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VAT

Healthcare Guideline

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1. INTRODUCTION

1.1. IMPLEMENTING A VALUE ADDED TAX (VAT) SYSTEM IN THE KINGDOM OF SAUDI ARABIA (KSA)

The Unified VAT Agreement for the Cooperation Council for the Unified Arab States of the Gulf (the "Agreement") was approved by KSA by a Royal Decree No. M/51 dated 3/5/1438 H. Pursuant to the provisions of the Agreement, the Kingdom of Saudi Arabia issued the VAT Law under Royal Decree no. M/113 on 2/11/1438 H. The Implementing Regulations to the VAT Law were subsequently issued under the resolution of the Board of Directors of the General Authority of Zakat and Tax ("GAZT") by Resolution No.3839 dated 14/12/1438 H (the "Implementing Regulations").

1.2. GENERAL AUTHORITY OF ZAKAT & TAX

GAZT, also referred to as "the Authority" herein, is the authority in charge of the implementation and the administration of VAT (which may also be referred to hereinafter as the "tax" unless the context otherwise requires) 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 / 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?

Value Added Tax ("VAT") is an indirect tax which is imposed on the importation and supply of goods and services at every stage of production and distribution, with certain exceptions. VAT is implemented 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 to when a retailer sells the end-product to a consumer. Unlike other taxes, taxable persons will both:

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

When taxable persons sell a good or service, they must charge an extra 5% of VAT (on the assumption that the standard rate applies to those supplies) on top of the final sales price. The taxable persons will account for that 5% 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 that taxable persons collect on their sales is called **Output VAT**.

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

Further general information about VAT can be found in the KSA VAT Manual or at vat.gov.sa.

1.4. THIS GUIDELINE

This guideline is directed at companies, individuals, and persons who are involved in the provision of healthcare services, suppliers of medicines and medical goods, providers of health insurance and suppliers of services to the healthcare sector.

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 health sector as of the date of this guideline. This guide is a guideline only, and does not include, or purport to include, all the relevant provisions in relation to the healthcare sector 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.

However, for guidance on specific transactions you may apply for a ruling, or visit the official VAT website at "vat.gov.sa", which contains a wide range of tools and information that has been provided to assist the taxpayers, as well as visual guidance materials, all relevant information, and FAQs.

2. DEFINITIONS OF THE PRINCIPAL TERMS

Healthcare is not a defined term for VAT purposes, but it is defined in the KSA Health Law to be:

“Preventive, therapeutic and rehabilitative services concerned with the health of the individual and the community at the primary, secondary and specialist levels”.⁽¹⁾

This may include the provision of associated medicines or medical goods as a part of the therapeutic or health service.

Government Healthcare Provider is any Government institution carrying out the provision of healthcare services to the public in the KSA. This includes hospitals, health centers and other facilities run by the Ministry of Health or under any other involved Government agency.

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 on by any person, whether natural or legal. The term is defined by the Unified VAT Agreement for VAT purposes as:

An activity that is conducted in an ongoing and regular manner including industrial, commercial, agricultural, professional, service-related, or the use of any tangible or intangible property or of other similar activity.⁽²⁾

Private Healthcare Provider is:

“A health institution owned by the private sector and prepared for treatment, diagnosis, nursing, medical analysis, rehabilitation, or accommodation of convalescents.”⁽³⁾

A Private Healthcare Provider in the KSA must be licensed by the Ministry of Health. The definition of a private health care provider in Private Health Institutions law includes the following:

1. Hospital: a facility where patients are received, examined, treated and hospitalized
2. General Polyclinic: a facility where patients are received, examined and treated. It shall have at least three different medical specialties, one of which a primary specialty (surgery; internal medicine; obstetrics and gynecology; pediatrics; family medicine)
3. Specialized Polyclinic: a polyclinic including one or more medical specialty, and its subspecialties.
4. Clinic: a facility where patients are received, examined and treated
5. Radiology Center: a facility for medical diagnostic imaging or radiotherapy
6. Medical Laboratory: a facility for conducting laboratory examinations
7. Same-Day Surgery Center: a health institution licensed to hospitalize patients for conducting medical procedure; such as minor or intermediate operations, provided the patient be discharged on the same day
8. Health Service Support Center: a facility providing health or technical services required for completing therapy and rehabilitation. It shall include the following:
 - a. Physiotherapy center
 - b. Optical store
 - c. Prosthetic store
 - d. Support centers approved as health services by the Minister of Health
9. Ambulance Transport Service Center: a unit in charge of transporting and providing first-aid services for patients or injured persons before hospitalization, in accordance with specifications and controls set forth by the Saudi Red Crescent Society

(1) Article 1, Health Law issued by Royal Decree no. 11 Dated 23/3/1423 H

(2) Article 1, Definitions, Unified VAT Agreement

(3) Article 1, Law of Private Health Institutions, issued by Royal Decree No. M/40 dated 3 / 11 / 1423 H

Qualifying Medicines and Qualifying Medical Goods are defined terms for VAT purposes.⁽⁴⁾

“Medicines and medical goods shall be considered Qualifying Medicines and Qualifying Medical Goods respectively in accordance with such classifications as may be issued by the Ministry of Health or any other competent authority from time to time”.

Qualifying medicines defined in accordance with such classifications as may be issued by the Ministry of Health in conjunction with the Saudi Food and Drug Authority (SFDA). The supply of these are zero-rated for VAT purposes. This list is updated by SFDA on a regular basis. For further details, please visit the SFDA website:

- VAT zero-rated human drugs

<https://www.sfda.gov.sa/en/drug/search/pages/default.aspx>

- VAT zero-rated vitamins

<https://www.sfda.gov.sa/en/drug/search/pages/default.aspx?PageIndex=1&sm=vitamin>

- Qualifying Medical Goods that are zero rated -

<https://mdma.sfda.gov.sa/ListedProducts.aspx>

In this Guideline, Qualifying Medicines and Qualifying Medical Goods may be collectively referred to as the “Qualifying Goods”.

Taxable Person is a defined term for VAT purposes. For KSA purposes, a Taxable Person:

“... is a Person who conducts an Economic Activity independently for generating income, and is registered for VAT in the Kingdom or who is required to register for VAT in the Kingdom...”⁽⁵⁾

Person: Any natural or legal person, public or private, or any form of partnership.⁽⁶⁾

(4) Article 35(2), Medicines and medical equipment, Implementing Regulations

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

(6) Article 1, Definitions, Unified VAT Agreement

3. ECONOMIC ACTIVITY AND VAT REGISTRATION

3.1. WHO CARRIES OUT AN ECONOMIC ACTIVITY

An economic activity may be carried out equally 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. It should be stated that 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 or not a natural person falls within the scope of VAT.

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

3.2. ACTIVITIES CARRIED OUT BY GOVERNMENT HEALTHCARE PROVIDERS

VAT is chargeable on any supplies made by a Taxable Person in the course of carrying on an Economic Activity. However, when a Government Healthcare Provider carries on an activity in its capacity as a public authority, this activity is not an Economic Activity.⁽⁷⁾ GAZT considers that all provision of healthcare by a Government Healthcare Provider is considered to be provided in the capacity of a public body. These activities will therefore fall outside the scope of VAT.

Government Healthcare Providers are therefore not obliged to register for VAT purposes unless it carries out activities which involve making supplies of goods or services in a capacity other than its capacity as a public authority. In those cases, that government body or entity shall be regarded as carrying on an Economic Activity for VAT purposes only in connection with those economic activities, and is therefore obliged to register if it meets the conditions for registration (see section 3.4 below).

In case the Government Healthcare Provider is listed within the list of persons qualified to obtain refunds of VAT paid on purchases made by them, further information on persons qualifying for a refund of VAT is provided under section 7.3.

