

Tax alert | OTA issues unofficial translation of ERs

Kingdom of Bahrain | 13 April 2021



Oman's VAT executive regulations were released (in Arabic) on 14 March, with the Oman Tax Authority (OTA) releasing an unofficial English translation on 24 March 2021. In this alert, based on the unofficial English translation, we summarise the regulations, arranged on the basis of important VAT concepts and areas often overlooked by taxpayers.

Responsible person (articles 3-4)

As part of the registration process, a taxable person appoints a responsible person, who must notify the OTA in writing at least 15 days before leaving if they wish to remain outside Oman for more than 90 days during a tax year. The notice must include their reason for remaining outside Oman, the intended duration of their absence, and an application for the approval of a replacement responsible person.

Low value gifts (article 9)

OMR50/person/year, OMR1,000 for all gifts given throughout a tax-year.

Transferring businesses (articles 13-17)

TOGCs are out of scope if all conditions are met - including both parties notifying the OTA within one month of transfer. The transferee must obtain a new tax identification number (TINs are not transferred).

Agents (article 19)

Agents acting on behalf of principals must notify the OTA, including submitting a power of attorney and sales contracts.

Place of supply of goods (articles 21-24)

Depends on when transport commences and who is transporting the goods.

Place of supply of services (article 25)

Generally, where a supplier provides services to a non-taxable customer, the place of supply is where the supplier is resident. This shifts to the customer's residence if a taxable person. If transporting goods or persons, consider where the transportation commences.

Our analysis of the ERs suggests the place of supply of 'transport-related services' (such as port fees, loading, cargo stowage and storage) is where this service is performed.

Real estate related services (article 26)

Qualifying services, including studies and supervision works, have been listed by the OTA.

Telecommunication services (articles 27-28)

The place of supply depends on whether the customer is a taxable person and whether the services can only be used in a specific location:

- Services which must be used at a specific location: place of supply is that location
- Other services:
 - Taxable customer is taxable: the customer's residence.
 - Not taxable customer: where the mobile network is

Electronically supplied services (articles 29-30)

When supplied to a taxable customer, the place of supply for an electronically supplied service - automated services requiring minimum human interference - is their residence. If the customer is not taxable, the place of supply depends on a number of indicators.

Time of supply (article 31)

Goods without transport	When placed at customer's disposal
Goods with transport	When dispatch commences
Goods with installation or assembly	When installation or assembly takes place
Services	Completion of performance of services



Vouchers (articles 33-34)

- Single purchase vouchers – where a voucher can only be redeemed for a specific good or service, the time of supply is when the voucher is sold.
- Multiple purpose vouchers – where a voucher can be redeemed for a variety of goods or services, the time of supply is when the voucher is redeemed.

Reverse charge mechanism (article 37)

- The taxable value is the invoice value. Where there is no invoice, fair market value rules apply.
- If a recipient cannot fully recover input VAT, the RCM value is the higher of the invoice value, the actual consideration paid or the fair market value.

Profit margin scheme (articles 42-47)

Applicable used goods include tangible moveable property suitable for further use as is, antiques older than 50 years, art works and collectors' items. Taxpayers must apply to the OTA to use the margin scheme and should not state the VAT amount on the tax invoice. When purchasing goods from a non-taxable person, taxable persons must issue a self-issued profit margin invoice with:

- Purchaser's name, address and TIN
- Seller's name and address
- Serial number specific to profit margin invoices
- Date of purchase
- Details of goods purchased (including any identification numbers)
- Value of consideration
- Signature of non-taxable seller

Bad debt adjustments (articles 51-53)

For debts over OMR5,000, taxpayers must seek recovery in the courts before claiming a bad debt adjustment.

Input tax recovery (article 55)

Taxpayer must retain the original tax invoice.

Blocked input tax (article 56)

Input tax is non-recoverable for entertainment services, motor vehicles used for personal use and food and beverage catering services.

Partial exemption calculation (articles 59-64)

Monthly and annual partial exemption calculations are based on total taxable supplies over total supplies.

Capital assets (articles 67-71)

The capital asset adjustment period for real estate is 10 years and five years for all other capital assets.

Lost, damaged or stolen goods (article 72)

Taxpayers must notify the OTA within 30 days of becoming aware that goods have been lost, stolen or damaged. Otherwise, input VAT must be refunded to the OTA.

Pre-registration input VAT (articles 73-78)

Taxpayers who wish to recover pre-registration input VAT must apply to the OTA in the prescribed form within 30 days of their effective VAT registration date. Pre-registration input VAT can only be claimed with OTA approval. The input VAT on goods purchased within three years of VAT registration is recoverable - providing the goods are still available for use at time of VAT registration – or six months prior to VAT registration for services.



