VAT brief | TMT

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keypoint

We have entered a new tax era. Saudi Arabia and the UAE implemented VAT on 1 January 2018. Bahrain implemented - for businesses with taxable turnovers above BD5m - on 1 January 2019 - with other businesses going live on 1 July 2019 or 1 January 2020. Other GCC countries are expected to follow. Key decision makers in the UAE, Saudi Arabia and Bahrain need to ensure their processes and systems are - and remain - VAT-compliant, while their peers in other GCC states need to start preparing now for VAT's implementation.

What is VAT?

- The GCC countries have agreed a standard VAT rate of five percent.
- Supplies of goods and services can be exempt, zero-rated or standard-rated (five percent), or out of scope.
- The mandatory registration threshold (MRT) is the equivalent of US$100,000. The voluntary registration threshold is the equivalent of US$50,000. Bahrain has staggered VAT's introduction.
- Registered businesses account for VAT - a consumption tax - on the price charged for the goods or services they supply and regularly pay the VAT to the tax authority.
- Where registered businesses make supplies that are standard- or zero-rated or out of scope with recovery, they should be able to recover the VAT they have incurred in making those supplies.
- Registered businesses making supplies that are exempt from VAT cannot recover the VAT they have incurred in the course of making those supplies.
- Registered businesses may be unable to recover VAT incurred on purchases that are deemed to have a private element.
- Registered businesses making 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.

How does VAT affect businesses in the TMT sector?

- The GCC VAT treaty and the Saudi, Emirati and Bahraini VAT laws contain “use and enjoyment” rules for wired and wireless telecommunications services, as well as electronically supplied services, which impacts the place of supply for the telecommunications, media and technology (TMT) sector.
- In essence, the “use and enjoyment” VAT rules affect businesses providing specified services across borders, with the place of supply determined by where the services are consumed or ‘enjoyed’. This means telecommunication and other electronically supplied services are subject to VAT in the country where the actual use occurs.
- This requires TMT businesses to carefully monitor movements of their customers and register for VAT in more than one GCC state, even if they do not have a presence or establishment in that other GCC state.
- For TMT providers, establishing whether their GCC customers are VAT-registered is critical to determining whether they have an obligation to be registered in that GCC state, as VAT-registered customers must self-account for VAT, instead of requiring the supplier to register and account for VAT on the services.

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- The timing of accounting for VAT – and its effect on cash flow – could pose a significant issue. Typically, VAT is accounted for at the earlier of the supply being made or the payment invoice date – so VAT may be payable to the tax authority a long time before payments are collected from customers.

What should businesses in the TMT sector be doing now?

- Carefully consider the place of supply of services and introduce robust processes to track use and enjoyment of those services overseas.
- Establish whether they have to register in other GCC member states. There is no mandatory registration threshold for businesses located outside of the GCC, meaning any non-GCC resident business making supplies for which it is required to account for VAT automatically triggers a registration liability.
- Review long-term contracts that span VAT's introduction to determine whether the supplier has the contractual right to charge the VAT amount on top of the contract price or to apply any concessionary transitional provisions.