3.3. VAT ON CHARGES BY GOVERNMENT HEALTHCARE PROVIDERS

In many cases, a Government Healthcare Provider will not apply VAT on healthcare provided to individuals. In these cases, the healthcare services are not regarded as being a supply for VAT purposes. That means that VAT will not be charged on public health care services or the supply of medicines or medical goods provided by Government Healthcare Providers.

Government Healthcare Providers are not required to issue tax invoices for charges made which are not subject to VAT. For example, in some cases, a Government Healthcare Provider may make a full or partial charge to individuals (e.g. for services provided to non-citizens, or for specific medicines or services).

Example (1): A non-Saudi resident visits a public hospital and is provided the same treatment as a citizen, and the non-Saudi resident pays the full cost of the services. The services are provided by a Government Healthcare Provider in its capacity as a public authority. There is no VAT on the charge for those services.

Example (2): A citizen visits a public health center due to an accident. The consultation service is free but the patient elects to obtain a specialist scan. Under the rules of the health center as prescribed in its public capacity, it must charge for the scan. The partial charge made to the patient is provided by a Government Healthcare Provider in its capacity as a public authority. There is no VAT on the charge for those services.

(7) Article 9(5), Registration provisions applying to specific circumstances, Implementing Regulations

3.4. SUPPLIERS OF SERVICES TO GOVERNMENT HEALTHCARE PROVIDERS

Government Healthcare Providers are not required to charge VAT in respect of their supplies of goods or services in their capacity as a public authority. However, they are still charged VAT in the normal way by third party suppliers of goods and services provided to them by any supplier who is subject to VAT.

Example (3): Al Amal Company maintains medical equipment owned by King Abdulaziz University Hospital. The services are subject to VAT at 5%.

The tax invoice issued by Al Amal Company to King Abdulaziz University Hospital will include the following:

Maintenance services	SAR 5000
VAT at the rate of 5%	SAR 250
Total	SAR 5250

Government Healthcare Providers may be able to obtain a refund of VAT paid to a taxable supplier under a special mechanism for the return of tax to government entities in the event that they are qualified for a refund (discussed further at section 7.3 of this guideline).

3.5. OTHER ACTIVITIES CARRIED OUT BY GOVERNMENT HEALTHCARE PROVIDERS

A Government Healthcare Provider may have additional activities outside of the health activities that it provides as a public authority. If a Government Healthcare Provider makes charges on activities that fall outside the scope of public health care these will be considered to be made as part of an Economic Activity.⁽⁸⁾ Consequently, the Government Healthcare Provider should register for VAT if it exceeds the mandatory registration threshold⁽⁹⁾ and charge VAT on any taxable supplies that do not fall within the definition of the public authority, in accordance with normal rules for those supplies (see section 3.6 and 3.7 below).

Further information on Economic Activity is provided in the Economic Activity guideline.

Example (4): A Government-run public health center in Riyadh has a large car park and is located next to a shopping center. It allows health center patients to park for free, but also opens the car park to the general public for a small charge. It earns SAR 1.2 million from non-patient parking charges each year.

The public health center has **both an Economic Activity (other than its capacity as a public authority) and a non-economic activity**, and as its income from Economic Activities exceeds the registration threshold, it must register for VAT in respect of its parking activities only, and charge VAT at 5% on these supplies. This registration does not affect how VAT applies to non-taxable healthcare activities.

3.6. MANDATORY REGISTRATION

Registration is mandatory for all persons whose annual turnover exceeds a certain threshold. If the total value of a person's taxable sales during any 12 months period exceeds SAR 375,000, the "mandatory VAT registration threshold", that person must register for VAT⁽¹⁰⁾, subject to the transitional provisions provided for in the Implementing Regulations to the Law, relating to the mandatory registration threshold during the transitional period.

(8) Article 9(5), Registration provisions applying to specific circumstances, Implementing Regulations

(9) SAR 375,000 to apply from 1 January 2019. A higher transitional threshold applies (annual turnover of SAR 1 million) for registration for the 2018 calendar year. Article 79, Transitional Provisions, Implementing Regulations

(10) Article 50, Mandatory Registration, Unified VAT Agreement

Taxable supplies does not include the following⁽¹¹⁾:

- Exempt supplies, such as financial services exempt from VAT or residential letting that qualifies for exemption from VAT⁽¹²⁾;
- Supplies falling outside the scope of VAT in any GCC member state; or
- Revenues on sale of capital assets: capital assets are defined as assets allocated for long-term commercial use⁽¹³⁾

In certain circumstances, other tests will be applied to 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;
- During a transitional period up to 1 January 2019, registration is only required for persons whose annual turnover exceeds SAR 1,000,000.

Example 5: Essam runs a medical laboratory for the conducting of laboratory tests. The annual revenues of the laboratory amounts to SAR 800,000. During the year 2018 Essam sells an x-ray machine that he had been using to carry out its activities, for an amount of SAR 250,000. Essam's revenues for the year 2018 amount to SAR 1,050,000. Nevertheless, Essam will still not be obliged to register for VAT, since the value of his taxable supplies did not exceed the mandatory registration threshold, after excluding the proceeds of sale of the capital assets.

You may obtain further information on mandatory registration for VAT on the website vat.gov.sa.

3.7. OPTIONAL REGISTRATION

Any Resident person in the Kingdom of Saudi Arabia who has taxable sales or taxable expenses exceeding the "optional VAT registration threshold" of SAR 187,500 in a twelve-month period may register for VAT on an optional basis.

Optional VAT registration may be desirable where a person wishes to claim a refund of VAT that he has paid on his costs before invoices are raised or the occurrence of an onward supply.

Further information on optional registration for VAT is contained at vat.gov.sa.

(11) Article 52, Calculating the Value of Supplies, Unified VAT Agreement

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

(13) Article 1, Definitions, Unified VAT Agreement

4. HEALTHCARE SERVICES PROVIDED BY THE PRIVATE SECTOR

4.1. VAT TREATMENT OF HEALTHCARE SERVICES

VAT is chargeable at 5% on all healthcare services carried out in the KSA by a Private Healthcare Provider who is a Taxable Person. All health care services provided by Private Healthcare Providers are presumed by the Authority to be an Economic Activity for VAT purposes.

VAT applies to health services provided by private health care institutions as they are subject to VAT, notwithstanding that they are the same as those services that could be obtained from a Government Healthcare Provider. A Government Healthcare Provider is subject to special application of VAT on the basis that it is a public authority and not on the basis of the category of services that it provides to individuals.

Example (6): A patient is able to have a routine orthopedic surgery carried out at a public hospital. However, he chooses to have this performed by a Private Healthcare Provider. Whilst the service is the same as that offered by a Government Healthcare Provider, the patient must still be charged VAT on the supply to him of services by the Private Healthcare Provider.

4.2. COMBINED CHARGES FOR HEALTH SERVICES AND MEDICINES

Many healthcare services will involve an element of medicines, equipment, or other tangible goods being provided to the patient as part of the course of the treatment or medical package. Qualifying medicines and medical goods are eligible for zero-rating only when separated out by the service provider.

The Private Healthcare Provider must identify the qualifying goods that are eligible for zero rating, which are provided to the patient as part of the therapeutic service, and identify these supplies on the tax invoice issued by it as zero-rated supplies. This does not apply to medicines or medical goods of a trivial value which are consumed or discarded during the provision of services.

Private Healthcare Providers should not seek to artificially value zero-rated medicines and medical goods supplies at a higher value than commercially appropriate, and should be able to provide support of the commercial pricing adopted upon request.

