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VAT

Digital Economy

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1. INTRODUCTION

1.1. IMPLEMENTING A VALUE ADDED TAX (VAT) SYSTEM IN THE KINGDOM OF SAUDI ARABIA (KSA)

The Unified VAT Agreement for the Cooperation Council for the Unified Arab States of the Gulf Cooperation Countries ("GCC") (the "Agreement") was approved by KSA by a Royal Decree No. M/51 dated on 3/5/1438 H. Pursuant to the provisions of the Agreement, the Kingdom of Saudi Arabia issued the VAT Law by Royal Decree No. M/113 dated on 2/11/1438 H (the "VAT Law"), and its corresponding Implementing Regulations were issued by the Board of Directors of the General Authority of Zakat and Tax ("GAZT") by Resolution No.3839 dated on 14/12/1438 H (the "Implementing Regulations").

1.2. GENERAL AUTHORITY OF ZAKAT & TAX

GAZT, also referred to, as "the Authority" herein, is the Authority in charge for the implementation and the administration of VAT in the KSA (herein referred to from time to time as the "Tax"). In addition to the registration & deregistration of taxable persons for VAT, the administration of VAT return filing & refunds, and undertaking audits and field visits, GAZT is vested with the authority to levy penalties for non-compliance with legal provisions relating to VAT.

1.3. WHAT IS VALUE ADDED TAX?

Value Added Tax ("VAT") is an indirect tax which is imposed on the importation and supply of goods and services at each stage of production and distribution, with certain exceptions. VAT is implemented in more than 160 countries around the world.

VAT is a tax on consumption that is paid and collected at every stage of the supply chain, starting from when a manufacturer purchases raw materials, up to the time a retailer sells the end-product to a consumer. Unlike other taxes, persons subject to VAT will both:

Collect VAT from their customers equal to a specified percentage of each eligible sale; and Pay VAT to their suppliers from whom they receive the goods or services (if any), equal to a specified percentage of each eligible purchase.

When taxable persons supply a good or service, a 5% VAT charge – assuming a standard-rated supply – is assessed and added to the final price of the good or service supplied. Persons subject to tax must account for that 5% tax collected from customers on all eligible supplies from its revenue and must remit a portion of it to the Authority. The VAT that persons subject to tax collects on their supplies is called Output VAT.

Similarly, VAT will be assessed and added at the rate of 5% to supplies made to and received by persons subject to the VAT (on the assumption that the basic rate applies to those supplies). The VAT a registered person subject to VAT (business) pays to its suppliers is called Input VAT.

Further general information about VAT can be found in the KSA VAT Manual at vat.gov.sa.

1.4. THIS GUIDELINE

Through this guideline, we aim to provide additional clarification on the application of VAT in the context of Digital Economy. This guideline is directed to KSA Resident and non-resident suppliers who supply goods or services to customers in the KSA through electronic commerce or electronic business activity, and for KSA customers whose business relates to the Digital Economy.

This guideline represents GAZT's views on the application of the Unified VAT Agreement, the VAT Law and the Implementing Regulations as from the date of this guideline. This guideline is to be regarded only as guidance, and does not include, or purport to include, all the relevant provisions relating to the Digital Economy in the Agreement, the VAT Law, or the Implementing Regulations. It is not binding on GAZT or any taxpayer in respect of any transaction carried out and it cannot be relied upon in any way.

However, for further advice on specific transactions you may to apply for a ruling or visit the official VAT website at (vat.gov.sa), which contains a wide range of tools and information that has been established as a reference to assist taxpayers and enterprises, as well as visual guidance materials, all relevant information, and FAQs.

2. DEFINITIONS OF KEY TERMS

Digital Economy is not a defined term for VAT purposes. For the purposes of this guideline, Digital Economy means Economic Activities carried out through an electronic means, where:

- Goods or services are purchased through a website or electronic platform, or
- Services are provided over an electronic or digital medium

Electronic Services are part of a broader defined term for VAT purposes, being “wired and wireless telecommunication services and electronic services”. Telecommunications services and Electronic Services are closely related, being services that involve the transmission of information to a recipient or recipients. The Implementing Regulations provide the following non-exhaustive list of services that fall within the definition of this term:⁽¹⁾

- a) Any service relating to the transmission, emission or reception of signals, writing, images and sounds or information of any nature by wire, radio, optical or other electromagnetic systems.
- b) The transfer or assignment of the right to use capacity for such transmission, emission or reception.
- c) The provision of access to global information networks.
- d) The provision of audio and audio-visual content for listening or viewing by the general public on the basis of a program schedule by a person that has editorial responsibility.
- e) Live streaming via the internet.
- f) Supplies of images or text provided electronically, such as photos, screensavers, electronic books and other digitised documents or files.
- g) Supplies of music, films and games, and of programs on demand.
- h) Online magazines.
- i) Website Supply or web hosting services.
- j) Distance maintenance of programs and equipment.
- k) Supplies of software and software updates.
- l) Advertising space on a website and any rights associated with such advertising.

For purposes of this guideline, all such services are referred to simply as “Electronic Services”. Digital Economy is a rapidly growing environment, and new types of Electronic Service provided over the Internet, or other electronic means will also be included as Electronic Services.

The submission of reports via electronic mail does not in itself constitute an Electronic Service.

Example (1): An architect agrees to provide some concept sketches for the extension of a customer’s commercial office building. After a site visit and some weeks of design, he sends the drawings to the customer over email. This is not in itself the provision of Electronic Services.

Similarly, the provision of a service which is arranged through electronic means is not itself an Electronic Service.

Example (2): An individual in the KSA books taxi transport through a mobile application. The driver provides a transportation service to the individual. The driver is not providing Electronic Services to the individual. The company administering the mobile application may charge a fee to the driver or the individual for the use of the electronic application, which could be a separate Electronic Service.

Example (3): A KSA customer books a hotel in Riyadh through a price comparison site. The hotel provides accommodation to the customer, and does not provide Electronic Services. The website may however charge a fee to the hotel or the customer for the use of the site, which could be a separate Electronic Service.

(1) Article 24(1), Wired and wireless telecommunications and electronic services, Implementing Regulations

Consumption and Enjoyment of Services is a term used in the Implementing Regulations to determine the place where a customer receives and makes actual use of a supply of services provided to him.⁽²⁾ The place of Consumption and Enjoyment – in the context of determining the actual use and benefit - is determined by specific rules discussed in section 6.2 in this guideline.

Resident means a person (natural or corporate) who has a place of residence in the KSA for VAT purposes, whereas a non-Resident is a person with no such place of residence in the KSA.⁽³⁾ The rules to determine residence are discussed in section 3 of this guideline.

Economic Activity is 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.⁽⁴⁾

An Agent is a person who acts on behalf of a principal (supplier or a customer) in respect of a supply. The term Agent can be interpreted broadly in commercial practice and is not a defined term for VAT purposes. The VAT Law differentiates between an:

- An apparent agent who acts on behalf of a person (the principal) and in the name of that person; and
- A Non-apparent agent who acts on behalf of a person but in the Agent's own name⁽⁵⁾

An Online interface or Portal not a defined term for VAT purposes. GAZT considers this to be an electronic website, electronic marketplace or similar forum which facilitates the sale of goods or services from a supplier to a customer and allows a transaction to be completed through it. An Online interface or Portal acts as an Agent or intermediary. There are special rules to determine in which capacity it acts for VAT purposes, discussed further in section 7.2 of this guideline.

Business-to-Business, or B2B, is a term used to refer to supplies from a VAT-registered person to another VAT registered person.

Business-to-Consumer, or B2C, is a term used to refer to supplies from a VAT registered person to an individual or non-VAT registered organization.

(2) Article 24 (2) and (3), Wired and Wireless Telecommunications and Electronic Services, Implementing Regulations

(3) Article 1, Definitions, Unified VAT Agreement

(4) Article 1, Definitions, Unified VAT Agreement

(5) Article 9, the VAT Law. The VAT Law details the specific rules for Agents acting in their own name to be viewed to act as principal (i.e. the supplier or customer) to the underlying supply for VAT purposes. Conversely, Agents acting in the name of the customer are treated as making or receiving the supply of goods or services in the name of the customer.

3. ECONOMIC ACTIVITY AND VAT REGISTRATION

3.1. WHO CARRIES OUT AN ECONOMIC ACTIVITY?

Natural persons or legal persons may carry on an Economic Activity.

Generally, it is presumed that a legal person who regularly makes supplies carries on an Economic Activity. Notably, however, natural persons may carry out certain transactions as part of their Economic Activity, or as part of their private activities. Accordingly, there are specific rules to determine whether or not a natural person is subject to VAT.

Natural persons and bodies corporate that carry on an Economic Activity must register for VAT if they meet the statutory requirements regarding registration. Such persons must also collect the VAT due on the supplies they make as part of their Economic Activity, and remit the tax levied to the Authority.

