicing<sup>59</sup>.

The fuel supplier must obtain a self-certification from the customer that the particular means of transport is to be used predominantly for international transportation and is not intended to be used for recreational or private use. This self-certification should be valid at the time of the uplift or delivery of fuel to the aircraft or vessel. There is no required format for a self-certification, but it should refer to:

- The registration number of the aircraft or vessel;
- The date or dates on which the certificate is valid.

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<sup>58</sup> Article 23, Date of Tax Due on Supplies of Goods and Services, Unified VAT Agreement

<sup>59</sup> Article 34(6), Transportation services for Goods or passengers outside the Kingdom and Supplies relating to transportation, Implementing Regulations

GAZT accepts that a self-certification of a fuel uplift can be evidenced by an authorised signature on a document issued by the supplier for the supply of fuel. In all cases, the fuel supplier must retain the certification with its business records to evidence the correct application of the zero-rate.

In order to consider a means of transport being used predominantly for international transport, the customer should have performed a test on the means of transport (using the weighted average of the four factors described in section 7) before issuing the self-declaration to the fuel supplier.

## 9. Input VAT Deduction

### 9.1. General Provisions

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

- VAT charged by a VAT-registered supplier in the KSA;
- VAT self-accounted by the VAT-registered person under the Reverse Charge Mechanism; or
- Import VAT paid to the Customs Department on Imports of Goods.

This guideline discusses the Economic Activities carried out during the different stages of the oil and gas exploration, production and marketing lifecycle and the corresponding right to input tax deduction.

As a general rule, input VAT which is related to the taxpayer's VAT exempt activities is not deductible as input VAT. VAT exempt activities are not common to the oil and gas industry but may be present where companies enter into financial commodity trading contracts, or charge residential rental for permanent employee and family accommodation.

In addition, input VAT may not be deducted on any costs not incurred as part of the Economic Activity (including some blocked expenditure types such as entertainment and motor vehicles).<sup>60</sup>

Input VAT is a credit entered on the VAT return which is offset against the VAT charged on supplies (output VAT) made during that period, if any. Upstream businesses in the exploration or decommissioning phases, or businesses who are fully involved in export sales, might not report any output VAT in their VAT return. In these cases, a refund of the excess credit can be requested.

Input VAT may only be deducted where the Taxable Person holds a tax invoice, or sufficient evidence of the amount of Input VAT paid or payable if approved by GAZT.<sup>61</sup>

### 9.2. Proportional Deduction Relating to Input VAT

VAT incurred which relates to a taxpayer's VAT exempt activities, such as exempt financial services or residential rental, is not deductible as Input VAT. A person making both taxable and exempted supplies, can only deduct the Input VAT related to the taxable supplies. If a taxable person incurs general costs or expenses (overheads) in the making of taxable supplies, and others that are exempt from VAT, he must in that event split the costs and expenses precisely so as to specify those costs that relate to the taxable supplies. The input tax will be determined in accordance with the following rules: <sup>62</sup>

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<sup>60</sup> Article 50 (1), Goods and services deemed to be received outside of Economic Activity, Implementing Regulations.

<sup>61</sup> Article 49 (7), Input Tax Deduction, Implementing Regulations.

<sup>62</sup> Article 51, Proportional deduction of Input Tax, Implementing Regulations.

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

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

$$\frac{\text{The value of **Taxable Supplies** made by the Taxable Person in the last calendar year}}{\text{The total value of **Taxable Supplies** and **Exempt Supplies** made by the Taxable Person during the last calendar year}}$$

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

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

### 9.3. Deduction of import VAT

Deduction of import VAT is only available for the person who acts as Importer of the goods into the KSA. To be eligible for input tax deduction, the Importer must use the imported goods for the purpose of carrying on its Economic Activity, which constitutes making taxable supplies<sup>63</sup>. This could mean the Importer uses the goods or equipment as part of their operations to generate future taxable supplies, or directly for an onwards supply of those goods.

As a condition of input VAT deduction, a taxable person must hold:

**"The customs documents proving that he imported the Goods in accordance with the Common Customs Law."**<sup>64</sup>

If a taxable person does not act as Importer, it is not eligible to deduct VAT on the import of goods.