Exempt supplies - articles 79-87

Article/type	Qualifier	Examples
79 - Financial - Islamic and non-Islamic financial products are treated equally	Consideration is not a fee, commission or commercial deduction	<ul style="list-style-type: none"> ▪ Provision and transfer of loans and advances ▪ Credit - including credit instalments in rental or lease-to-own purchase transactions and credit guarantees ▪ Deposits into current, savings and deposit accounts ▪ Supply and issue of financial instruments such as derivatives, deferred contracts and similar options and transactions ▪ Supply and issue of shares, bonds and other securities ▪ Transfer of ownership of securities (or derivatives related to securities) ▪ Life insurance
80 - Healthcare	<p>Provided by authorised medical professionals or medical institutions</p> <p><i>Goods and services that are of a commercial nature – such as food and drinks for visitors, visitor parking or TV rental - are taxable</i></p>	<ul style="list-style-type: none"> ▪ General medical services ▪ Specialised medical services ▪ Dental ▪ Psychiatric ▪ Physical therapy ▪ Nursing ▪ Midwifery ▪ Diagnosis and treatment of diseases ▪ Surgical, reconstructive and cosmetic surgery ▪ Ambulance transport ▪ Operation room expenses ▪ Medicines ▪ Medical supplies
81 - Educational	<p>Supplied by authorised educational institutions as part of the curriculum</p> <p>Ancillary services directly related to education may also be exempt from VAT</p>	<ul style="list-style-type: none"> ▪ Education in all stages (kindergarten, primary, secondary, higher education) ▪ Vocational and technical education (and vocational institutes) ▪ Education for adults who did not attend formal schools ▪ Special needs education ▪ Teaching languages <p>Ancillary services:</p> <ul style="list-style-type: none"> ▪ Provision of boarding, food and drinks ▪ Cultural, educational or professional seminars ▪ Curriculum-related trips ▪ Curriculum-related educational materials ▪ Transport of students ▪ School uniforms



Exempt supplies - articles 79-87 (continued)

Article/type	Qualifier	Examples
82 - Undeveloped vacant land		<ul style="list-style-type: none"> Supply of land which has no man-made structures (or partly completed structures) on it or in it
83 - Resale of residential property	Excludes buildings used as hotels or hotel apartments; tourism, industrial or commercial compounds; bed and breakfast establishments; hospitals and similar buildings; and unfixed structures that can be moved without damage	<ul style="list-style-type: none"> Resale of a building - or part of a building - designed and intended for residential purposes that has the required approvals from the relevant authorities
84 - Local passenger transport	Excludes taxis operated by specialised companies	<ul style="list-style-type: none"> Organised public transport of passengers based on published (known) timings, fees and routes Transportation by public taxis
85 - Rental of residential properties	Right to occupy is for a continuous period of at least three months Agreements follow relevant laws Excludes hotels, and tourism, industrial and commercial compounds	
86 - personal luggage/gifts imported by travellers	Must be accompanied by owner on arrival Goods for personal use Maximum value of each good OMR300 Importer must not be a professional trader If cigarettes, 400 is maximum number allowed	
87 - Goods for persons with special needs	Must be imported - directly or indirectly - by entities licensed to care for people with special needs	
88 - First supply of investment gold, silver and platinum after extraction	Metal at least 99% pure Tradable on global bullion markets	



Zero-rated supplies - articles 88-107

Under the VAT law, the supply of certain basic food items, medicines and medical equipment determined by the OTA's chair are subject to VAT at 0%. **This is not an exhaustive list of zero-rated supplies.**

Article/type	Qualifier	Examples
89 - International and intra-GCC transportation	Aircraft, ships or boats used for commercial (not sporting or recreational) transportation Motor vehicles and trains for public transport of 10 or more passengers Motor vehicles with a payload capacity of at least two tonnes	<ul style="list-style-type: none"> Transporting passengers and goods to and from Oman (and inside Oman if part of international transportation)
90 - Supplies relating to international transportation	Goods and services for use or consumption on a qualifying means of transport	<ul style="list-style-type: none"> Services provided for undertaking the transport of goods (such as loading or unloading, stacking, packing, weighing or measuring) Renting containers, machines and equipment Packing, packaging and re-packaging services
92 - Supply of licensed rescue aircraft and boats	If licensed by the competent authority in Oman	
93 - Supply of crude oil and its derivatives, and natural gas ¹	Suppliers and customers are taxable Suppliers and customers are licensed by the Ministry of Energy and Minerals Customer has received supplies to provide primary or intermediate activities Right to deduct input VAT has not been excluded Not exempt from VAT	<ul style="list-style-type: none"> Upstream/primary (such as exploration, development, production and related services) Midstream/intermediate activities (such as transportation, storage and related services)
94-96 - Exports of goods	Goods must leave Oman within 90 days of supply. Cannot be consumed or changed before export. Exporter must retain the required documentation.	<ul style="list-style-type: none"> Applies to exports of goods by the supplier (direct exports) or purchaser (indirect exports) of the goods

¹The refining, manufacturing, marketing and distribution of hydrocarbons are not zero-rated.