3.2. PLACE OF RESIDENCE OF SUPPLIER AND CUSTOMER

In many cases, the rules relating to the place of supply are determined based on the supplier or the customer's place of residence (as the case may be). The term "Resident" includes:

- a- A legal entity that is formed or established in the KSA; (Place of Business in KSA)⁽⁶⁾;
- b- A legal entity that is neither formed or established in the KSA where its actual centre of management and control is in the Kingdom of Saudi Arabia (Place of Business in KSA); and
- c- A legal entity which does not have a Place of Business in KSA but has a which has a fixed establishment in the KSA⁽⁷⁾

3.2.1. Dual residence

It is common for a company or legal person to have more than one place of business, or to have a place of business in a jurisdiction other than its place of incorporation. Consequently, that company will be treated as a Resident in multiple jurisdictions (countries) for the purposes of VAT. For example, a company may have branches in various countries. In such case, and for the purposes of determining the place of supply, that legal person will be deemed a resident of the place most closely connected with the supply.

Example (4): ABC Bank is established in the UAE and has a branch in Riyadh. A VAT-registered software provider enters into a contract with ABC to provide online security services for the branch's operations. In this case, the place of supply shall be determined based on the place of the customer. Since the KSA is the place most closely connected to the services supplied, ABC bank is considered a resident in the KSA for VAT purposes.

3.3. MANDATORY REGISTRATION: RESIDENT SUPPLIERS

Registration is mandatory for all taxable persons whose annual turnover exceeds a certain threshold. If the total value of a person's taxable supplies during a 12-month period exceeds SAR 375,000, the "mandatory VAT Registration Threshold", that person must register for VAT.

(6) Article (1), Definitions, Unified VAT Agreement. Place of Business is defined as "the place where a business is legally established; or where its actual management center is located where key business decisions are made if different from the place of establishment."

(7) Article (1), Definitions, unified VAT Agreement. Fixed Establishment is defined as "any fixed location for a business other than its place of business, in which business is carried out and has permanent human and technical resources that enable the Person to make a Supply of receive Goods or Services."

The taxable supplies do not include:⁽⁸⁾

- Exempt income – such as financial services or residential rental which qualifies for VAT exemption;
- Supplies taking place outside the scope of VAT in any GCC territory; or
- Revenues on sales of capital assets – a capital asset is defined as an asset intended for long-term business use

In some instances, other rules will apply to mandatory registration:

- Persons who are not Resident in the Kingdom of Saudi Arabia are required to pay the VAT in respect of supplies made or received by them in the Kingdom of Saudi Arabia and to register for VAT irrespective of the value of the supplies for which they are obliged to collect and pay the VAT⁽⁹⁾
- Persons whose annual turnover exceeds SAR 1 million are the only persons obliged to register for VAT during the transitional period up to 1 January 2019.⁽¹⁰⁾ Nevertheless, the application for registration must be submitted on or before 20 December 2018

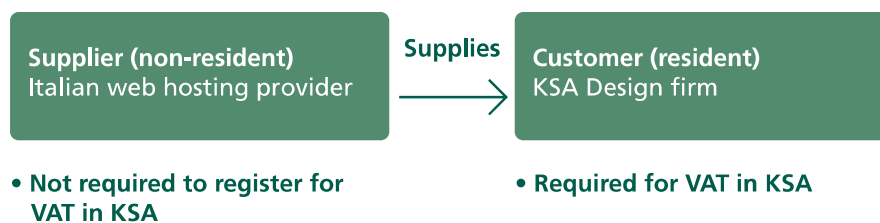
More information on mandatory registration for VAT is contained at vat.gov.sa.

3.4. MANDATORY REGISTRATION: NON-RESIDENT SUPPLIERS

Non-Saudi Resident taxable persons are required to register for VAT irrespective of the value of supplies made in the KSA on which they are obliged to collect VAT.⁽¹¹⁾ However, where non-resident suppliers make supplies to VAT registered customers who are obligated to self-account for VAT on supplies received using the Reverse Charge Mechanism, the non-resident supplier has no VAT obligations.⁽¹²⁾

Example (5): An Italian web-hosting company provider contracts with a KSA design company to host its international focussed website. The KSA design company is VAT registered so can self-account for the VAT due. The web-hosting company is not required to register in respect of this supply.

Business to business (B2B) - VAT is paid through the reverse charge mechanism by the KSA tax registered customer



Thus, in practice, any supplies of goods and services which are made in the KSA to a non-VAT registered customer will require the supplier to register. In the Digital Economy, supplies are often provided by non-Resident taxable persons to end Consumers (i.e. in a B2C context); thus it may often be necessary for the non-resident suppliers to register for VAT purposes in the KSA.

Example (6): A KSA individual consumer, who is not registered for VAT, uses an Italian web-hosting service to post his travel photography. The web-hosting company is required to register to charge VAT on the supply.

(8) Article 52, Calculating the value of Supplies, Unified VAT Agreement

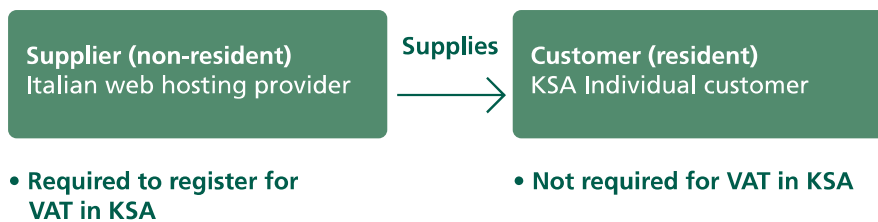
(9) Article 5(1), Mandatory registration of Non-Residents obligated to pay Tax in the Kingdom, Implementing Regulations

(10) Article 79(9), Transitional provisions, Implementing Regulations

(11) Article 5(1), Mandatory registration of Non-Residents obligated to pay Tax in the Kingdom, Implementing Regulations

(12) Article 47, Persons liable to pay Tax, Implementing Regulations

Business to consumer (B2C) - The non-resident supplier should register in KSA for VAT purposes



3.5. MANDATORY REGISTRATION: CUSTOMERS RECEIVING GOODS AND SERVICES

Customers resident in the KSA who carry on an Economic Activity may exceed the mandatory registration threshold based on the value of goods or services received from non-KSA suppliers.

Any supplies which require the customer to self-account for VAT using the Reverse Charge Mechanism will count towards the VAT registration threshold of that Customer.

Import of goods from a non-GCC location, where the VAT is paid to the Saudi Customs Authority upon import, will not count towards that threshold.

Example (7): A financial services group in the KSA sets up a separate entity, IT Procurement Co, to acquire hardware and software to be used by the group. During 2018, IT Procurement Co only makes supplies to the group valued at SAR 30,000, but it purchases software valued at SAR 2,500,000 from US software developers for later use.

IT Procurement Co is carrying on an Economic Activity, and by receiving services from the US, it is deemed to make a supply of these services to itself for VAT purposes. As the supplies received exceed the mandatory registration threshold, Procurement Co is required to register for VAT and account for VAT on the services received from non-KSA suppliers.

4. ELECTRONIC COMMERCE: SALES OF GOODS TO AND FROM THE KSA

Description	From supplier → to customer	KSA VAT treatment	KSA Registration requirement	
Online goods provided to/from KSA	KSA (Business) VAT registered to → KSA (Business) VAT registered	VAT charged by the KSA supplier	X (supplier already registered)	
	KSA (Business) VAT registered → KSA Resident (Customer) Not registered for VAT in KSA	VAT charged by the KSA supplier	X (supplier already registered)	
	KSA (Business) VAT registered → Non-Resident (Business or Customer)	VAT charged at 0% on export sale	X (supplier already registered)	
	Not registered for VAT in KSA → Resident (Business or Customer)	If performing an Economic Activity and exceeded the threshold	KSA Supplier should register for VAT purposes	
Online goods provided by non-GCC Resident	Non-KSA Resident (Business) → VAT registered KSA Resident	<ul style="list-style-type: none"> If imported: VAT charged upon importation of goods If no import (goods already in KSA): the KSA Resident taxable person using the reverse charge mechanism accounts for VAT 	X	
	Non-Resident (Business) → KSA (Customer) Not registered for VAT	<ul style="list-style-type: none"> If imported: VAT charged upon importation of goods If no import (goods already in KSA): VAT charged by the non-Resident supplier 	X Non-Resident persons to register in KSA and appoint a Tax Representative	
Online goods provided to/from GCC Member States	Resident in GCC Member State (Business) – General rules (after establishment of GCC Electronic Service System)	• Resident and registered for VAT in KSA (Business)	• VAT is accounted by the KSA business using the reverse charge mechanism.	X
		• Resident in KSA (Customer) but not registered for VAT	• VAT is applied only by the GCC Member State supplier.	X
	Resident in GCC Member State (Business) (Transitional provisions apply until the Electronic Service System is in place)	• KSA (Business) VAT registered	• VAT charged upon importation of goods to KSA	X
		• KSA (Customer) Not registered for VAT	VAT charged upon importation of goods to KSA	X

4.1. PLACE OF SUPPLY – PURCHASE OF GOODS ONLINE

In cases where goods are purchased online, this transaction will be regarded as a sale of the goods and delivery to the customer in KSA. The delivery of the goods is usually arranged by the supplier or the online portal through which the purchase is made. The rules for applying VAT will depend on the place from which the order is fulfilled.