<sup>63</sup> Article 1, Definitions – Input Tax; and Article 44, Tax Deduction Principle; Unified VAT Agreement

<sup>64</sup> Article 48, Conditions for Exercising the Right of Deduction, Unified VAT Agreement

The Importer (according to the Common Customs Law) is the person eligible to deduct VAT charged on imports. In some cases, the Importer may vary according to the records of the person who owns the goods at the time of importation (for example when a broker imports the goods, see below). In all cases, the person eligible to deduct/recover VAT is the Importer where the goods are to be used in the course of taxable activities.

**Example (12):** A US resident business sells equipment to a KSA resident business, Refinery Co. Refinery Co is developing a new refinery facility in the Eastern Province, and it has engaged Focus Construction, a third party construction company in KSA, to install the equipment. The goods are shipped from the US to KSA, and Focus Construction is appointed to act as an 'import agent' for entering the goods in KSA. As the Importer, it pays the import VAT due. Although it is referred to commercially as an 'import agent' for the equipment, the construction company acts as Importer on its own account. Focus Construction does not own or make an onward supply of the equipment to Refinery Co, and does not use the goods as part of its own Economic Activities. Therefore, Focus Construction is not able to deduct the VAT paid on import as input VAT.

If Refinery Co were to act as the importer in this situation, the VAT paid would be deductible in principle.

## 10. VAT obligations of the Taxable Person

In your capacity as a taxable person, you must evaluate your tax obligation and comply with the conditions and obligations relating to VAT. This includes registering for VAT as necessary, and exactly calculating the net amount of VAT payable, and paying the tax at the time due, as well as keeping all necessary records and cooperating with officials of the Authority on demand.

If you are not sure of your obligations, you must contact the Authority through its website at [vat.gov.sa](http://vat.gov.sa) or by other means of communication, and you may seek external consultation through a qualified consultant. There follows below a review of the most important tax obligations provided for in the Law and the Implementing Regulations.

### 10.1. Issuing tax invoices

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

The tax invoice must clearly detail information such as the invoice date, Supplier's tax identification number, taxable amount, tax rate applied, and the amount of VAT charged<sup>65</sup>. If different rates have been applied to supplies, the value of each supply at each rate must be separately specified, as well as the VAT applicable to each rate. A tax invoice may be issued in the form of a commercial document, provided that document contains all of the requirements for the issuing of tax invoices as set out in the Implementing Regulations to the Law<sup>66</sup>.

More information on requirements of a tax invoice is provided in the VAT general guideline or tax invoices guideline.

### 10.2. Filing VAT Returns

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

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

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<sup>65</sup> For more details on the requirements for issuing tax invoices, refer to the published Invoicing & Records guideline and Article 53, Tax Invoices, Implementing Regulations

<sup>66</sup> Article 53, Tax Invoices, Implementing Regulations

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

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

If the VAT return results in VAT due to the taxpayer, or if the taxpayer has a credit balance for any reason a request for a refund of this VAT may be made after the filing of the VAT return, or at any later time during the next five years by filing a request for a refund to the Authority. GAZT will review these requests and will pay the amount due on refund requests that have been approved, directly to the taxpayer <sup>67</sup>.

### 10.3. Keeping records

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

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

Records may be kept in physical copy or in some cases electronically – but must be made available to GAZT on request.

All records must be kept for at least the standard retention period of 6 years. That minimum period for retention is extended to 11 years in connection with invoices and records relating to movable capital assets, and 15 years in connection with invoices and records relating to non-movable capital assets <sup>68</sup>.

The Taxable Person may appoint an Agent or other third party to comply with its record storage requirements. The Taxable Person in all cases remains directly responsible for such compliance <sup>69</sup>.