Example (7): A taxable dentist provides and fits a replacement artificial tooth for a patient at his private clinic. The services of the dentist are subject to VAT at 5%, but the artificial tooth is a Qualifying Medical Good which qualifies for zero-rating. The dentist provides an itemized invoice to show the relevant costs to the patient, and applies 0% VAT to the Qualifying Medical Goods as follows:

Description	Value (SAR)	VAT (SAR)	VAT inclusive price (SAR)
Dental Services - Fitting of artificial tooth - Clean and polish	1,200	60	1,260
Artificial composite tooth Zero-rated Medical Goods	300	0	300
Total	1500	60	1,560

In some cases, the medicines or medical equipment used by a Private Healthcare Provider may not be an identifiable good used in the provision of healthcare services by the private health care provider, if it is of a trivial value compared to the overall value of the services (such as a bandage used and then discarded during surgery). In such a case, the entire value will be subject to VAT.

A hospital or health center will often provide a range of goods and services to a patient while he is receiving treatment. For tax invoicing purposes, it is acceptable for the tax invoice to show only the total value and total VAT charged amounts for each of the taxable and zero-rated rates.⁽¹⁴⁾ A more detailed breakdown can be provided of the constituent services and goods provided.

Example (8): The excerpt of a simplified invoice may look like this:

Description	Value (SAR)	VAT (SAR)	VAT inclusive price (SAR)
Healthcare services – 5% VAT	10,000	500	10,500
Medicines and Medical Goods – 0% VAT	3,500	0	3,500
Total	13,500	500	14,000

4.3. INVOICING

Supplies of healthcare are generally made to an individual patient, and in this case invoices should be issued by the Private Healthcare Provider to the individual patient.

Section 5.1 discusses situations where a third party, such as an employer or insurer, may be the party that contracts with the healthcare provider for the provision of therapeutic services to individuals working for it or in the contract with it. If the contract has been made between the healthcare provider and the third party directly (that is, if the contract or agreement is made with a client as opposed to the patient who benefits by the health services), it should issue its invoice to contractual customer rather than the patient.

In cases where the contracting third party (insurance company or employer), is a non-GCC resident, and the health services are provided within the territory of the GCC States, the Private Healthcare Provider cannot apply the zero-rate to the healthcare services on the invoice, on the grounds that the client with whom it contracted is resident outside GCC territory.⁽¹⁵⁾ The zero-rate applies as normal to the provision of Qualifying Medical Goods.

Every taxable person must issue a tax invoice where taxable supplies (including zero-rated qualifying goods) are made to a VAT-registered person or a non-taxable legal person (such as a Government Healthcare Provider)⁽¹⁶⁾, or must issue a simplified invoice for the taxable supplies made to the end consumer.

Further details on invoicing are provided in the VAT Manual and at vat.gov.sa.

4.4. OTHER CHARGES

In cases where a Private Healthcare Provider that is registered for VAT makes other charges (i.e. for non-healthcare services) as part of its Economic Activities, it should apply VAT to these charges under normal rules.

(14) Article 53(5)(h), Tax invoices, Implementing Regulations

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

(16) Article 53, Tax invoices, Implementing Regulations

5. INSURANCE CLAIMS AND THIRD PARTY BILLING

The provision of health insurance is subject to VAT at 5%. Detailed guidance for insurance providers on the VAT treatment of insurance policies is detailed under the Financial Services guideline. This guideline discusses how Private Healthcare Providers treat services which are settled by an insurance claim.

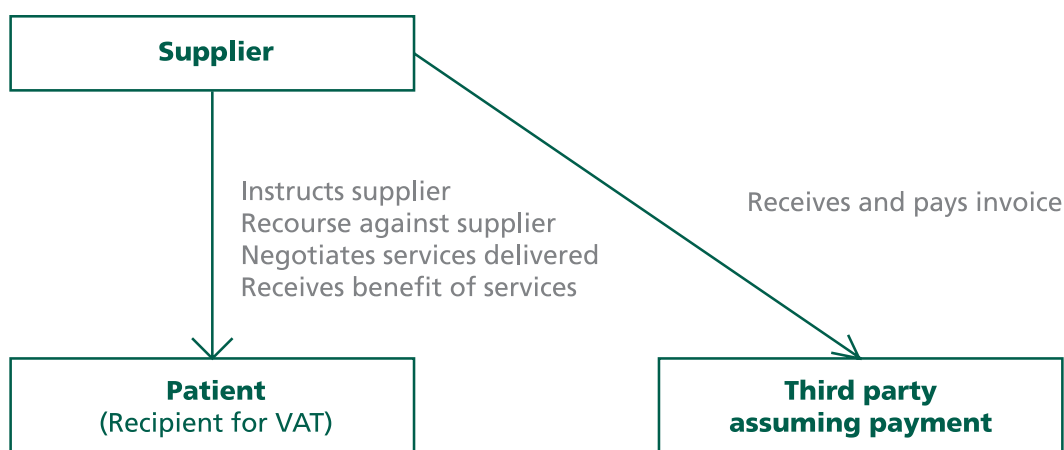
5.1. CONTRACTUAL STATUS – WHO IS THE RECIPIENT OF HEALTHCARE SERVICES

The customer for VAT purposes is the person who is the recipient of a supply of goods and services. Under general VAT principles, the customer is normally determined by the contractual arrangements – including:

- Which person instructs the supplier in connection with the supplies subject matter of the contract;
- Which person enters into a contract with the supplier; and
- Which person has the power to compel the supplier to perform and comply with his contractual obligations in connection with the supplies which are the subject matter of the contract, by delivering the goods or performing the service

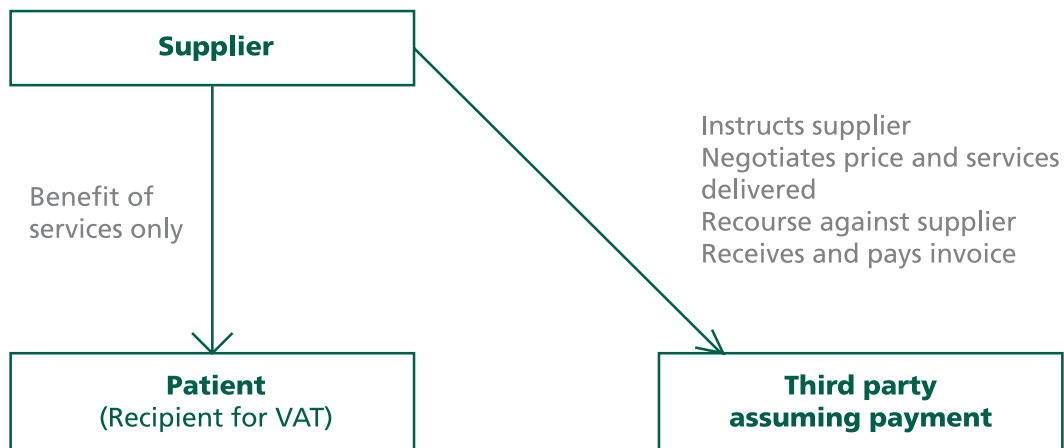
In this way, an individual can receive benefit from goods or services delivered under a contract, whilst not being directly a party to it, despite the fact that he is not a “customer” as defined for the purposes of the application of VAT.

In a healthcare context, the patient receives direct benefit of healthcare services. Therefore, it will be presumed that the individual is the recipient of healthcare services and associated goods, unless this is expressly evidenced otherwise. This is the case even where the provider of the healthcare issues the invoice to a third party, or it is the third party who is responsible for paying for the healthcare services.



Under the above infographic, the patient is the customer for VAT purposes.

In some cases, a third party (such as insurer or employer) may be able to instruct the Private Healthcare Provider (the provider of the services) to carry out the healthcare services to individuals (the assured/employees) to satisfy their own obligation to provide healthcare services. In these cases, it may be possible for that third party to be the primary recipient of healthcare services, even though the individuals also receive benefit from the services.



In the above infographic, the third party (insurance companies/the employer) is the customer for VAT purposes.

