

A Comparison of the VAT Regimes in Saudi Arabia and the UAE

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As the United Arab Emirates ('UAE') and the Kingdom of Saudi Arabia ('Saudi Arabia') continue to lead the Gulf Cooperation Council ('GCC') in proposing the implementation of value added tax ('VAT'), this article compares the key features of the future VAT regimes in these countries, including the treatment of different industry sectors based on what is currently known about the proposed VAT regimes.

The GCC VAT Framework

The Unified VAT Agreement for the GCC ('GCC VAT Framework'), which is a country level agreement between all the GCC states, sets out the framework and broad principles that should be followed by all the GCC countries in their individual VAT laws. Each GCC country is expected to enact its own domestic VAT legislation based on the underlying principles in this GCC VAT Framework.

In Saudi Arabia, the VAT law has incorporated parts of the GCC VAT Framework into its domestic VAT law and these, together, are supplemented by implementing regulations.

In the UAE, the VAT legislation will comprise the VAT law and supporting executive regulations.

The Status of VAT in the UAE and Saudi Arabia

In line with the recent trend where Saudi Arabia has been the first to publish tax laws, pursuant to tax related agreements at the GCC level, the country has become the first in the GCC to issue its final VAT law and implementing regulations, doing so on July 28, 2017 and August 30, 2017 respectively.

The UAE issued its VAT law at the end of August and the related executive regulations are expected to be issued during the fourth quarter of this year.

Implementation Dates in the UAE and Saudi Arabia

Both Saudi Arabia and the UAE will be implementing their VAT regimes with effect from January 1, 2018, as confirmed by their final VAT laws.

Scope of VAT in the UAE and Saudi Arabia

The UAE and Saudi Arabia have adopted a broad tax base with limited exceptions. VAT will apply to the supply of goods and services in the UAE and Saudi Arabia, and to imports into the countries respectively. Certain goods and services may be exempt or subject to a zero rate of VAT. Unless the supply of goods and services falls within a category that is specifically exempt or is subject to the zero rate, VAT will apply at the standard rate. The standard VAT rate will be five per cent in both countries.

VAT Registration

The Saudi Arabian tax authority has already started automatically registering large businesses based on existing information held by it on taxpayers. The country's VAT law required all persons

liable to register for VAT to register within 30 days from the issue of the law.

The UAE Ministry of Finance has indicated that electronic VAT registration will be open on a voluntary basis during the third quarter of 2017. For businesses required to be registered, VAT registration is expected to become compulsory in the UAE during the final quarter of 2017.

The mandatory registration threshold will be an annual business turnover of over 375,000 UAE dirhams in the UAE and over 375,000 Saudi riyals in Saudi Arabia; the voluntary registration threshold will be an annual business turnover that is below the mandatory registration but above 187,500 UAE dirhams and above 187,500 Saudi riyals. Businesses must register for VAT if their annual turnover exceeds the mandatory registration threshold, while it is optional for them to register if the taxable supply and imports are below the mandatory registration threshold but exceed the voluntary registration threshold. In Saudi Arabia, small businesses with turnover of less than one million Saudi riyals will be given the opportunity to delay registration until January 1, 2019. Group registration will be available in both countries for related parties, subject to certain conditions.

In Saudi Arabia, it is interesting to note that businesses that supply goods or services that are zero rated are not required to be VAT registered, whereas the UAE requires such businesses to request an exemption from mandatory registration. Clearly, it will be in the interest of businesses to register as only VAT registered business will be able to recover any VAT paid on their purchases.

VAT Treatment of Industry Sectors

In the light of the flexibility provided by the GCC VAT Framework, it is likely that industry sectors may be treated differently for VAT purposes in individual GCC countries. Even where the sector may have the same headline VAT treatment, the definitions may vary from country to country resulting in potentially different VAT outcomes for the same services.

The above can be seen in the case of the VAT treatment in the UAE and Saudi Arabia for the education and healthcare sectors. Based on Saudi Arabia's draft VAT implementing regulations, where education and healthcare services are neither exempt nor zero rated, education and healthcare providers will generally be subject to VAT at the standard rate (with public education and healthcare providers potentially not subject to VAT).

The UAE, however, has announced that certain education and healthcare services will be subject to VAT at the zero rate. It remains to be seen how the Emirates will define the type of education and healthcare services that will be taxed at the zero rate and which education and healthcare services will be excluded from this definition. It is possible that the zero rated VAT treatment is dependent on whether the education provider is engaged in pre-school, primary, secondary or higher education and on whether the healthcare provider or educational institute is public or private.

Both nations are expected to treat financial services and insurance in the same way. It is expected that margin-based financial services will be exempt, while fee-based products will be subject to the standard rate of VAT. General insurance services will be subject to the standard rate of VAT, except life insurance, which will be exempt.

In terms of real estate, both will exempt the supply of residential real estate, except that the Emirates will subject the first sale of residential real estate to VAT at a zero rate. The UAE will also exempt the supply of bare land. The supply of commercial real estate will be subject to VAT at the standard rate in both countries. As noted above, the definition of 'commercial' and 'residential' real estate may differ between the two nations.

Subject to certain conditions, the supply of medicine and medical equipment will be zero rated in accordance with the GCC VAT Framework in both countries. Although under the GCC VAT

Framework there was a list of 100 items of foods that could have been zero rated, both countries will subject these items to VAT at the standard rate.

Another example of the differences in VAT treatment is local passenger transport services. The UAE has announced that this will be exempt, whereas Saudi Arabia's implementing regulations indicate that such services will be subject to VAT at the standard rate.

In both countries, government authorities that are performing a public function will not be considered to be carrying on an economic activity, as such, supplies made by them will not be subject to VAT in either country. However, where government authorities are involved in the supply of goods and services in competition with the private sector, they will be regarded as carrying on a commercial activity and subject to VAT in the normal way.

VAT Compliance

In the UAE, VAT returns will generally be required to be submitted on a quarterly basis, with the returns and payments due within 28 days after the end of the period. In Saudi Arabia, companies with annual income in excess of 40 million Saudi riyals must file returns on a monthly basis, while companies under this threshold must file their returns on a quarterly basis, with payments required to be made within a month of the end of the relevant period.

Transitional Provisions

Both nations will have special rules to protect businesses for contracts that straddle VAT implementation.

In the UAE, under normal circumstances, where the contract is silent on VAT, the price will be deemed to be inclusive of VAT. However, where the contract was concluded prior to the implementation date and a part of the supply is made after the implementation date, suppliers will be able to charge the tax to the customer, where the latter is able to recover it.

In Saudi Arabia, for contracts that were entered into before May 31, 2017 and are silent on VAT, the supply can be treated as zero rated until the end of the contract or December 31, 2022 where the customer is entitled to deduct VAT incurred on its supplies.

Are you ready for VAT?

As there are less than four months remaining before VAT is implemented in the UAE and Saudi Arabia, the concern is whether there is sufficient time for businesses that have not yet taken any proactive measures to prepare. Such businesses will likely find it very difficult to be ready in time.

It has, therefore, become critical for organisations to assess the impact of VAT on their businesses and implement any changes necessary to be compliant with the applicable VAT laws and minimise costs and cash flow impact.

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