Zero-rated supplies - articles 88-107(continued)

Article/type	Qualifier	Examples
98-101 - customs duty suspensions	<p>Supplies of services zero-rated if:</p> <ul style="list-style-type: none"> ▪ Received for an activity within the suspension area ▪ Not restaurant, hotel, cultural, artistic, education or recreational ▪ Not exempt from VAT <p>Supplies of goods from a custom duty suspension area to a special zone are zero-rated if:</p> <ul style="list-style-type: none"> ▪ Customer is a taxable person ▪ Customer is registered with the operator/regulator of the special zone ▪ Goods are received to carry out an economic activity ▪ Goods are not excluded from the right to deduct input VAT 	<ul style="list-style-type: none"> ▪ Supplies of goods to a customs duty suspension area
103 - movement of goods to or within special zones	<ul style="list-style-type: none"> ▪ Customer is a taxable person ▪ Customer is registered with the operator/regulator of the special zone ▪ Goods are received to carry out an economic activity ▪ Goods are not excluded from the right to deduct input VAT 	
107 - supplies of services in special zones	<ul style="list-style-type: none"> ▪ Customer is a taxable person ▪ Customer is registered with the operating authority ▪ Customer has received the services to carry on an economic activity ▪ Not restaurant, hotel, cultural, artistic, education or recreational ▪ Not exempt from VAT 	



Free/special zones (article 102)

Special zones must:

- Be a free zone or special economic zone designated in Oman
- Have procedures in place to monitor the movement of goods and their supply within the zone
- Be supervised and regulated by a responsible, authorised operating authority
- Meet any other conditions set by the OTA

The special zone's operating authority must apply to the OTA if it wishes to be classified as a special zone under the VAT laws.

Goods moved from a special zone to outside Oman shall be treated as an export of goods.

Non-residents (articles 112-114)

Subject to any other conditions set by the OTA, non-residents may appoint a tax representative by applying to the OTA as long as the tax representative is:

- Appointed under a written and valid agreement
- Resident in Oman
- Registered for VAT in Oman

If the OTA approves the application, the tax representative will be given a special TIN for the non-resident person.

VAT exemption for only zero-rated supplies (article 116)

Taxpayers making only zero-rated supplies may apply to the OTA for an exemption from VAT registration.

VAT grouping (article 125-135)

- Members are resident in Oman
- Members are legal persons and registered for VAT
- One person (not necessarily part of the VAT group) has control over all group members
- Members are not part of another VAT group
- Members are not operating in a special zone

Tax invoices (articles 143-148)

May be issued in English, provided an Arabic translation is available on request from the OTA. Following approval from the OTA, simplified tax invoices may be issued when the nature of the supply does not require a full tax invoice or where the value of the supply (exclusive of VAT) is less than OMR500.

	Full	Simplified
The words 'Tax invoice'	✓	✗
The words 'Simplified tax invoice'	✗	✓
Date of issuance	✓	✓
Date of supply	✓	✓
Date of payment	✓	✓
Sequential invoice number	✓	✗
Supplier's full name, address and TIN	✓	✓
Customer's full name, address and TIN	✓	✗
Description of the supply	✓	✓
Quantity of goods	✓	✓
Date of advance payment (if relevant)	✓	✗
Total consideration excluding VAT	✓	✓
VAT rate	✓	✓
Any discounts	✓	✓
Taxable value	✓	✓
VAT amount	✓	✓

Record keeping (articles 156-159)

Records may be kept electronically in any language, provided they can be made available in Arabic where requested by the OTA.

VAT return submission cycles (article 160)

Tax periods are calendar quarters.



Foreign governments, consulates, military bodies and international organisations (articles 188-189)

Can apply for VAT refunds by applying to the OTA following validation by the Ministry of Foreign Affairs as long as various conditions are met.

Refunds to non-residents (article 191-193)

Non-residents may apply for a VAT refund within six months of 30 June and 31 December each year, provided:

- Applicant is not VAT-registered
- Applicant has no residence in Oman
- Applicant is VAT-registered in home country
- VAT was incurred in the course of economic activity
- Home country has a reciprocal arrangement
- Total value of refund request is at least OMR100
- VAT is not incurred on petroleum products, tobacco, alcohol, telecommunication services, motor vehicles or goods consumed in Oman

Objections (articles 197-200)

Taxpayers may object to VAT assessments within 45 days. The objection must be in Arabic. Taxpayers can apply to defer payment of disputed tax liabilities by submitting the prescribed form within 30 days of submitting an objection. A financial guarantee may be required.

Penalties (article 202-208)

Taxpayers can appeal penalties within 45 days of the notification date.

Offence	Penalty
<ul style="list-style-type: none"> ▪ Failure to submit return on time ▪ Failure to display VAT registration certificate ▪ Failure to keep records 	Fine of OMR500-OMR5,000
<ul style="list-style-type: none"> ▪ Claiming a VAT refund incorrectly ▪ Failure to cancel VAT registration in time ▪ Failure to repay incorrect VAT refund once aware of error ▪ Failure to present VAT inclusive prices 	Fine of OMR1,000-OMR10,000
<ul style="list-style-type: none"> ▪ Failure to declare correct VAT amount 	Penalty of 1%-25% of the shortfall. Tax evasion: penalty of 300% of the shortfall

Transitional rules (articles 210-211)

Where an invoice is issued or payment is received before the VAT law comes into force, or before the supplier’s VAT registration date, the supplier must issue a tax invoice for the portion of the supply which occurs after the date of VAT registration. Where a contract is silent on VAT, the contract price is considered to be inclusive of VAT.

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