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<sup>67</sup> Article 69, Refund of overpaid Tax, Implementing Regulations

<sup>68</sup> Article 66, Records, Implementing Regulations, and Article 52, Capital Assets, Implementing Regulations

<sup>69</sup> Article 66(4), Records, Implementing Regulations

## 10.4. Certificate of registration within the VAT system

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

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

## 10.5. Correcting past errors

If a taxable person becomes aware of an error or an incorrect amount in a filed VAT Return, or of any other non-compliance with the VAT obligation, he should notify GAZT and correct the error by amending VAT the tax return. Errors resulting in a net understatement of VAT (exceeding SAR 5,000) must be made known to GAZT within twenty (20) days of detecting the error or incorrect amount, and the previous return must be amended. In connection with minor errors resulting in a difference of less than SAR 5,000, the error may be corrected by amending the net tax in the subsequent tax return <sup>70</sup>.

Further information on correcting errors can be found through [vat.gov.sa](http://vat.gov.sa)

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<sup>70</sup> Article 63, Correction of Returns, Implementing Regulations.

## 11. Penalties

The Authority may impose penalties or fines on taxpayers for violations of VAT requirements set out by the Law or Implementing Regulations.<sup>71</sup>

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

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

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

<sup>71</sup> Chapter Sixteen: Articles (39), (40), (41), (42), (43), (44), (45), and (47), [Tax Evasion and Penalties], VAT Law.

## 12. Applying for the issue of rulings (interpretative decisions)

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

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

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

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

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

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

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

## 13. Contacting us

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

## 14. Common Questions and Answers

### Q.1. Does VAT apply to oil and gas activities carried on at offshore locations?

A.1. Yes – if the offshore area is within the KSA’s territory (including its territorial waters and Exclusive Economic Zone).

### Q.2. A Refining Company makes a sale of oil products to a KSA Trading Company, who intends to export and sell the product to international customers. The KSA Trading Company arranges the export formalities and the transport outside of GCC territory. Can the Refining Company apply the zero-rate to its sale?

A.2. No. Refining Company’s sale is an “indirect” export whereby the Customer exports the goods. As the ownership of the goods transfers before export clearance, and a KSA Customer is responsible for exporting the goods, the requirements to zero-rate an indirect export are not met. Refining Company should apply 5% VAT to its sale. KSA Trading Company should be eligible to zero-rate the export sale to its international customers.

### Q.3. Is a Taxable Person permitted to deduct input VAT on purchase of capital assets and other capital expenditure (such as goods and services used for capital assets) used in the extraction of oil and gas? Does this apply if the capital assets are still under construction at the time the expenditure is incurred?

A.3. Yes, input VAT deduction is permitted in principle for costs incurred as part of an Economic Activity, provided the capital expenditure is incurred in order to make future Taxable Supplies. Deduction is available from the VAT return in which the costs are incurred and a Tax Invoice is held.

### Q.4. What are the VAT implications of the provision of temporary accommodation and meals to employees who are required to live and work at a production or refinery site?

A.4. The provision of temporary accommodation and meals is subject to VAT. If a charge is made to employees, the employer should include VAT at 5%.

The provision of accommodation and meals for no charge may be a Nominal Supply, if the employer has deducted Input Tax on the purchase of those items. However, please note that any accommodation or meals which are provided free as a requirement of Labour Law or other applicable Saudi law will not be viewed as a nominal supply. Please refer to the Employee Benefits guideline for further detail.

### Q.5. An Exploration Company leases equipment on a long-term basis and imports the goods into the KSA for use during an exploration project. How does VAT apply?

A.5. The supply of equipment by way of lease is a service. If the supplier is not resident, this supply is subject to KSA VAT under the Reverse Charge Mechanism.

The import of the equipment is subject to VAT under a separate provision of the Law. The Importer of the equipment is liable to pay VAT to Saudi Customs with the official declaration, unless the goods qualify for exemption for temporary importation.

**Q.6. If a non-resident enters into a Joint Operating Agreement and is entitled to a share of production, is the non-resident subject to VAT?**

A.6. VAT will in principle apply to any supply of the underlying oil or gas produced, as a Supply of Goods. The exact application of VAT to each supply will depend on the place of supply and other factors (for example, whether the sale involves an export of the goods). If a non-resident acts as the supplier, this does not affect the place of supply for most transactions in goods.



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