VAT brief | Issues for directors

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Saudi Arabia and the UAE implemented VAT on 1 January 2018, with the other GCC countries expected to follow in the next 12 months. Business leaders should now be more aware than ever that we are entering into a new tax era. Key decision makers in the UAE and Saudi Arabia need to ensure their processes and systems are - and remain - VAT-compliant, while their counterparts in the other GCC states need to start preparing now 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.
- The supply of goods and services can be exempt, zero-rated or standard-rated (five percent), or out of scope.
- Registered businesses account for VAT on the price charged for the goods or services they supply and pay it 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 with recovery) be able to recover the VAT they have incurred in the course of making those supplies.
- Registered businesses that make supplies that are exempt from VAT cannot recover the VAT they have incurred in the course of making those supplies.
- Registered businesses may not be able to recover the VAT they have incurred on certain purchases that are deemed to have a private element.
- Registered businesses that make supplies that are predominantly zero-rated are likely to be in a VAT refund position.
- Businesses that make both exempt and taxable supplies can only recover a proportion of their input VAT.

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:*
  - *He is resident in any member state*
  - *The value of his 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.

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What does this mean in practice for directors?

- Saudi Arabia and the UAE have both confirmed that directors are considered to be taxable persons where total taxable income from directorships – they may be directors of more than one company - exceeds the annual MRT of US$100,000.
- 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 are therefore required - subject to exceeding the MRT - to register with the tax authority and account for VAT.
- The UAE's FTA has issued a guide for directors.

Important note

These briefs are based on a translation of the GCC VAT Treaty, UAE and Saudi Arabia's VAT legislation, the relevant regulations and general VAT principles and are provided for information purposes only.

Saudi Arabia and the UAE implemented VAT on 1 January 2018 and the other GCC countries continue – as of the date of release of this brief – to work towards implementation in the next 12 months.

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.