Under general rules, the supply transaction will only take place in the KSA if the goods are in the KSA when the delivery to the customer commences. If the goods are outside the KSA when the delivery commences, the supplier will not charge VAT on the sale of the goods. KSA VAT will instead be charged at the time of import.⁽¹³⁾

Importation is discussed in more detail in section 5 below.

4.2. ORDERS FULFILLED FROM KSA

If an order is fulfilled from the KSA, meaning that the goods are situated in the KSA at the time the shipment starts, the supplier must charge KSA VAT.

4.3. DATE OF SUPPLY

The actual date of supply will be:

- Where there is a supply of goods without transportation or shipment: the date on which the goods are placed at the disposal of the customer
- Where there is a supply of goods with transportation or shipment: the date of commencement of transportation or shipment of the goods
- Where there is a supply of service: the date on which the performance of the service is complete

Generally, the date on which VAT is due is the date of the supply of the goods or services. If, however, a prior invoice has been issued, or payment of the value of the supply has been made in advance, VAT will be due on the date of actual payment or the date of the invoice, whichever first occurs.⁽¹⁴⁾

Consequently, VAT must be reported by the supplier during the tax period in which that date of supply falls. Likewise, the Input VAT is also claimed by the Customer (where appropriate) in the tax period where the date of supply falls.

4.4. CHARGING VAT

A Resident supplier must, in all cases, charge VAT to the customer and include this in the tax invoice issued to the customer (invoicing requirements are discussed in section 9).⁽¹⁵⁾ If the sale price is agreed to be VAT exclusive, VAT of 5% should be added to the agreed price.

Final prices published to consumers in the market should be inclusive of VAT. If the price is VAT-inclusive (or if no mention is made to VAT), VAT should be calculated as 5/105 of the VAT inclusive price.

Example (8): A supplier of office stationery quotes VAT-exclusive prices to its business customers. It quotes a discounted price for a box of paper for SAR 45 (exclusive of VAT). The VAT is calculated in addition to the VAT-exclusive price (5% x SAR 45 = SAR 2.25).

(13) Article 11, Supply of Goods with Transportation, Unified VAT Agreement

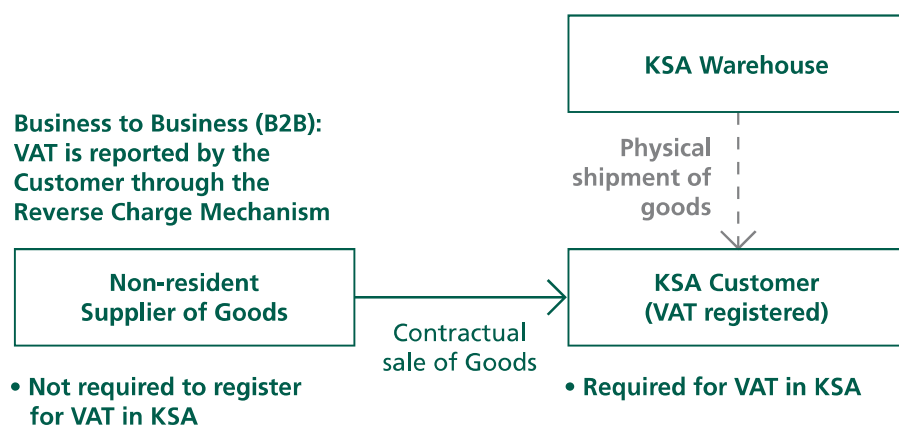
(14) Article 23, Date of Tax Due on Supplies of Goods and Services, Unified VAT Agreement

(15) Article 25(2), Tax Rate, Unified VAT Agreement

A retailer supplier of stationery sells the same box of paper to consumers in its shops, with a ticket price of SAR 60. This price must be inclusive of VAT. The VAT is calculated within the VAT-inclusive price ($5/105 \times \text{SAR } 60 = \text{SAR } 2.86$).

It is possible that a non-Resident supplier could be the seller of goods fulfilled from the KSA (for example, the non-Resident supplier holds stock in a third-party warehouse situated in the KSA). In this case, the mechanism for charging VAT will depend on whether the customer is a VAT registered person in the KSA.

- For a supply where the customer (B2C) is a private individual, or entity not required to register for VAT, the non-Resident supplier must register for VAT and charge VAT on his invoice in the same way as a Resident supplier
- If a supply is made to a VAT-registered customer (B2B), the customer must self-account for VAT using the Reverse Charge Mechanism.⁽¹⁶⁾ The non-Resident supplier is not able to report VAT on the sale or to show VAT on its invoice to the customer



4.5. ORDERS FULFILLED FROM OUTSIDE THE GCC

Orders fulfilled from outside the GCC do not have a place of supply in the KSA. Any supply of goods taking place before the import entry is not subject to VAT on the supply transaction, although KSA VAT will be charged at the time of import.⁽¹⁷⁾ In this way, VAT is effectively applied to the overseas market in the same manner it would be applied to the local market.

It is possible that in some countries, the local supplier will charge a local VAT or sales tax on the sale. Any tax charge in the country of origin of the goods does not affect the VAT treatment upon import to the KSA.

4.6. ORDERS FULFILLED FROM A GCC STATE – GENERAL RULES

Once an Electronic Services System is implemented for VAT across all GCC States, special rules will apply to goods shipped from one GCC State to another.⁽¹⁸⁾

In cases where goods are shipped to a VAT-registered customer (B2B) in the KSA (or another country of receipt), the customer will self-account for the VAT due under the Reverse Charge Mechanism.

⁽¹⁶⁾ Article 41, Customer Obligated to Pay Tax According to the Reverse Charge Mechanism, Unified VAT Agreement

⁽¹⁷⁾ Article 27(3), Goods sold with Transportation, Implementing Regulations

⁽¹⁸⁾ Article 71(1), Electronic Services System, Unified VAT Agreement

Business to Business (B2B): KSA VAT is reported by the Customer through the Reverse Charge Mechanism



In cases where goods are shipped to a private individual (B2C) or entity not required to register for VAT, the supplier will generally charge VAT in his own country, and VAT will not be charged in the country where goods are received.⁽¹⁹⁾

Business to Consumer (B2C): VAT is charged by the GCC Supplier in their own State



Upon introduction of VAT, the Electronic Services System is not yet in place, so transitional rules will apply for intra-GCC trade.⁽²⁰⁾

4.7. ORDERS FULFILLED FROM GCC STATES - TRANSITIONAL RULES FOR INTRA-GCC TRADE

Until the introduction of the Electronic Services System, movements of goods from the GCC States to the KSA will be considered in the same way as extra-GCC trade. Thus, where delivery of goods commences in another GCC State, VAT in the KSA will not be assessed on the supply, but will be charged upon importation of those goods into the KSA. The applicable procedures related to importation are discussed in more detail under section 5.⁽²¹⁾

Transitional Supplies (B2B or B2C): VAT is charged on the Import into the KSA



(19) Article 12, Special Case of Internal Supplies with Transportation, Unified VAT Agreement

(20) Article 79(7), Transitional Provisions, Implementing Regulations

(21) Article 79(7), Transitional Provisions, Implementing Regulations

4.8. SALES FROM KSA SUPPLIERS TO OVERSEAS RECIPIENTS

Digital Economy allows Saudi-Resident suppliers to supply goods to recipients in other countries. Where an order for a supply is fulfilled from goods located in the KSA, such supply will -in principle- be subject to VAT in the KSA. However, where a Saudi-Resident supplier exports goods from the KSA to a non-GCC location as part of the transaction (i.e. export), such supply is subject to VAT at the rate of 0%.⁽²²⁾ To evidence applying the zero-rate, the supplier must retain documentation to show that the goods have left the GCC within 90 days of the sale.⁽²³⁾

As an interim transitional measure, exports from the KSA to GCC locations will also be considered as zero-rated exports.⁽²⁴⁾

(22) Article 34, Supplies to Outside the GCC Territory, Unified VAT Agreement

(23) Article 32, Exports of Goods from the Kingdom, Implementing Regulations

(24) Article 79(7), Transitional Provisions, Implementing Regulations

5. GOODS IMPORTED FROM OUTSIDE GCC

5.1. IMPORT VAT ON ENTRY OF GOODS

VAT is applied to the import of all goods into the KSA from outside the GCC. Importation is -in itself- a taxable-event whereupon tax is charged (separate from any other taxable supply of the goods). As a transitional measure, VAT is also assessed on goods upon importation into the KSA from a GCC State.