Example (9): A factory in the Kingdom invites a VAT registered private medical consultant onto a worksite to carry out health checks for all employees. The factory instructs the medical consultant and enters into a direct contract. The individual employees do not pay and cannot request additional services. In this case, the employees receive a benefit from the healthcare services, but it is the factory that is regarded as the customer (the recipient of the service) for VAT purposes. The medical consultant issues an invoice directly to ABC LLC for the services.

In an insurance context, the contractual position - who is the customer - will depend on who instructs the service provider.

Example (10): Abdullah has an insurance policy with Daman Insurance Company. Abdullah is injured whilst playing sport and requires specialist physiotherapy services. His policy with Daman covers this to a maximum amount of SAR 250,000. Abdullah approaches a local specialist directly, and asks them to send the invoices to XYZ for payment. In this case, Abdullah is the recipient of the services.

The specialist services require Abdullah to have an operation, and the total cost is SAR 300,000, plus VAT of 15,000. Abdullah is required to pay SAR 65,000 on his own account, representing the amount not covered by the insurance, in addition to VAT. The final invoice is issued to Abdullah with a copy sent to the insurer for payment, as follows:

Specialist Physiotherapy Services TIN 30000 11011 00003	Date: 18/2/2018		Invoice number: 2018-05583
Recipient: Abdullah Muhammad	Value (SAR)	VAT (SAR)	Total (SAR)
Consultation and operation	300,000	15,000	315,000

The invoice will be paid as follows:

For account of insurer: XYZ Health Insurance			250,000
For account of patient			65,000

The VAT paid to the physiotherapy centre may not be deducted either by Abdullah or by Daman Insurance company, since the customer in this case is Abdullah, who instructed the physiotherapy centre, and not the insurance company.

Example (11): Essam has an insurance policy with Daman Insurance Company. He is injured whilst playing sports and requires specialist physiotherapy services. Despite the fact that his policy covers this service, the insurance company requires him to visit one of the centres with which Daman Insurance Company has previously agreed and contracted to carry out physiotherapy work. The insurance company arranges the appointments with the centre, and Essam has no contractual rights against the centre for the services provided, nor any obligation to pay the centre. In this case, the insurance company is the recipient of the services (the customer) for VAT purposes.

The centre issues a final invoice to the insurance company as follows:

Local Physiotherapy Services TIN 30000 22022 00003	Date: 15/3/2018		Invoice: 001345
Patient: Essam Mansur	Value (SAR)	VAT (SAR)	Total (SAR)
Recipient: Daman Insurance Company	Value (SAR)	VAT (SAR)	Total (SAR)
Consultation and operation	40,000	2,000	42,000

The invoice will be paid in full by the insurance company

For account of insurer: Due immediately			42,000
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The insurance company may deduct the VAT paid to the physiotherapy centre in its capacity as the customer (the recipient) for VAT purposes.

5.2. INVOICING

Private Healthcare Providers should issue invoices in the name of the recipient of the healthcare services. A tax invoice cannot be issued showing the name of insurer as recipient, if it is not the customer (recipient) based on the test described above.

If a Private Healthcare Provider supplies services directly to the customer (the patient) but needs to provide an invoice to the insurer to claim payment for their services, it should clearly show the recipient of the services (the customer). It may separately state that the amount is "for the account of" or "due for payment by" the insurer.

Under example (10) – the physiotherapy clinic should raise an invoice showing Abdullah's name as the recipient (the customer) and including the amount of VAT charged. The clinic issues a tax invoice and sends this invoice directly to the insurer with a statement noting it is for the account of the insurer.

If a Private Healthcare Provider contracts directly with an insurer who is the recipient for VAT purposes, it should raise a tax invoice showing the name of that insurer as recipient. In these cases, the insurer should be eligible to deduct VAT charged as Input VAT. Conversely, the insurer is not eligible to deduct VAT charged as Input VAT where the contract is directly with the patient (and the insurer simply makes payment against that invoice).

5.3. SPECIAL CASES

5.3.1. Discounted pricing for insurers

Private Healthcare Providers may offer discounted pricing to insurers as part of an agreement to carry out Health Care work for policyholders. In these cases, VAT should be calculated based on the net discounted price.

5.3.2. Rejection of invoices by insurer

In some cases, an insurer may reject invoices issued by a Private Healthcare Provider, on the basis that the services provided to their policyholder are not covered by the insurance.

In these cases, the supply of services will have been provided directly to the individual patient and VAT is chargeable. The Private Healthcare Provider should seek repayment from the individual patient of the value of the service, in addition to VAT.

If the debt remains unpaid and is written off as a bad debt, the Private Healthcare Provider may be able to make an adjustment for output VAT for the bad debt, after a period of 12 months from the date of the supply has passed, and subject to the conditions for the adjustments of output VAT on uncollected debts, set out in the Implementing Regulations.⁽¹⁷⁾

In cases where the insurer is the recipient (the customer) under a contract made with the healthcare provider and the insurance company claims adjustment to the value of the invoice issued, the Private Healthcare Provider may subsequently reduce the price charged to reflect the agreed services provided and agreed. In these cases, a credit note should be issued to record the adjustment to the price. The credit note must set out the serial number of the original invoice, and contain the required data specified on a tax invoice.⁽¹⁸⁾ The VAT will be settled in its relevant tax returns.

Example (12) – following the charge made by Local Physiotherapy Services in example 11 above, the insurance company reviews the file and discovers the agreed rates have not been used. The insurance company asks for an adjustment to reflect its agreed 25% discount. Local Physiotherapy Services issues a credit note as follows:

Local Physiotherapy Services TIN 30000 22022 00003	Date: 22/9/2018		CREDIT NOTE Invoice: 001345
Patient: Essam Mansur			
Recipient: Daman Insurance Company	Value (SAR)	VAT (SAR)	Total (SAR)
Consultation and operation	(10,000)	(1,500)	(11,500)
Refund due to insurer:			(11,500)

5.3.3. Mechanism for the State to bear VAT in respect of private health care services provided to Saudi nationals.

Pursuant to Royal Order no. A/86 passed on 18/4/1439 H, the State will bear the VAT for Saudi nationals benefiting from private health care services. Under the VAT Implementing Regulations, private health care services are subject to VAT at the rate of 5%. The Implementing Regulations have detailed the procedures and mechanisms for the collection of VAT, including the issuing of the VAT invoices setting out the amount of tax due.

Pursuant to the mechanism approved with the Ministry of Health, private health care establishments registered in the VAT system will issue tax invoices to Saudi nationals for the value of the healthcare services provided for them without VAT, after ascertaining the identity of the recipient of the service. Those establishments must keep the particulars of the national ID of the recipient of the service within their records, for presentation to the Authority on demand.

(17) Article 40, Adjustment of value of supply, Implementing Regulations

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

With regard to private health care services provided to non-nationals, the private health care establishments must issue tax invoices inclusive of VAT at the rate of 5%, pursuant to the VAT Law and the Implementing Regulations.

Thus, private health care establishments must submit their tax returns to the Authority and include transactions relating to non-nationals that are subject to the rate of 5% under the item "local sales subject to basic rate", whereas transactions relating to beneficiaries of health care services who are Saudi nationals will be entered under the item "sales to Saudi nationals (private health care services/private education/primary residence)".

Establishments operating in this sector that are registered for VAT may deduct VAT due on imports as provided for in the VAT Law and the Implementing Regulations.

