VAT brief | Issues for directors

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The Saudi VAT law has been ratified. GAZT has released its calendar of VAT deadlines moving towards the 1 January 2018 implementation date. The Saudi implementing regulations (IRs) have been finalised. The UAE has released its federal decree on VAT. Implementing regulations are expected imminently. Key decision makers should now be more aware than ever that we are entering into a new tax era. Businesses in the UAE and Saudi Arabia now have less than 35 working days to prepare for the implementation of VAT.

What is VAT?

- VAT is a tax on consumption, not income or profits.
- The GCC countries have agreed a standard VAT rate of five percent (5%).
- Supplies of goods and services are generally standard-rated but can also be zero-rated, exempt or out of scope.
- Registered suppliers will account for VAT on the price of a good or service they supply and pay VAT to the tax authority on a regular basis.
- Registered businesses should (where the supplies they make are either standard- or zero-rated or out of scope) be able to recover most of the VAT they incur in making those supplies.
- Registered businesses that make supplies that are exempt from VAT will not be able to recover the VAT they have incurred in the course of making those supplies.
- Registered businesses that make supplies that are predominantly zero-rated will usually be in a VAT refund position.

What legal provisions are likely to affect directors?

- The Unified VAT Agreement for the Cooperation Council for the Arab States of the Gulf (the GCC VAT treaty) sets out the conditions for mandatory VAT registration.
- Article 50 of the GCC VAT treaty states:
  For the purposes of this agreement, a taxable person shall be obliged to register if:

  1. He [the person]is resident in any member state
  2. The value of his [their] annual taxable supplies in that member state exceeds or is expected to exceed the mandatory registration threshold.

- Subsection 2 of Article 50 of the treaty defines the annual mandatory registration threshold (MRT) as the equivalent of US$100,000.
- In Article 1, the GCC VAT treaty also defines:

  Taxable person: A person that conducts an economic activity independently for the purpose of generating income, who is registered or obligated to register for VAT in accordance with the provisions of this agreement.
  Person: Any natural or legal person, whether public or private, or any other form of partnership.
  Economic activity: 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.

- The Saudi IRs specifically state persons who are in an employer-employee relationship are not carrying on an economic activity. While this may provide relief for executive directors (directors who are also employers of the business) all other directors (non-executive directors) are likely to be affected.

Contact us

Mubeen Khadir
Head of Tax
mubeen.khadir@keypoint.com
+973 1720 6879
+973 3222 6811

George Campbell
Associate Director
george.campbell@keypoint.com
+973 1720 6872
+973 3833 8641

Omar Hisham
Manager
omar.hisham@keypoint.com
+973 1720 6877
+973 3833 8640

Willem Bam
Manager
willem.bam@keypoint.com
+973 1720 6875
+973 3833 8649

Chris Park
Manager
chris.park@keypoint.com
+973 1720 6888
+973 3833 8634

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What does this mean in practice for directors?

- As the definition of person includes individuals, where individuals conduct an economic activity - including consultancy and advisory services - on an ongoing or regular basis which exceeds the MRT, those individuals will be required to:

    - Register for VAT
    - Charge VAT to their customers – the companies they are directors of
    - Account for VAT to the tax authority
    - Submit periodic VAT returns

- Directors (unless they are in an employee – employer relationship) will be considered taxable persons. If total taxable income from directorships – as they may be directors of more than one company – exceeds the annual MRT of US$100,000, they will (based on the Saudi IRs) be required to register with the tax authority and account for VAT.

Important note

These briefs are based on a translation of the Unified VAT Agreement for the Cooperation Council for the Arab States of the Gulf (the GCC VAT treaty), Saudi Arabia's VAT legislation, the UAE federal law, the Saudi implementing regulations and general VAT principles and are provided for information purposes only. Saudi Arabia and the UAE continue – as of the date of release of this brief – to work towards an implementation date of 1 January 2018. This brief is not a substitute for professional advice. You should seek appropriate professional advice from a tax advisor before making any decision relating to your particular circumstances.

Contact us

Mubeen Khadir
Head of Tax
mubeen.khadir@keypoint.com
+973 1720 6879
+973 3222 6811

George Campbell
Associate Director
george.campbell@keypoint.com
+973 1720 6872
+973 3833 8641

Omar Hisham
Manager
omar.hisham@keypoint.com
+973 1720 6877
+973 3833 8640

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Manager
willem.bam@keypoint.com
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