The Customs Authority charges import VAT at the point of entry into the KSA. It is calculated based on the declared landed value of the goods for customs purposes, inclusive of freight and insurance (equivalent to the Cost Insurance and Freight or CIF value), any customs or excise duties, and any incidental handling or storage charges, but excluding VAT.

Example (9): An importer makes an import entry for electronic goods. It shows the CIF value on the Customs form as SAR 2,500. Ad-valorem customs duties are applied at 20% to the electronic goods, so customs duties of SAR 500 are imposed by the Customs Authority. There are no additional charges collected on the import by the Customs Authority.

VAT on import is calculated as 5% of the import value (CIF value plus duties and other incidental charges). A VAT amount of SAR 150 (5% x SAR 2,500 + SAR 500) is payable by the importer upon import.

Although VAT is generally imposed at the standard rate (5%) upon import, some exceptions apply upon the import of certain goods. This is discussed in further detail in section 5.4. of this guideline .

The importer of record, as shown on the import entry, is the person liable to pay VAT upon import. A representative of the importer (such as a shipping agent or customs broker) may perform the administrative tasks of clearing goods for import, but this representative will not usually have the right to act as the importer. If a VAT-registered business imports goods, the TIN should be provided to Customs upon import. This will allow the Customs Authority to provide evidence of the payment of VAT for Input VAT deduction purposes.

Further information on imports by businesses, and the recovery of import VAT, is set out in a separate guideline.

5.2. OBLIGATIONS OF SHIPPING PROVIDERS

For the import of goods in relation to Digital Economy, the import will generally be made on behalf of the seller (consignor) or the recipient (consignee). The shipping agent will often pay the import VAT to Customs on behalf of the importer and seek a reimbursement (together with customs duties or other incidental fees incurred) from the importer.

If the importer is registered for VAT, he will include the details of the imports and VAT paid on such imports in Box 8 of the VAT return. This will allow the importer to deduct the VAT paid upon import as Input VAT (if the relevant criteria for deduction are met – discussed further in section 8 of this guideline).

If the seller of the goods is a non-Resident who is not able to act as an importer, the shipping agent may act as an importer and pay the VAT on import to Customs – to be collected from the seller or from the customer upon delivery. This is a commercial matter agreed in the terms and conditions for the sale of goods between seller and customer, and in the terms agreed by the shipping providers.

Import VAT paid by an import representative will be an additional cost (without the ability for deduction), unless the import is made on behalf of a VAT-registered person and the TIN of that person is provided at the time of import.

Local shipping companies – who provide customs clearance and the local component of delivery services to an international shipping company – must determine the appropriate VAT treatment to apply to their services provided to the international shipping company. Further information on this is set out in the Transportation Guideline.

5.3. RETURNED GOODS

If imported goods are subsequently returned to the supplier, this does not affect the original taxable event occurring on import. The Customs Authority or GAZT will not refund import VAT paid on goods which are subsequently returned.

The cost of bearing import VAT for returned goods falls on the importer of the goods. Any refund of import VAT paid on returned goods must be established as a commercial matter between the non-Resident supplier and the customer.

5.4. SPECIAL CIRCUMSTANCES

In certain cases, imports are VAT-exempt or subject to VAT at a rate of 0%. These include:

- The importation of qualifying medicine, qualifying medical goods and qualifying means of transport are subject to VAT at a rate of 0%; ⁽²⁵⁾
- Imports subject to the following customs duties exemptions under the Unified Customs Law are VAT-exempt:

- a) Diplomatic exemptions;
- b) Military exemptions;
- c) Imports of used personal luggage and household appliances that are brought by citizens residing abroad and foreigners who are coming to reside in the country for the first time;
- d) Imports of returned Goods; and

- Personal items and gifts carried in travellers' personal luggage, which are exempt in accordance with the Unified Customs Law, up to a cap of SAR 3,000 on such imports⁽²⁶⁾

Payment of import VAT is suspended on Goods imported under a "customs duty suspension regime" until they are released.⁽²⁷⁾ Holding goods in a customs warehouse is subject to the requirements of the Customs Authority. Suppliers in the Digital Economy may choose to hold stock in customs warehouses in the KSA, allowing local fulfilment of orders but with deferral of import VAT until the time of sale.

Example (10): A supplier of electronic goods imports a large shipment of items into a customs warehouse in the KSA, for later release to fulfil domestic orders. The importer is not required to pay customs duty until the goods are released from the customs duty suspension regime. At the time the goods are released from the customs duty suspension regime, fees and import VAT will be payable on the value of goods released.

(25) Article 38(1), Exemptions on Import, Unified VAT Agreement

(26) Article 42, Exemptions for Imports, Implementing Regulations

(27) Article 39, Suspension of Tax, Unified VAT Agreement

6. ELECTRONIC SERVICES

6.1. APPLICATION OF VAT TO ELECTRONIC SERVICES

Special rules apply to determine the place of supply of Electronic Services. Primarily, VAT applies in the country in which the services are actually used or benefited from.⁽²⁸⁾ The rules to determine such place in respect of specific services are discussed section 6.2 of this guideline.

VAT is chargeable at 5% on all supplies of Electronic Services which take place in the KSA under the place of supply rules.

A service which is not regarded as electronic in itself but are requested, booked or coordinated through electronic means (for example, the booking of a hotel or transport online all services for the facilitation of transport by mobile apps), are subject to place of supply rules based on the place where the underlying service is provided.

Returning to example (2): An individual in the KSA books taxi transport through a mobile application. The driver provides a transportation service to the individual. The driver is not providing Electronic Services to the individual. Thus, VAT applies to the supply of transportation services based on the country where the transport begins (i.e. in the KSA). Please see the Transportation Guideline for further detail.

Returning to example (3): A KSA customer books a hotel in Riyadh through a price comparison site. The hotel provides accommodation to the customer, but does not provide Electronic Services. VAT applies to the supply of accommodation in real estate based on the country where the real estate is situated (i.e. the KSA). Please see the Real Estate Guideline for further detail.

	From (Supplier) → To (Customer)	KSA VAT treatment	KSA Registration requirement
Electronic Services provided to/from KSA	KSA supplier VAT registered → to KSA VAT registered customer	VAT charged by the KSA supplier	X (supplier already registered for the purposes of VAT)
Not provided in a specific location (see 6.2.1)	KSA (Business) VAT registered → to KSA Customer not registered for VAT (Consumer)	KSA (Business) VAT registered → to KSA Customer not registered for VAT (Consumer)	X (supplier already registered for VAT purposes)
	KSA (Business) VAT registered → to customer not registered in KSA (Business)	VAT charged at 0% on export sale	X (supplier already registered for VAT purposes)
	KSA (Supplier) Not registered for VAT → to KSA Customer (Business or Consumer)	If performing an Economic Activity and the value of the supplies exceeds the registration threshold over 12 months	KSA Supplier should register for VAT purposes
Electronic Services provided by non-Resident (Non-GCC)	Non-Resident (Business) → to KSA Customer (Business) VAT registered	• VAT is accounted for by the Resident and VAT registered persons using the reverse charge mechanism	X (recipient already registered for VAT purposes)

(28) Article 20, Supply of Wired and Wireless Telecommunications Services and Electronic Services, Unified VAT Agreement

Not provided in a specific location (see 6.2.1)	Non-Resident (Business) →to KSA Customer (Consumer) Not registered for VAT	• VAT must be charged by the non-Resident supplier.	Non-Resident taxable (Business) is obligated to register for VAT purposes in KSA and appoint a Tax Representative
Electronic Services supplied in a specific location in the KSA	KSA (Business) VAT registered →to KSA taxable Customer (Business) VAT registered	• VAT charged by the KSA supplier	X (supplier already registered for VAT purposes)
	KSA (Business) VAT registered →to KSA Customer (Consumer) Not registered for VAT	• VAT charged by the KSA supplier	X (supplier already registered for VAT purposes)

6.2. DETERMINING PLACE OF ACTUAL USE AND BENEFIT

From a practical perspective, determining where Electronic Services are used is difficult. However, the VAT Law and the Implementing Regulations forest forth rules for determining the place of actual use of or benefit from the services.

6.2.1. Services provided in a specific location

In some cases, an individual customer must be physically present in a specific location in order to receive the service. This is the case for services which are accessible at a specific physical location. Where the customer consumes and benefits from the services at that location, such location is the place of actual use or benefit⁽²⁹⁾.

Example (11): A business lounge in Dammam charges a customers to use a high-speed Wi-Fi connection within the lounge. Since this may only be accessed by a customer in that specific location, the place of actual use of the service is in the KSA, regardless of the customer's residence or VAT registration status.

6.2.2. Services not provided in a specific location

In many cases, a customer will not be required to be in a certain location to use Electronic Services. Due to the portability of electronic devices, f Electronic Services are accessible from multiple locations. For purposes of determining the place of supply of such services, the customer's usual place of residence is deemed the place of actual use. Accordingly, the place of usual residence is the place of supply of the services.