6. MEDICINES AND MEDICAL EQUIPMENT

6.1. SUPPLIES OF QUALIFYING MEDICINES AND MEDICAL EQUIPMENT

A zero-rate applies to all supplies of Qualifying Medicines and Qualifying Medical Goods which are specified by the Ministry of Health or another competent authority from time to time⁽¹⁹⁾. The current updated lists of Qualifying Medicines and Medical Goods, as of the date of the issuance of this guideline, are set out on the Sdfa website at the following links:

- Human medicines subject to zero rate:
<https://www.sfda.gov.sa/en/drug/search/pages/default.aspx>
- Vitamins subject to the zero rate:
<https://www.sfda.gov.sa/en/drug/search/pages/default.aspx?PageIndex=1&sm=vitamin>
- Medical appliances and equipment qualifying for zero rate:
<https://mdma.sfda.gov.sa/ListedProducts.aspx>

It is each supplier's responsibility to determine which of their products are treated as qualifying for zero rate, and then applying the correct VAT treatment appropriate for them. Suppliers should hold evidence to support the VAT treatment applied on such goods, to be provided if requested as part of a tax audit by the by the supplier. Tax invoices must also be issued for all zero-rated supplies of medicines and medical equipment.

The zero-rate is applied based on qualifying medicines and medical equipment according to the classification issued by the Ministry of Health, and approved by the Authority. Therefore, zero rate will apply to such supplies at every stage of the supply chain by the taxable person, to include supplies made by each of:

- Manufacturers
- Importers
- Distributors
- Private Healthcare Providers
- Pharmacies
- Retailers
- Supplier of used Qualifying Medical Goods

Supplies of Qualifying Medicines and Qualifying Medical Goods by a Government Healthcare Provider who is not registered for VAT, or by another person not registered for VAT, are not subject to VAT.

The zero-rate applies to supplies of Qualifying Medicines or Qualifying Medical Goods irrespective of how they are used. It is not required that the ultimate recipient or user have a prescription or verified medical use for such commodities.

6.2. IMPORTS OF QUALIFYING MEDICINES AND MEDICAL EQUIPMENT

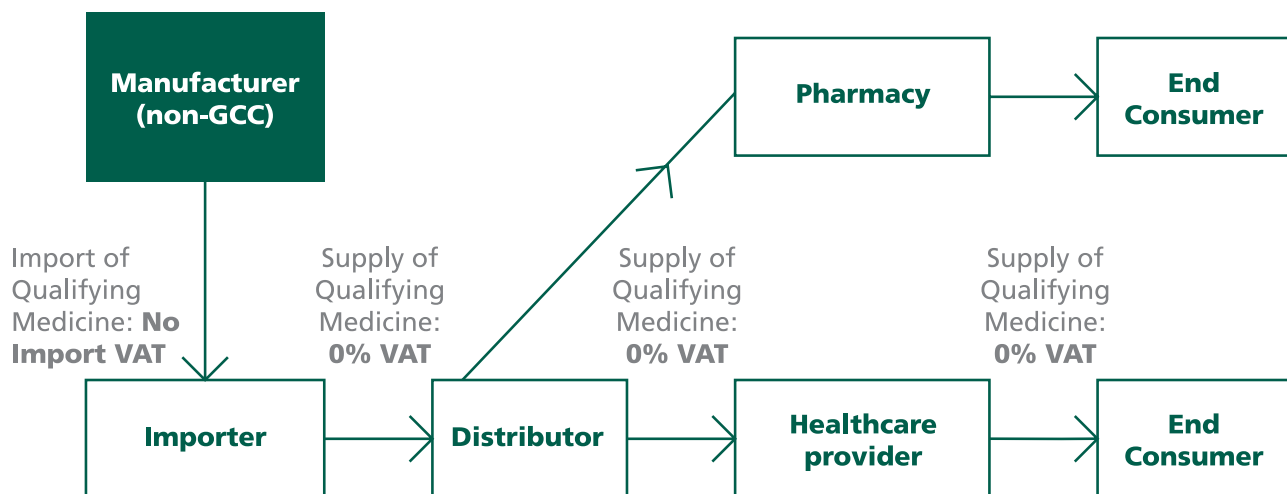
Imports of any zero-rated goods are exempt from import VAT⁽²⁰⁾ upon importation into the Kingdom. Therefore, any imports of Qualifying Medicines and/or Qualifying Medical Goods will not be subject to VAT upon import. This exemption does not affect customs duties, which will apply as usual.

The effect of the exemption is that no import VAT is payable to the Customs Department. There will be no effect on the deduction of Input VAT by the importer.

The importer of Qualifying Medicines and Qualifying Medical Goods should ensure the correct VAT treatment upon importation.

(19) Article 35(1), Medicines and medical equipment, Implementing Regulations

(20) Article 38, Exemptions on Import, Unified VAT Agreement



6.3. NON-QUALIFYING MEDICINES AND MEDICAL EQUIPMENT

Imports and supplies of non-qualifying medicines or medical equipment are subject to VAT at the basic rate under the normal rules for taxable supplies of goods made in the KSA.

6.4. SPECIAL CASES

6.4.1. Consignment stocks

Suppliers of medicines or medical equipment may often provide a stock of goods to a healthcare provider on a consignment basis. In such a case, the purchaser will hold goods in their possession for the purpose of sale to a third party, but without owning them. The supplier retains legal ownership until the recipient (the buyer) notifies the supplier and assumes ownership of the goods – at which time the sale is recorded and the ownership is transferred to the buyer.

For VAT purposes, taxes due on the sale of the goods held as consignment goods at the date of supply of the goods or the date of issue of the tax invoice to the recipient, or upon receipt of the consideration, whichever occurs first. The date of supply of goods is when the goods are put at the disposal of the recipient.⁽²¹⁾

In the event that an invoice is not issued and the consideration has not been received before the supply of the goods, the supplier must issue a tax invoice specifying the tax applicable to the goods (whether 0% or 5%) no later than 15 days from the month following the month in which the consignment goods were delivered and placed at the disposal of the recipient, notwithstanding that ownership may not in fact pass until a later date.

6.4.2. Free samples

Suppliers of medicines and medical equipment may provide free samples of medicines to healthcare providers or to individuals to promote their products. The provision of medicines or other goods without consideration is a nominal supply on which the supplier must account for VAT in their VAT return, provided that the rules and conditions for nominal supplies are satisfied.

VAT is calculated based on the purchase price or cost to the supplier, or if unascertainable the fair market value – with VAT then applied at the appropriate rate. Therefore, the **nominal supply for Qualifying Medicines and Qualifying Medical Goods will also be zero-rated.**⁽²²⁾

(21) Article 23(2), Date of Tax Due on Supplies of Goods and Services, Unified VAT Agreement

(22) Article 39(1), Value of specific Taxable Supplies – Nominal Supplies, Implementing Regulations

A nominal supply is not made on any samples provided to promote a supplier's business if⁽²³⁾:

- The fair market value of the individual sample or all samples is valued does not exceed SAR 200 per recipient per year; **AND**
- The total fair market value of gifts, samples and other goods provided without consideration throughout one year by that Supplier is less than SAR 50,000⁽²⁴⁾

Example (13): A VAT registered health products supplier makes supplies of small value samples to distributors without consideration to promote its products. In 2018, it provides four samples:

Description	Cost value per item (SAR)	Samples provided in 2018	Total value (SAR)
Special adhesive dressings (Qualifying Medical Good)	15	1,000	15,000
Branded merchandise - cholesterol testing apparatus - (non-qualifying)	350	20	7,000
Cosmetic lotion (non-qualifying)	50	400	20,000
Cardiac medicine (qualifying)	400	5	2,000

In this example, the supplier has distributed free samples worth SAR 49,000 during the year, with the cost thereof being SAR 44,000, so the market value of those free samples has not exceeded the annual threshold of SAR 50,000. Thus, the totality of the samples provided during that year is not treated as a nominal supply. However, the free supply of the cholesterol testing device, is a nominal supply with a value over SAR 200. As this is not a qualifying good, the rate of VAT will be 5%. The supplier must include the nominal supply in the total outputs for the VAT return period during which the supply was made.