Example (12): A business consultant Resident in the KSA pays an annual fee of SAR 1,000 for a cloud storage account over the internet, whereby he can upload and download business files from any location. He uses the service whilst on business in other countries. Although some access can take place in other countries, the actual use and benefit of the services is deemed to be in the KSA. VAT is chargeable in the KSA on the entire annual fee.

(29) Article 24 (3), Wired and wireless telecommunications and electronic services, Implementing Regulations

6.3. DETERMINING THE CUSTOMER'S USUAL PLACE OF RESIDENCE

Unless Electronic Services are provided at a specific location (refer section 6.2.1.), the supplier of Electronic Services must determine the usual place of residence of its customer. Accurate determination of a customer's residence can be difficult for the supplier, especially in the case of customers being individuals without a registered office or place of business. However, certain customer information may be relied upon by suppliers as they are deemed highly indicative of a customer's usual place of residence. Such indicative information includes:⁽³⁰⁾

- The invoicing address of the Customer
- The bank account details of the Customer
- The internet protocol address used by the Customer to receive the wired and wireless telecommunications services and Electronic Services
- The country code of the SIM card used by the Customer to receive the wired and wireless telecommunications services and Electronic Services

The determination of a customer's residence should be based upon the information held at the time the supply is made. Where commercially possible, the supplier should collect indicative datum (at least two) that evidence the customer's residence. If there is discrepancy amongst items of information obtained, the supplier should obtain additional information to determine the customer's residence in respect of that supply. In cases where it is not possible to collect sufficient information, the supplier should use details he generally holds and uses for commercial purposes.

In all cases, the supplier should use the same information for determining each customer's usual place of residence.

Example (13): A KSA individual downloads a mobile app from a content provider using a KSA SIM card while travelling in Europe. The app can be downloaded from any location, and then used in different countries. The content provider is provided with a billing address (entered by the customer) and the mobile number of the SIM card. As the supplier is provided with verified information on the customer's SIM card, it uses this as a standard practice to determine the customer's usual place of residence. It compares this with the standard billing address for audit purposes and undertakes further checks if the information does not match.

In this case, the supplier charges KSA VAT on the mobile application, on the basis that the customer will Consume and Enjoy the services in his usual place of residence.

6.4. CHARGING VAT ON ELECTRONIC SERVICES

A Resident supplier of Electronic Services must, in all cases, charge VAT to the customer and include this in the tax invoice issued to the customer (invoicing requirements are discussed at section 9). If the sale price is agreed to be VAT exclusive, VAT at a rate of 5% should be added to the agreed price.

Prices published to final consumers in the local market should be shown to be inclusive of VAT⁽³¹⁾. If the price is VAT-inclusive (or if no mention is made to VAT), then VAT should be calculated as 5/105 of the VAT inclusive price.

(30) Article 24 (4), Wired and wireless telecommunications and electronic services, Implementing Regulations

(31) Article 25(2), Tax Rate, Unified VAT Agreement

Where a non-Resident supplier supplies Electronic Services, the mechanism for charging VAT will depend on whether or not the customer is a VAT registered person in the KSA, as follows:

- For a supply where the customer is a natural person, or a body not registered in KSA for VAT purposes, or an entity not required to register for VAT, the non-Resident supplier must register for VAT and charge VAT on the tax invoice in the same way as a Resident supplier⁽³²⁾
- If a supply is made to a VAT-registered customer, the customer must self-account for VAT using the Reverse Charge Mechanism. If the non-Resident supplier is not able to assess VAT on the sales, the supplier should not show any VAT on its invoice⁽³³⁾

(32) Article 50(3), Mandatory Registration, Unified VAT Agreement

(33) Article 41, Customer obliged to pay VAT under the Reverse Charge Mechanism, Unified VAT Agreement

7. SUPPLIES THROUGH AN AGENT OR INTERMEDIARY

7.1. VAT ON SUPPLIES MADE THROUGH AN AGENT

An Agent may provide a broad range of services on behalf of a principal. This includes acting on behalf of a principal seller or purchaser of a supply of goods and services.

Agents may act in the name of their principal, or in their own name (but on behalf of the principal).

7.1.1 Agent acts in the name of the principal

Where an Agent acts in the name of the principal (the supplier), VAT applies to the transaction between the supplier and the customer as normal.

Example (14): Noor, an individual registered for VAT, is appointed as agent to find a buyer for a new software product designed by ABC LLC, a software developer in the KSA. After some time searching for buyers, Farid approaches another KSA business, XYZ LLC who agrees to sign a contract to download the software from ABC LLC for SAR 1 million.

The sale of the software takes place directly from ABC LLC to XYZ LLC, with VAT being charged on the invoice issued from ABC LLC to XYZ LLC for the software price of SAR 1 million paid. Noor issues a separate invoice to ABC LLC for her commission, being 2% of the sale price. Noor's fees is a separate taxable supply. The VAT invoices should indicate the following:

1. Invoice issued from ABC LLC to XYZ LLC for the software

Provision of software	1,000,000	(Value of the supply)
VAT at 5%	50,000	(VAT = Value x 5%)
Total due	1,050,000	(Total consideration payable)

2. Invoice issued from Noor to ABC LLC

Sales commission: 2% x 1,000,000 (and reference should be made to the number and particulars of the invoice on which the commission was earned)	20,000	(Value of the supply)
VAT at 5%	1,000	(VAT = Value x 5%)
Total due	21,000	(Total consideration payable)

7.1.2. Agents acts in their own name

If an Agent deals with others in their own name, such agent is considered -for VAT purposes- to act in their own name (as a principal) in dealings with third parties (i.e. Agents are deemed to receive or make the supply themselves).⁽³⁴⁾

The commission charged by an Agent acting in his own name is not a separate supply, since for VAT purposes it represents the profit margin made on the sale.

(34) Article 19, VAT Law

Example (15): As in example 14, Noor is appointed as Agent to find a buyer for a new software product designed by ABC LLC, a software developer in the KSA. After a period of communicating with other companies in her own name, Noor approaches XYZ LLC, which agrees to purchase the software, and signs a contract with Noor in her own name to supply the software from ABC LLC for SAR 1 million.

While the sale is effectively made on behalf of ABC LLC, Nur transacts with others in her own name and is seen as a principal for VAT purposes. She purchases the software from XYZ LLC for SAR 980,000 (effectively being total sales price less her 2% commission). ABC LLC charges VAT on this supply and issues a tax invoice, as follows:

Provision of software (1,000,000 less 2% sales commission)	980,000	(Value of the supply)
VAT at 5%	49,000	(VAT = Value x 5%)
Total due	1,029,000	(Total consideration payable)

Noor issues a separate invoice in her own name to ABC LLC for the sale of the software. This is a separate onwards taxable supply as follows:

Provision of software	1,000,000	(Value of the supply)
VAT at 5%	50,000	(VAT = Value x 5%)
Total due	1,050,000	(Total consideration payable)

7.2. ONLINE INTERFACES AND PORTALS

An online interface or portal acts as an intermediary in providing a platform to introduce and connect sellers of goods and services with buyers. In many cases, the platform has the ability to set the parameters of the supply (such as arranging the delivery of goods and services, determining the selling price and setting terms and conditions of sale) and may also take on commercial risks for the supply (e.g. offering refund to a customer where the goods and services are not satisfactory). Generally, the online interface or portal will act in its capacity as the seller of goods or services and charge a commission or fee for these services.

In this way, an online interface or portal can be seen to act in its capacity as principal or Agent. This will depend on the details of the relationship between the buyer and seller, and the circumstances of it. It is the parties concerned who are responsible for evaluating the extent to which they are acting as principal or Agent or person instructing the Agent (as the case may be), and to apply the appropriate VAT treatment.

If the electronic intermediary acts on behalf of a non-Resident supplier, it must apply the special rules relating to providing Electronic Services in the KSA. In this case, an online interface or portal operator is presumed to act in their own name as a principal, unless:

- The non-Resident Supplier is expressly indicated as the supplier of goods and services during the online sale process, in the contractual arrangements between the parties, and on the invoice or receipt issued by the operator of the interface or Portal; and
- The intermediary (the operator of the interface or portal) does not authorize charging the Customer for the goods themselves and does not set the terms and conditions of the Supply⁽³⁵⁾

(35) Article 47(2), Persons liable to pay Tax, Implementing Regulations

If the online interface or portal operator acts on behalf of a non-Resident supplier, it will be deemed to purchase the services from the non-Resident supplier, then subsequently make a separate supply of the same services to the KSA customer.

Example (16): A Canadian game developer lists an online computer game for purchase with a global gaming Portal. The site arranges the terms and conditions for supplies of the game to individual customers, collects payments directly from those customers, and raises documents to show the receipts from sales less commission. Customers do not have any direct contact with the Canadian developer, and the site is liable to resolve any customer complaints. During 2018, a number of individuals in the KSA purchase the game.

The gaming portal supplies Electronic Services in the KSA on behalf of a non-Resident supplier; the Portal is presumed to act in its own name towards the customer. The portal must charge VAT on the supply of the games to the KSA customers.

7.3. TELECOMMUNICATIONS PROVIDERS

Telecommunication providers may also act as Agent for the supply of Electronic Services. they may also facilitate payment through prepaid phone credit. In this manner, the telecommunication provider must determine if it acts in its own name as Agent or principal to apply the appropriate VAT treatment. Nevertheless, the collection of payment on behalf of a supplier does not in itself result in the telecommunication provider acting in its own name.

Example (17): A KSA telecommunications provider allows customers to pay for mobile applications using credit cards. It sells a particular app for SAR 50 inclusive of VAT. A non-Resident third party provides the app content, but the customers do not interact or agree terms and conditions with the third party providers: the telecommunications provider collects payments and passes these to the third party provider under its own terms and conditions (deduction of SAR 5 commission from the VAT exclusive price collected).

In this case, the telecommunications provider acts in its own name as principal, and is considered the supplier for VAT purposes. The telecommunications provider is responsible for reporting VAT on the sale of the app to the customer in its VAT return.

Provision of mobile app	47.62	(Value of the supply)
VAT at 5%	2.38	(VAT = 5/105 x consideration)
Total due	50.00	(Total consideration payable)

The content provider is deemed to have sold the content to the telecommunications provider in a separate supply. The supply is valued at the VAT-exclusive price less the commission. As the content provider is a non-Resident, the KSA telecommunications provider should account for VAT using the reverse charge mechanism.

Provision of mobile app (SAR 47.62 less SAR 5 commission)	42.62	(Value of the supply)
No VAT – recipient accounts for VAT through Reverse Charge Mechanism	0.00	VAT = value x 5%
Total due	42.62	(Total consideration payable)

In Box 9 of the VAT return, the telecommunications provider reports:

		Amount (SAR)	VAT Amount (SAR)
9	Imports subject to VAT accounted through Reverse Charge Mechanism	42.62	2.13

8. INPUT VAT DEDUCTION

8.1. BUSINESSES REGISTERED FOR VAT IN KSA

A VAT-registered person may deduct Input VAT charged on goods and services it purchases or receives in the course of carrying on its Economic Activity. Input VAT may be deducted on:

- VAT charged by a VAT supplier registered in the KSA;
- VAT self-accounted using the Reverse Charge Mechanism by the VAT-registered person; or
- Import VAT paid to the Customs Authority on imports of goods

As a rule, input VAT which relates to a taxpayer's VAT exempt activities, such as residential real estate rental, is not deductible as Input VAT.

In addition, Input VAT may not be deducted on any costs not incurred as part of the Economic Activity (including some blocked expenditure types such as entertainment and motor vehicles) or other costs which relate to making exempt supplies.⁽³⁶⁾

This Input VAT is a credit entered on the VAT return which is offset against the VAT charged on supplies (output VAT) made during that period.

Input VAT may only be deducted where the recipient holds a tax invoice (or any alternative document showing the amount of input VAT paid or due for payment, if approved by GAZT).

8.2. NON-RESIDENT SUPPLIERS

Non-Residents are not able to deduct input VAT as described above, unless they are VAT registered in the KSA. A non-Resident who is registered for VAT (e.g. in order to supply online services to consumers in the KSA) is entitled to deduct, through its VAT return, Input VAT charged in KSA on its purchases.

In other cases, a non-Resident supplier may not deduct input VAT on purchases or imports into the KSA. Non-Residents may however submit an application to GAZT to reclaim VAT incurred in the KSA through a special refund scheme.⁽³⁷⁾

Example (18): An Italian equipment supplier has no KSA establishment, but stores demonstration stock in a third-party warehouse in Riyadh. All sales to KSA customers are placed with the Italian sales team and dispatched from Italy. The customers act as importers and pay import VAT to the Customs Department. Therefore, the Italian supplier is not able to register for VAT in the KSA. The third-party warehouse charges SAR 3,000 per month, plus VAT of SAR 150, for storage costs. The Italian supplier cannot deduct this VAT as input VAT.

8.3. DEDUCTION OF VAT ON IMPORTS

The importer of record may deduct VAT paid on imports where the goods imported have been used in the course of its Economic Activities. In order to be able to deduct VAT, the importer (or its representative) should provide its TIN to the Customs Authority at the time of entry of the goods. The Customs Department will provide details of the imports made by each month, to be used as evidence of payment of VAT.⁽³⁸⁾

(36) A detailed list of the blocked expenditures is listed under Article 50 of the Implementing Regulations

(37) Article 71, Refund of Tax to Taxable Persons in other Member States, Implementing Regulations

(38) Article 43, Collection of Tax on imports of Goods into the Kingdom, Implementing Regulations

Example (19): KSA Co, a digital service provider, is registered for VAT in the KSA and imports computer hardware into the KSA for use in its business. This equipment is not intended for resale but is used in the course of the KSA Co's Economic Activities. KSA Co instructs the customs broker to provide its TIN to the Customs Department, and the VAT paid will be shown on the monthly summary presented to the Customs Department. KSA Co must include this input VAT in Box 8 of the VAT return, which is then offset against the outputs made during the period.

The forwarding company sends an invoice to a non-Resident supplier for SAR 1,000, in addition to SAR 50 for local forwarding and delivery services, and VAT. The invoice is sent "for the attention of" the Saudi customs broker, who makes an advance payment. The Saudi customs broker is not the receiver of the supply, and he is not able to deduct the VAT charged on the invoice.

If a shipping agent or customs broker does not provide the TIN of the importer, or if it provides its own TIN, neither the importer nor the broker is entitled to deduct the VAT paid as input VAT.

In example 20, if the customs broker acts in his own name, it will be treated as the recipient who has taken delivery of the supply for VAT purposes (even if he purchases on behalf of his principal). The forwarding company will issue the invoice in the name of the customs broker, and then the customs broker will be able to deduct the VAT incurred in the course of his Economic Activities.

8.4. SUPPLIES MADE BY AGENTS

An Agent who acts in the name of a principal is not the recipient of purchases his principal makes. An Agent acting in this capacity cannot recover VAT charged to his principal.

Example (20): A KSA customs broker acts on behalf of a non-Resident supplier. The customs broker has cleared the goods for import, but the non-Resident supplier asks the broker to instruct a local delivery firm to pick up the goods from the port in Jeddah and deliver them to the customer. The customs broker advises the third-party delivery firm that it is acting in the name of the non-Resident supplier: therefore, for VAT purposes the delivery services are provided directly from the delivery firm to the non-Resident supplier.

In example (20), an Agent acting in his own name is deemed to receive supplies for VAT purposes (even if he has made purchases on behalf of his principle). The Agent is eligible to deduct input VAT on the purchases received in this capacity, provided that the Agent holds a tax invoice in the Agent's name and the other criteria for input VAT deduction are met.⁽³⁹⁾

(39) Article 9, VAT Law

9. VAT REPORTING

9.1. ISSUING INVOICES

A taxable supplier must issue a tax invoice for each taxable supply made to any other VAT-registered person or to any other legal person. Alternatively, the taxable supplier may issue a simplified tax invoice in the event that the value of the supply is less than SAR 1,000. The taxable supplier must issue a simplified tax invoice for supplies made to an end consumer, regardless of the value of the supply. In all events invoices must be issued no later than fifteen days following the end of the month in which the supply is made.

The tax invoice must clearly detail information such as, for example, the invoice date, supplier's tax identification number, taxable amount, tax rate applied, and the amount of VAT charged. If different rates are applied to the supplies, the value of each item must be separately specified, as well as the VAT applied to each item. Any commercial document may be issued in lieu of a tax invoice, provided that the document contains all of the requirements for the issue of a tax invoice are set out in the Implementing Regulations to the law.

Further information on the requirements for tax invoicing can be found in the VAT manual at vat.gov.sa.

9.2. FILING VAT RETURNS

Each VAT-registered person or persons authorised to act on their behalf must file a VAT return with GAZT for each monthly or quarterly tax period (as applicable). The VAT return is considered the taxable person's self-assessment of tax due for that period.

Monthly VAT periods are mandatory for businesses with an annual turnover exceeding SAR 40 million. For all other VAT registered persons, the standard tax period is three months.

The VAT return must be filed, and the corresponding payment of net tax due made, no later than the last day of the month following the end of the tax period to which the VAT return relates.

Further information on the filing of VAT returns will be made available in a separate guideline.

The taxpayer becomes entitled to a refund upon the occurrence of any of the following ("Refund Event"):

- a. Filing a tax return for a tax period where the net tax is an amount due to the taxpayer;
- b. Payment of an amount in excess of the amount of tax due; and
- c. When a tax credit balance arises for the benefit of the taxpayer.