With regard to the supply of cardiac medicine (qualifying), the fair market value of it exceeds SAR 200 over the year, and it will therefore be treated as a nominal supply and subject to tax at zero rate, being a qualifying medicine.

In total, VAT of SAR 17.5 (5% x SAR 350) will be payable on the basis of the cost of the device, in respect of each device, resulting in a total of SAR350 (20 x SAR 17.5) in respect of all devices, and tax will be payable on the nominal supply of those devices during that year.

(23) Article 15(2), Nominal Supplies, Implementing Regulations

(24) Article 15(2), Nominal Supplies, Implementing Regulations

7. INPUT TAX DEDUCTION

7.1. GENERAL CONDITIONS

A person who is VAT registered may deduct Input VAT charged on goods it purchases or receives and in course of carrying out an 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 importation of goods

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

In addition, input VAT may not be deducted on any costs incurred that do not relate to the Economic Activity of the taxable person (including some blocked expenditure types such as entertainment and motor vehicles)⁽²⁵⁾, or on any costs which relate to making exempt supplies. This Input VAT is a credit entered on the VAT return which is offset against the VAT charged on supplies (output VAT) made during that period.

Input VAT may only be deducted where the VAT-registered recipient holds a tax invoice or Customs documents showing the VAT due (or any alternatives document showing the amount of Input VAT paid or due for payment, subject to the approval of the Authority).

In connection with the supply of qualifying medicines and medical equipment, the supplier may deduct the Input tax incurred on costs and expenses borne by him in the course of making those supplies, on the basis that they are taxable at zero rate.

Example (14): A medicine factory in the Kingdom purchases cardboard boxes to be used in the packaging of certain medicines that it produces. All of the medicines produced by the factory fall within the list of qualifying medicines and medical equipment. The factory may therefore deduct the input VAT on the packaging in its VAT return covering the period of the supply.

7.2. CAPITAL ASSETS

Capital assets are held for a long-term for the purpose of commercial investment is such as medical equipment bought by supplies of health care services. VAT deduction is available upfront based on the intended use at the time of purchase.

Taxable Persons are required to monitor the usage of any tangible, movable capital assets and intangible capital assets for a period of 6 years, and make annual adjustments to the upfront VAT deduction where the actual use changes from deductible to non-deductible and vice versa.⁽²⁶⁾ Equipment purchased by Private Healthcare Providers in the healthcare sector would generally be used for VAT standard rated purposes, such as X-ray service, Magnetic resonance imaging, etc. Therefore, in most cases, unless capital goods are later used for private purposes during their useful life, there may be no adjustments to make each year in practice.

Example (15): The owner of Private Healthcare establishment purchases specialist electronic equipment for use in his healthcare business and claims VAT deduction in full. After one year, a new model is released, so he purchases the new model and takes the earlier model home for private use. He is required to make an adjustment for the private use of the asset over the remainder of the useful life.

The usage of all capital assets must in all cases be monitored and appropriate records kept for provision upon request in an audit.

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

(26) Article 52, Capital Assets, Implementing Regulations

7.3. REFUND CLAIMS FOR GOVERNMENT HEALTHCARE PROVIDERS

Designated Persons not carrying on an Economic Activity, or those engaged in designated Economic Activity, may be permitted by the Authority to apply for a refund of VAT paid by them on Supplies of Goods or services received in the Kingdom. The Minister of Finance may issue an order setting out a list of Persons considered an Eligible Person for refund.⁽²⁷⁾

Government Healthcare Providers, set out in the above mentioned list, who are not carrying on an Economic Activity for VAT purposes will not reclaim Input VAT through VAT returns, but they will be able to reclaim a refund of VAT in the event that they qualify for a refund.

A special refund application will allow designated persons, including government agencies, to request a refund of VAT charged to them in carrying out their public activities. A refund under that mechanism will not be permitted in respect of input VAT paid on supplies received by the person in the course of a carrying on his activities in a commercial capacity.⁽²⁸⁾ Government Healthcare Providers may therefore be eligible to submit claims for refund of VAT under this mechanism.

(27) Article 70 (1), Refund of Tax to designated Persons, Implementing Regulations

(28) Article 70(9), Refund of Tax to designated Persons, Implementing Regulations

8. VAT REPORTING

8.1. DATE OF SUPPLY

VAT becomes due on the supply of healthcare services on the date on which the services are completed.⁽²⁹⁾ However, if a payment is made, or invoice is issued by the supplier before that date, VAT becomes due on the date of payment or of invoicing, whichever is earlier.

Some Healthcare services may be provided as a continuous supply – such as rehabilitation at a private facility. In these cases, VAT becomes due at the earlier of the invoice date or actual payment; each separate amount charged is viewed as a separate and successive supply.⁽³⁰⁾

8.2. CHARGING VAT

Where a supply is made by a resident supplier, that supplier is responsible for being registered for VAT (if required) and charging VAT at the appropriate rate. The supplier must issue a tax invoice for every supply on which VAT is charged.

If a supply of services is made by a non-resident supplier to a recipient who is resident in the KSA and registered for VAT, the supplier should not charge VAT. The supplier will not charge VAT, and the recipient is responsible for reporting VAT (at the appropriate rate) on their VAT return through the reverse charge mechanism.

Further information on the reverse charge mechanism is provided the VAT manual at vat.gov.sa.

8.3. 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 businesses with an annual turnover exceeding SAR 40 million. For all other VAT registered persons, the standard tax period is three months.

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

Further information on the filling in of the VAT returns will be provided in a separate guideline.

8.4. KEEPING OF 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

(29) Article 23(2), Date of Tax Due on Supplies of Goods and Services, Unified VAT Agreement

(30) Article 20(2), Date of Supply in specific circumstances, Implementing Regulations

Records may be kept in physical copy, or electronically provided that the conditions in the Implementing Regulations to the Law are satisfied⁽³¹⁾, but must be made available to GAZT on request.

All records must be kept for at least the standard retention period of 6 years. The minimum period of retention of records may be extended to 15 years in connection with records relating to capital assets.⁽³²⁾ Records relating to capital assets must be kept for the useful life of the asset plus an additional five years (i.e. 11 years in total for capital assets with the standard VAT useful life of six years).

8.5. TAX OBLIGATIONS

Every Taxable Person has an obligation to assess his own VAT liability, and to comply with VAT obligations. This includes registering for VAT when required, correctly calculating the amount of net tax payable, paying tax on time, keeping all necessary records, and cooperating with officers of GAZT upon request.

If you are not sure of your tax obligations, you should contact GAZT through its website at vat.gov.sa or other communication channels. You may also seek external advice from a qualified consultant.

8.6. REQUESTING A RULING

If, having consulted the relevant law and guidance, you are unsure on how VAT applies to a particular activity or transaction that you carry out or intend to carry out, you may apply to GAZT for a ruling. The application must include the full facts relating to the particular activity or the particular transaction on which you are seeking the Authority's view.⁽³³⁾

Rulings may be in one of the two following forms:

- **Public:** in which case GAZT will publish details of the ruling, without any taxpayer-specific information; or
- **Private:** in which case GAZT will not publish the ruling

A public or private ruling issued by the Authority will not be binding on it or any taxpayer in connection with any transaction that he carries out. Nor may it be relied on in any manner, nor will the Authority be obliged to respond to all applications for rulings. It will consider all applications and specify those applications to which priority will be given, on the basis of certain factors including:

- The level of information presented by the taxpayer in the request;
- The benefit to the wider taxpayer community in issuing a public ruling on the transaction or activity; and
- Whether there is existing law or guidance which addresses the request

8.7. 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 notified to GAZT within twenty days of becoming aware of the error or incorrect amount.⁽³⁴⁾

(31) For more detail please refer to Article 66(3), Records, Implementing Regulations

(32) Article 59: Retention Period for Tax Invoices, Records and Accounting Documents, Unified VAT Agreement; Article 52: Capital Assets - Implementing Regulations; and Article 66, Records, Implementing Regulations

(33) Article 75, Rulings, Implementing Regulations

(34) Article 63, Correction of returns, Implementing Regulations

For small errors, resulting in an understatement of a net VAT of less than SAR 5,000, you may instead correct the error by adjusting the net tax in the following VAT return.