The taxpayer is entitled to request a refund concurrently with the filing of a tax return or at any other time. However, the time to request a refund is subject to a pre-emptive period that commences on the date on which any of the above-mentioned circumstances occurs and ends after the 5-year period subsequent to the calendar year during which the Refund Event occurs. GAZT will review these requests and will make payment of an approved refund requests directly to the taxpayer. ⁽⁴⁰⁾

Example 21: ABC LLC overpays tax on June 30, 2018 and has a credit balance of SR 10,000. In December 2018, a reassessment is made for the tax period for which the excess tax amount was paid by ABC LLC. The reassessment results in ABC LLC owing taxes in the amount of SR 15,000. ABC LLC files an appeal within the statutory time limit and the appeal is finally resolved on June 30, 2019. The appellate committee decides in favour of ABC LLC and determines that his initial assessment of June 30 was correct and has a credit balance of SR 10,000. ABC LLC has a right to request a refund at any time up to December 31, 2025, as of June 30, 2019 is the date on which the credit tax balance arose for the benefit of the taxpayer.

(40) Article 69, Refund of overpaid Tax, Implementing Regulations

9.3. KEEPING RECORDS

All taxpayers are required by law to keep appropriate VAT records relating to their calculation of VAT for audit purposes. This includes any documents used to determine the VAT payable on a transaction and in a VAT return. This will generally include:

- Tax invoices issued and received;
- Books and accounting documents;
- Contracts or agreements for large sales and purchases;
- Bank statements and other financial records;
- Import, export and shipment documents; and
- Other records relating to the calculation of VAT

Records may be kept in physical copy, or electronically where the conditions specified in Regulations are met to do so⁽⁴¹⁾, but in all cases records must be made available to GAZT on request.

All records must be kept for at least the standard retention period of 6 years. The minimum retention period is extended to 11 years in connection with invoices and records relating to movable capital assets, and 15 years in connection with invoices and records relating to non-movable capital assets.⁽⁴²⁾

9.4. VAT OBLIGATIONS

Every Taxable Person has an obligation to assess his own VAT liability, and to comply with his VAT obligations. This includes registering for VAT when required, correctly calculating the amount of net tax payable, paying tax on time, keeping all necessary records, and cooperating with officers of GAZT upon request.

If you are not sure of your obligations, you should contact GAZT through its website vat.gov.sa or other communication channels. You may also seek external advice from a qualified consultant.

9.5. REQUESTING A RULING

If after consulting the relevant law and guidance, you are unsure as to how VAT applies to a particular activity or transaction that you carry out or intend to carry out, you may apply to GAZT for a ruling.⁽⁴³⁾ The request must include the full facts relating to the particular activity or transaction that you wish GAZT to consider.

Rulings may be either:

- Public: in which case GAZT will publish details of the ruling, without any taxpayer-specific information; or
- Private: in which case GAZT will not publish the ruling

The ruling may include all information on the activity or transaction that you request a ruling for, and a description of the specific area of uncertainty in the law or guidance which you have considered. You may choose to describe the alternatives and what you consider to be the correct treatment.

(41) Further detail in Article 66 (3), Records, Implementing Regulations

(42) Article 66, Records, Implementing Regulations

(43) Article 75, Rulings, Implementing Regulations

GAZT is not obliged to respond to all requests for rulings. It will consider and prioritize requests based on factors such as:

- The level of information presented by the taxpayer in the request;
- The benefit to the wider taxpayer community in issuing a public ruling on the transaction or activity; and
- Whether there is existing law or guidance which addresses the request

A public or private ruling issued by GAZT is not binding on GAZT or on any taxpayer in respect of any transaction carried out and it cannot be relied upon in any way.

9.6. CORRECTING PAST ERRORS

If you are aware of an error or an incorrect amount in a filed VAT Return, or of any other VAT obligation which you have not complied with, you should notify GAZT and correct the error by amending the VAT return. Errors resulting in a net understatement of VAT (above SAR 5,000) must be notified to GAZT within twenty days of becoming aware of the error or incorrect amount, and the previous return must be amended

For minor errors resulting in an understatement of the net VAT of less than SAR 5,000, you may instead correct the error by adjusting the net tax in the following VAT return.⁽⁴⁴⁾

Further information on correcting errors is contained at vat.gov.sa.

(44) Article 63, Correction of returns, Implementing Regulations

10. TRANSITIONAL RULES APPLYING TO DIGITAL ECONOMY

VAT applies in principle on all transactions taking place on or after 1 January 2018, based on the date of supply rules described above, and all imports of goods made on or after 1 January 2018.

Transitional rules will apply to ensure VAT applies fairly and equally on all transactions made close to the transition date. Three rules of high relevance to the Digital Economy are set out below.

Further information on the transitional provisions is detailed in a separate guideline.

10.1. DISREGARD EARLY INVOICE OR PAYMENT

Any supplier who issues an invoice or receives consideration for a supply before 1 January 2018 where the actual supply of goods or services takes place on or after 1 January 2018, shall be considered to make the Supply for VAT purposes on the actual date of the supply, regardless of that early invoice or payment⁽⁴⁵⁾ and should therefore be subject to VAT.

This prevents the avoidance of VAT by early payment or invoicing. In this case, the supplier is obligated to issue an additional invoice showing the tax charged on the taxable amount.

Conversely, if the actual supply took place before 1 January 2018 and the invoice was issued or the consideration was received after this date, the supply will not be subject to VAT.

10.2. CONTINUOUS SUPPLIES SPANNING VAT INTRODUCTION DATE

The VAT Law provides that continuous supplies of goods or services spanning 1 January 2018 and thereafter will be subject to VAT only on that part of the supply that was carried out on or after 1 January 2018. VAT will not apply to any part of a continuous service that was carried out before 1 January 2018.⁽⁴⁶⁾

Example (22): An individual in the KSA takes out an online magazine subscription on 1 October 2017, allowing him electronic access to all articles published in the weekly print edition and additional premium content for a period of one year for an annual fee of SAR 800.

This is a continuous service, and regardless of the date of the invoice, VAT should only be applicable to the portion performed after 1 January 2018. As the services are provided evenly across the period, this would be split evenly based on the time.

Therefore, the services relating to the first three months of the subscription (SAR200, relating to 3/12 months) will not be subject to VAT.

The remaining SAR600 of the subscription fee, covering the period from 1 January 2018 until the termination of the subscription, is subject to VAT.

10.3. GCC TRADE: COUNTRIES WITHIN GCC VAT TERRITORY

In many cases, the rules for determining the application of VAT depend on whether a supplier or customer is Resident in the GCC Territory, or if the person is Taxable in another GCC Member State.

(45) Article 79(1), Implementing Regulations

(46) Article 21(3), VAT Law

In all cases where another GCC State has yet to implement domestic VAT legislation for supplies of goods and services, the application of KSA VAT will be determined on the basis that: ⁽⁴⁷⁾

- Territory of that state is outside the GCC Territory;
- Residents of that state will be considered non-GCC Residents (unless they are also Residents in another GCC State which has introduced VAT); and
- Businesses in that state will not be treated as Taxable Persons until VAT is introduced and they have registered for VAT with the relevant authority.

Example (22): Al Diyafa Company LLC, a KSA company, provides web-hosting services to a business established in Kuwait during April 2018, which are used by the customer in Kuwait. If Kuwait has not introduced VAT by the date on which the service is performed, this will be considered the provision of services to a customer outside of GCC Territory, where the services are used outside of GCC Territory. On this basis, Al Diyafa Company may zero-rate the supply of these services.

Example (23): Alam Company, a Kuwait media company provides an online business news subscription, which can be accessed online by businesses or individuals in the KSA for a monthly fee of SAR 50. The first fee is charged on 20 January to cover the month of January 2018. The supply is of Electronic Services and takes place in the KSA, where the customers are Resident. If Kuwait has not introduced VAT by the date that the performance of the service is complete, Alam Company will be subject to the rules applying to non-GCC suppliers. Therefore, for B2B supplies, the KSA customer will self-account for VAT on the reverse charge mechanism. For B2C supplies, Alam Company will be required to register for VAT in the KSA and raise tax invoices.

10.4. GCC TRADE: SUPPLIES OF GOODS TO AND FROM GCC STATES

Transitional provisions will apply to the movement of goods to and from KSA from all other GCC States, until the commencement of the implementation of the Electronic Service System between the GCC States. These rules will apply regardless of whether or not other GCC States have implemented the domestic VAT legislation.