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

9. PENALTIES

The Authority may impose penalties or fines on taxpayers for violations of VAT requirements set out by the Law or Implementing Regulations.⁽³⁵⁾

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

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

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).

⁽³⁵⁾ Chapter 16: Articles (41), (42), (43), (44), (45) and (47) of VAT Law – Tax Evasion and Penalties

10. TRANSITIONAL RULES RELATED TO HEALTHCARE

VAT applies in principle on all transactions taking place after 1 January 2018, pursuant to the rules governing the date of supply as set out in section 8.1 of this guideline. By way of exception, transitional rules will apply to ensure the fair application of VAT on transactions made on or after 1 January 2018.

Further information on the transitional provisions is detailed in the Transitional VAT Rules guideline. Three rules of high relevance to the healthcare sector are set out below.

10.1. Disregard early invoice or payment

Any supplier who issues an invoice or receives consideration before 1 January 2018 where the actual supply of goods or services takes place on or after 1 January 2018, shall be considered to make a Taxable Supply on the actual date of the supply, irrespective of the date of payment or issue of the invoice.⁽³⁶⁾

In this case, the supplier is obligated to issue an additional invoice showing the tax charged on the taxable amount, if the actual date of the supply of the goods or services occurs on or after 1 January 2018 .

Conversely, if the actual supply takes place before 1 January 2018 and the invoice was issued or the consideration was received after this date, the supply will not be subject to VAT.

Example (16): A private dentist receives SAR 5,000 for a routine examination on 29 November 2017 and receives payment from the customer on that same day. The services will be provided on 5 January 2018. For transitional purposes, the early payment is disregarded. The supply takes place when the dental examination occurs on 5 January 2018. VAT is chargeable at 5%.

As the payment and invoice were raised prior to 1 January 2018, the transitional rules apply and VAT is due based on the actual date of supply on 5 January 2018. In this case, the dentist must issue an additional invoice showing the VAT charged of SAR 250 on the total taxable amount of SAR 5,000.

10.2. CONTINUOUS SUPPLIES SPANNING VAT INTRODUCTION DATE

The VAT Law provides that continuous supplies of goods or services spanning 1 January 2018 or thereafter shall be subject to VAT only on that part of the supply carried out on or after 1 January 2018, and VAT will not apply to any part of the continuous supply carried out before 1 January 2018.

The supplier must apportion the value of the supplies between the period before 1 January 2018 and the period following that date in the most appropriate manner reflecting the actual supply of goods or services to the customer.⁽³⁷⁾ In the healthcare sector, these include any services provided to the customer across a defined period or in a continuous consecutive manner, such as a 12 month stay in a rehabilitation facility.

Example (17 is): A private rehabilitation facility issues an invoice on 29 November 2017 for a patient's stay which is booked for a one-year period from November 2017 to October 2018. The agreed price is SAR 120,000.

This is a continuous service, and regardless of the date of the invoice, VAT should only be applicable to the portion of the service performed after 1 January 2018. As the services are provided evenly across the period, this would be split evenly across the duration. Assuming the parties have agreed that the price to be exclusive of any VAT, the invoice will therefore show:

(36) Article 79(1), Transitional provisions, Implementing Regulations

(37) Article 21(3), VAT Law

Goods and Services provided	Value (SAR)	VAT charged	
Services provided: 1 November 2017 – 31 December 2017	20,000	-	(Portion performed before 1 January 2018)
Services provided: 1 January 2018 – 31 October 2018	100,000	5,000	(Portion performed on/ after 1 January 2018)
Total amount due	120,000	5,000	125,000

10.3. APPLICATION OF THE TRANSITIONAL PROVISIONS FOR THE ZERO RATING OF EXISTING CONTRACTS ('GRANDFATHERING')

In connection with existing contracts, the transitional provisions permit supplies made under existing long-term contracts to be subject to zero rating during the transitional period until the date of expiration or renewal of the contract, or until 31 December 2018, whichever is the earliest.⁽³⁸⁾

This allows suppliers and customers who had entered into longstanding contractual commitments without VAT, an additional period to review the contracts and agree on the new price after VAT. These transitional provisions apply only to those supplies that would otherwise have been subject to VAT.

10.3.1. Eligible contracts

The transitional provisions may be applied for the zero rate on contracts binding on both parties to the contract in which the introduction of VAT had not been anticipated, but provided that the terms and provisions of the contract cannot contain the following:

- A reference to the contractual price being inclusive or exclusive of VAT (or taxes); and
- Any provisions relating to the adjustment of the price in the event of the introduction of VAT or taxes on the goods and services provided under the contract;

The transitional provisions will apply so as to impose the zero rate on contracts that did not anticipate the introduction of VAT. Consequently, it will be open to the supplier to subject supplies made in accordance with contracts for services in which the introduction of VAT was not anticipated to the zero rate until the time of the expiration or renewal of the contract, or until December 2018, provided that the following conditions are satisfied:

1. The contract was entered into before 30th May 2017: The date of the making of the contract is the date on which it was signed or will become binding on both parties. Contracts made before that date but renewed or updated after 30 May 2017 will be treated as having been made on the date of renewal or updating
2. The customer is entitled to deduct Input VAT **in relation to that supply** in full, or the customer must be a government Department or "qualifying person" having the right to claim a refund of VAT. It is not necessary for the customer to be fully subject to VAT or capable of deducting input VAT in full on all of his activities in order for him to be able to benefit by the provisions for the imposition of the transitional zero rate to such a supply. The provisions governing the transitional zero rate do not apply to supplies made to a consumer who is not registered for VAT with the Authority (or not registered as a qualified person)
3. The customer provides a written certification to the supplier that he is able to deduct/refund the Input VAT in relation to that supply in full⁽³⁹⁾

The exception set out in this section does not apply to the supplies made by a private healthcare supplier to individuals who do not have the right to deduct or claim a refund of input tax.

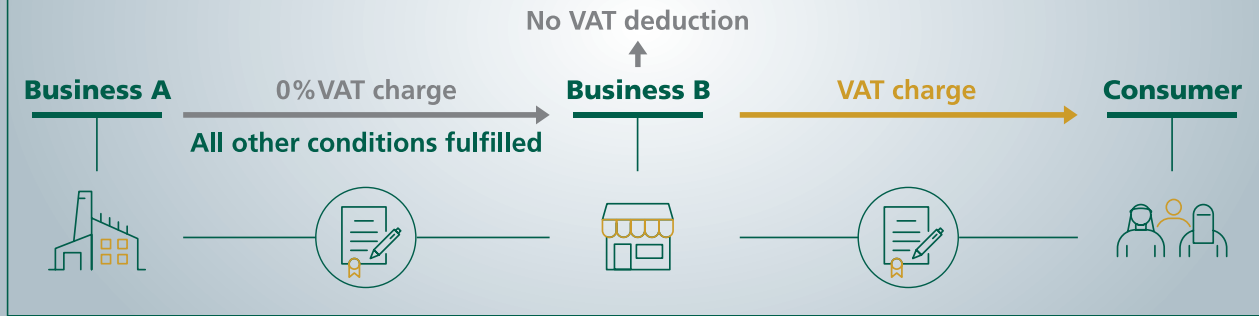
(38) Article 79(3), Transitional provisions, Implementing Regulations

(39) Article 79(3), Transitional provisions, Implementing Regulations

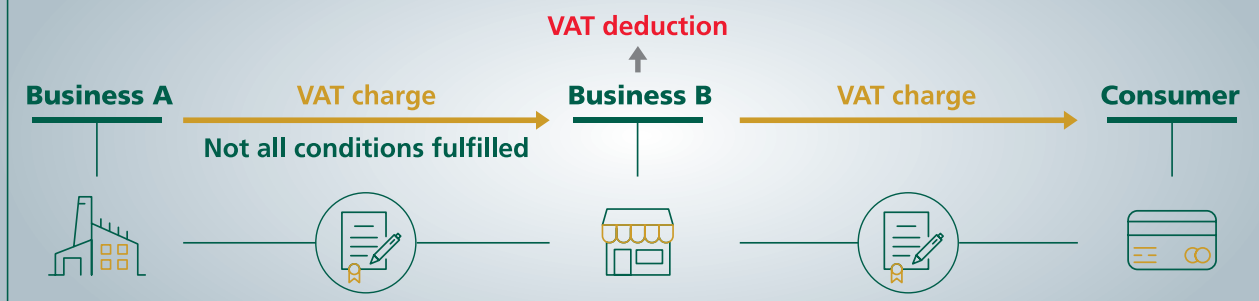
0% 

Contracts not anticipating VAT are treated as zero-rated until the earlier of expiry/ renewal or 31st Dec 2018

Grandfathering mechanism



Without Grandfathering



GAZT Cash flow Impact: ■ Positive ■ Neutral ■ Negative

Example (18): A private specialist works three days each week at a private hospital in Riyadh, for which he charges SAR 6500 per day. The specialist will be registered for VAT and his supplies will be chargeable to VAT. His contract with the clinic was signed in 2016 for a period of three years and has no provisions relating to VAT or other taxes.

The private hospital is also registered for VAT able to recover Input VAT in full on the specialist consultant's services. It provides written confirmation of this to the consultant. The specialist can apply the zero-rate to his services until the contract is expired, renewed, or until 31 December 2018, whichever is earliest.

10.3.2. Certification

Further rules on the transitional provisions applying zero rating and written certification for the application of VAT at zero rate can be found in a separate guideline. Key points relevant for the health sector are:

- ▶ The customer may respond to the supplier's request to supply the certification within a reasonable time, pursuant to the agreement. The reply should be based on all of the facts known to the customer at the time that he makes his reply. The reply should deal with the ability of the customer to deduct VAT on that particular supply or those particular supplies. The customer may either:
 - Confirm his entitlement to deduct input VAT in full on the supplies the subject matter of the request;
 - It should state that he is not able to deduct input tax in full in respect of the relevant supplies, or that he is not able to provide such confirmation

It is open to the customer to provide such certification by any means (including electronic communication), and both the customer and the supplier should keep that certificate in their records, if the customer certifies that he is entitled to deduct input VAT in respect of that supply or those supplies.

11. CONTACTING US

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

12. FREQUENTLY ASKED QUESTIONS

1. A patient who has a medical insurance policy bears a specified proportion of the costs of treatment, and pays part of the bill. The hospital issues two bills: one to the patient, and the other to the insurance company. Is it possible to treat the patient's proportion that is collected as being part of the amounts collected that are not subject to VAT, meaning that VAT would be imposed only on the invoice issued to the insurance company? Is it possible to apportion the tax between the patient and the company?

For the purposes of VAT, the customer is the person who receives the supply of goods or services. That will be determined from the contracts made, which will set out: the person who provides the instructions to the supplier or the person who enters into a contract with the supplier, or the person who has the contractual right as against the supplier to take delivery of the goods or to receive the services. In all cases, the hospital must impose VAT on the full amount of the medical service provided by it at the rate of 5%, whether one invoice is issued for the full amount to the insurance company, or whether one invoice is issued to the insurance company and a separate invoice to the patient.

2. How will pharmacies be able to account for VAT at zero rate or 5% on their supplies?

All supplies of qualifying medicines and medical equipment are subject to the zero rate. The basic rate applies to all supplies of other medical equipment. In any event, the pharmacy must separate the items in the invoice into zero rated items and items subject to the 5% rate.

3. Insurance companies generally make delay in paying the demands of hospitals. How should VAT be accounted for in such cases?

For the purposes of VAT, the date that the tax becomes due is the earliest of the date of issue of the invoice, or the date of collection of the consideration, or the date of completion of the performance of the services. If the performance of the services has been completed, then VAT will be due, irrespective of the date that the claims are collected from the insurance companies, and the hospital must declare the VAT due for those services in its periodical return.

It should be taken into consideration that the conditions of payment and collection between the hospital and the insurance company are regarded as commercial matters between the contracting parties.

4. What is the tax treatment of payments made by hospitals to a surgeon in consideration of his services?

If the contract between the hospital and the doctor is on the basis that he is an employee of the hospital, then any amounts paid to the doctor will be treated as a salary or remuneration from the employer to his employee pursuant to the Labour Regulation, and will not be subject to VAT.

In the event that the contract with the doctor is in his capacity as a provider of private services (and not an employee of the hospital), and he is resident in the Kingdom and is registered for VAT, then the doctor will be obliged to impose VAT on the services that he renders to the hospital. Therefore, the determination of the correct tax treatment will be the responsibility of the doctor and not of the hospital.

If the doctor is not resident in the Kingdom, the hospital will be obliged to account for VAT on the services provided to it by him in accordance with the reverse charge mechanism.

5. We are a medicines warehouse registered for VAT in the Kingdom, and we distribute free samples of our products to pharmacies all over the Kingdom. Are those samples subject to VAT?

If the samples are on the list of qualifying medical goods subject to zero rating, then no tax will be payable on those free samples.

If the samples are of medical goods not on the list of qualifying medical goods, then they will be subject to VAT at the rate of 5% in accordance with the rules governing nominal supplies in the Implementing Regulations.

6. We have an agreement to do surgical operations on patients for a lump sum, with no details concerning the services or medicines used while the patient is undergoing treatment at the hospital. The invoice consists of one single item showing the operation and the cost of it. What is the tax treatment of the medicines and medical accessories used?

The invoice must be divided into separate items. The qualifying medicines and medical equipment should be separated out so as to be subject to zero rate, differentiated from the medical services that are subject to the basic rate. If no such distinction is made, then the entire value will be subject to VAT at the basic rate

7. We are a medicines factory in the city of Dammam, registered under the VAT system. We supply certain medicines warehouses in the Kingdom with our products, on the basis of consignment [sale or return] goods. Are those goods subject to VAT, and how are they treated?

For the purposes of VAT, tax is due on the sale of goods that are on a consignment [sale or return] basis as of the date of the supply of the goods or the date of the issue of the tax invoice to the medicines warehouse, or the date of receipt of the consideration, whichever first occurs. The date of supply is the date on which the goods are placed at the disposal of the warehouse, and the tax invoice must be issued no later than 15 days from the month following the month in which the supply was made, notwithstanding that ownership may not in fact have been transferred until a later date,

The factory must specify the tax rate applicable to those goods (whether 0% or 5%) in the tax invoice rendered by it on the warehouse.

8. Will hospitals be able to apply the zero rate transitional provisions to its contracts with specialist doctors registered within the VAT system?

Yes, that is possible in the event that all of the conditions for the application of the transitional zero rate are satisfied, in that the private hospital and the doctor were registered for VAT in the Kingdom, and the contract was signed between them before 30 May 2017, and that the contract did not anticipate the introduction of VAT. It is also required that the hospital will be able to deduct the input tax in full on the taxable services of the doctor rendered to it, provided that the hospital gives the doctor written confirmation to that effect. If all criteria are met, it will be open to a registered doctor to impose VAT at 0% on his services until the date of expiration of the contract, or the date of renewal of it, or 31 December 2018, whichever is the earliest.