The transitional rules will apply from 1 January 2018 until GAZT releases official notice that the Electronic Service System is in place. Until this time, as a transitional measure, the following should be considered for both B2B and B2C trade: ⁽⁴⁸⁾

- For VAT purposes, a transaction involving goods moved from the KSA to another GCC State will be considered as an export of those goods from the KSA. These supplies will qualify for the zero-rating applicable to exports to a non-GCC destination, provided the usual criteria for zero-rating of exports are met

Transitional Supplies (B2B or B2C): Goods shipped to the GCC are zero-rated exports from the KSA



(47) Article 79(6), Transitional provisions, Implementing Regulations

(48) Article 79(7), Transitional provisions, Implementing Regulations

- A transaction involving goods moved into the KSA from another GCC State will be considered an import of those goods into the KSA. Import VAT will be charged in the same manner as imports from a non-GCC destination. The transitional rules for VAT will not affect the status of the goods for customs duty purposes, but the Customs Authority will collect 5% VAT (on the import value) from the person acting as an importer

**Transitional Supplies (B2B or B2C):
VAT is charged on the import into the KSA**



Example (24): Taxable persons in the Kingdom purchase goods from the website of a supplier based in the UAE on 20 March 2018. The supplier ships these goods to the customer on the same day. If the Electronic Service System is not yet in place, import VAT will be charged on the goods upon entry to the KSA, and collected from the importer by the Customs Department in the same manner as for shipments from outside the GCC.

11. PENALTIES

Penalties or fines may be imposed by the Authority on taxpayers for violations of VAT requirements set out by the Law or Implementing Regulations.⁽⁴⁹⁾

Description of offence	Associated fine
Submit false documents with the intent of evading the payment of the VAT due or to reduce its value	<ul style="list-style-type: none"> • At least the amount of the VAT due • Up to three times the value of the goods or service
Move goods in or out of the Kingdom without paying the VAT due	<ul style="list-style-type: none"> • At least the amount of the VAT due • Up to than three times the value of the goods or service
Failure to register for the VAT in the allotted timeframe	SAR 10,000
Filing incorrect tax return, amend a tax return after submission or filing any VAT document with the Au-thority resulting in a lower amount due	Equal to 50% of the value of the difference between the VAT calculated and the VAT due
Failure to file VAT return in time	5-25% of the VAT that should have been reported
Failure to pay the VAT in time	5% of the VAT due for each month or part thereof
Collecting the VAT without being registered	Up to SAR 100,000
Failure to maintain books and records as stipulated in the regulations	Up to SAR 50,000
Prevent GAZT employees from performing their duties	Up to SAR 50,000
Violating of any other provision of the VAT regulations or the VAT law	Up to SAR 50,000

In all cases, if a violation is repeated within three years from the date of issuing the final decision of the penalty, the fine for the repeated offense may be doubled.

The amount of the penalty or fine imposed is determined by GAZT in light of the taxpayer's behaviour and compliance record (including taxpayers meeting their requirements to notify GAZT of any errors and provide co-operation to rectify mistakes).

(49) Chapter 16: Articles (41), (42), (43), (44), (45) and (47) of VAT Law – Tax Evasion and Penalties

12. FREQUENTLY ASKED QUESTIONS

1. How can a non-Resident supplier register for KSA VAT?

Non-Resident suppliers with no establishment or base in the KSA, must register if they make or receive any taxable supplies (sales/purchases) on which they are obliged to charge and collect VAT. Such Non-residents must register for VAT purposes no later than 30 days after the date on which they make the first taxable supply in the Kingdom. The non-Resident must appoint a tax representative. Refer to section 3.4 of this Guideline.

2. An electronic fashion website in the USA charges local sales taxes to a KSA customer on their online order. Can the KSA customer deduct sales tax charged by the USA supplier in his KSA VAT return upon importation?

No. Any tax charged in the country of origin does not affect the VAT treatment upon import into the KSA.

3. A KSA customer has returned goods to the KSA supplier for a refund. Can the KSA supplier obtain a refund the VAT charged?

For a local sale of goods, the tax charged should be adjusted. The supplier should issue a credit note which reverses the original sale and the corresponding VAT.

4. A KSA customer has returned goods to a non-GCC supplier or a refund. Can the non-GCC supplier obtain a refund the VAT paid?

No. If the goods have been imported, the VAT paid on import is not refundable (even if the goods are subsequently returned).

5. Will a "low-value threshold" be applied for importation of goods through commercial couriers?

No low value threshold is provided in VAT law. The Customs Authority will collect VAT on imported goods (including those purchased from online suppliers) in accordance with on their own established processes.

6. Do non-Resident suppliers need to charge KSA customers for the VAT due on import?

The party acting as the importer is liable to pay the VAT due at import. This may be the customer, or an Agent of the foreign supplier. Non-Resident suppliers must determine, as a commercial matter, whether they will bear the cost of VAT on import, charge it to the customer, or require the customer to act as an importer. As VAT applies to the import, not on the sale itself, it is not required that the non-Resident supplier charges VAT on the invoice.

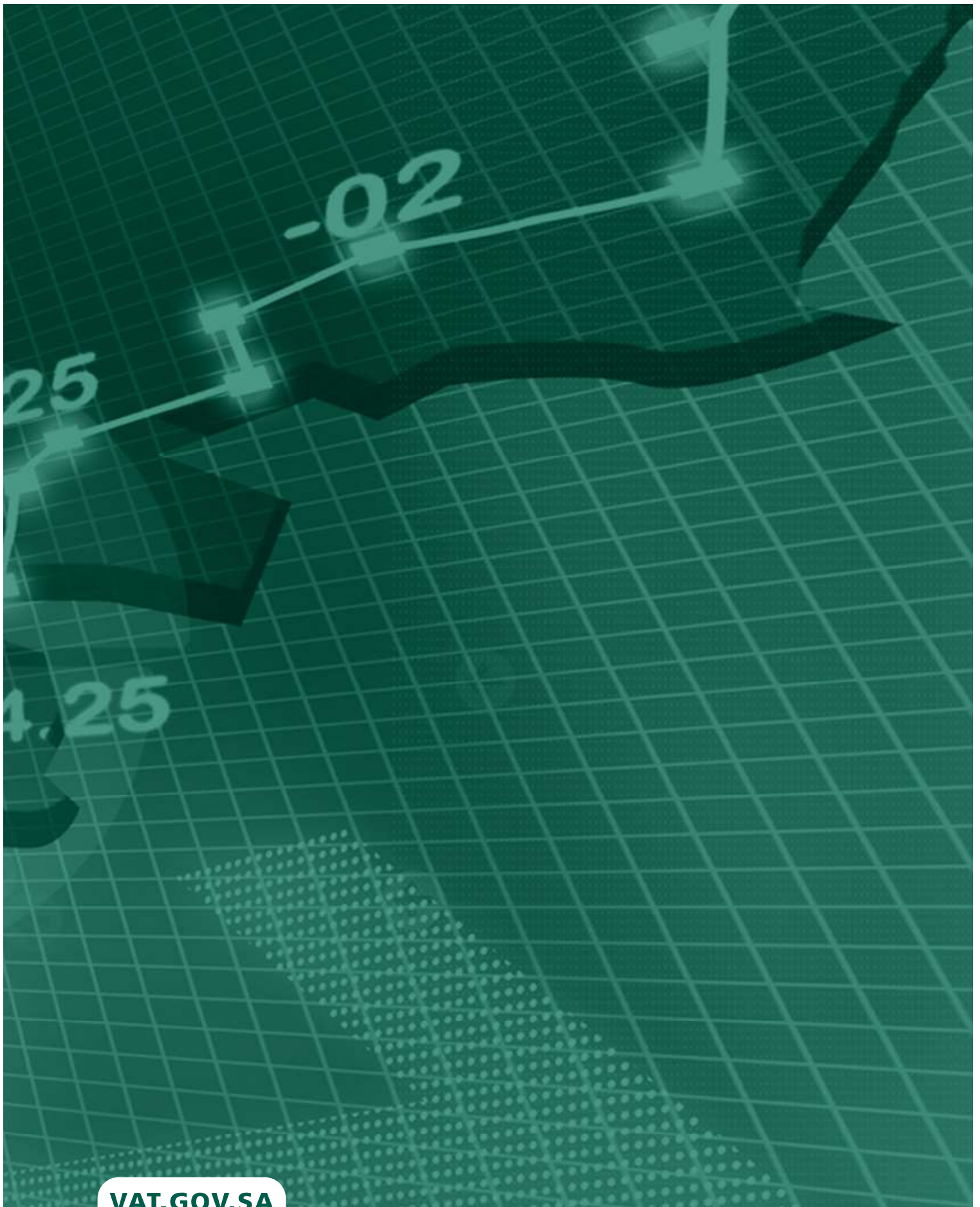
7. Do the prices KSA consumers see on online websites include the VAT?

Prices quoted by KSA suppliers in the local market must include VAT. A KSA customer has a monthly subscription to a content provider, and the customer accesses movie content on demand while travelling in the USA. Should the KSA customer pay VAT?

If the customer is a Resident in the KSA, the supplier should charge VAT on the full subscription. No adjustment may be made if access also takes place in other countries.

8. How can online suppliers determine if a customer is a VAT registered customer in the KSA or other GCC States?

To determine whether or not the customer is a VAT registered customer, the supplier must obtain and record evidence that the customer has a valid Tax Identification Number. In cases where the customer is required to self-account for Tax on the supply, the tax invoice must also include the customer's Tax Identification Number and a statement that the customer must account for the Tax.



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