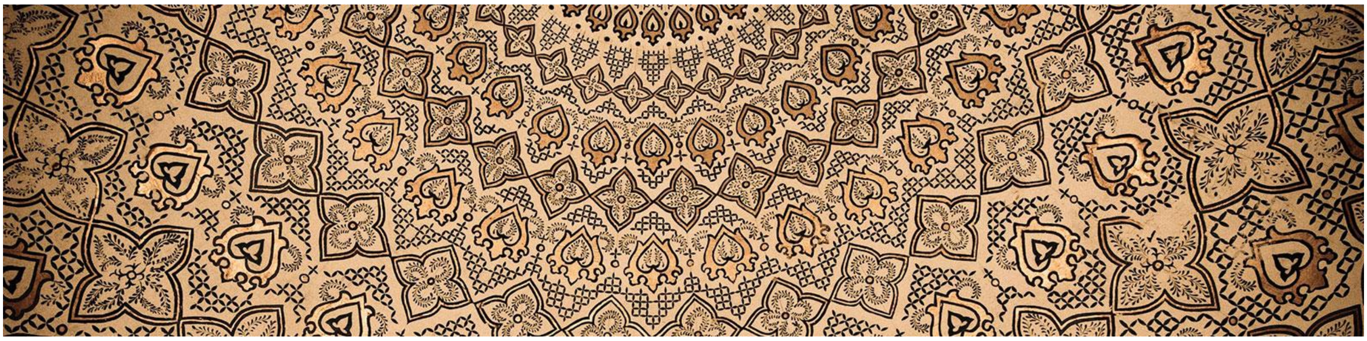
UAE VAT IMPLEMENTATION – IS YOUR BUSINESS READY?



It has been widely reported that the GCC countries have agreed accords in relation to the implementation of value added tax (**VAT**) (**GCC VAT Accords**). On 23 August 2017, UAE Federal Decree No. 8 of 2017 was published (**VAT Law**) just a few weeks after the publication of UAE Federal Decree No. 7 of 2017 (**VAT Procedures Law**).

In this article, Robin Hickman and Ben Sims, both of Addleshaw Goddard's Dubai office, consider the:

- key steps businesses in the UAE should be taking at this time with the implementation date being less than four months away;
- key provisions of both the VAT Law and the VAT Procedures Law; and
- areas still to be clarified by implementing executive regulations (Implementing Regulations).

Key provisions

Implementation date and registration threshold

The VAT Law has confirmed the anticipated implementation date of 1 January 2018, in line with Saudi Arabia's VAT implementation date. It is unclear whether the other GCC member states will also implement VAT on 1 January 2018.

Businesses will be expected to register with the Federal Tax Authority (FTA) and obtain a VAT registration number. The registration system is currently being piloted and is expected to be ready in the next week.

The GCC VAT Accords prescribe the following registration thresholds (which are expected to be reconfirmed in the Implementing Regulations):

- businesses with annual revenue above AED 375,000 will be required to register with the FTA; and
- business with annual revenue exceeding or expected to exceed AED 187,500 but less than AED 375,000 may voluntarily register with the FTA.

Standard rated, zero rated and exempt items

As widely expected, the standard rate of VAT on a wide range of goods and services in the UAE will be 5% for an initial period of three years.

Certain goods and services will be zero rated or exempt from VAT. VAT has no applicability to items which are VAT exempt and businesses making exempt supplies are not able to recover VAT on costs of goods and services related to such exempt supplies (input expenses). Zero-rated supplies still have to be accounted for and VAT returns filed but a zero rate of VAT is applied and businesses making zero rated supplies are able to recover VAT paid in relation to input expenses.

- zero rated items include:
  - direct or indirect export outside of the GCC;

  - international transport of passengers and goods which starts or ends in the UAE or passes through the UAE;
  - air passenger transport considered as "international carriage" pursuant to the Warsaw Convention;
  - supply of air, sea and land means of transport for the movement of passengers as specified by the Implementing Regulations along with certain ancillary services e.g. maintenance or repair;
  - supply of aircrafts and vessels for rescue and assistance by air or sea;
  - supply of goods or services related to the transfer of goods or passengers aboard land, air or sea designed for consumption on board; and
  - the supply or import of precious metals as specified in the Implementing Regulations.
- exempt items include:
  - financial services (many of which are too difficult to tax) as specified in the Implementing Regulations;
  - supply of residential buildings through lease or sale (in so far as such supplies are not zero rated items);
  - supply of bare land; and
  - supply of local passenger transport.

VAT Tax Grouping

The VAT Law allows two or more related businesses to apply to the FTA for registration as a tax group (Tax Group) so as to avoid intra-group transactions attracting VAT, provided that they meet certain conditions. These conditions include the businesses being related parties and established or having a fixed place of business in the UAE.

Key areas still to be clarified

Zero rated and exempt items

As outlined above, the scope of the zero rated and exempt treatment, is in some cases, to be more fully fleshed out in the Implementing Regulations.

Treatment of Free Zones

It is currently unclear how the UAE will treat supplies of goods and services in free zones. The VAT Law introduces the concept of "Designated Zones" which are treated as being outside of the UAE for VAT purposes. It is expected that the Implementing Regulations will provide further clarity as to whether some or all free zones will be classified as Designated Zones and the circumstances in which business conducted within a Designated Zone shall be regarded as being within the UAE and subject to VAT.

Scope of VAT Tax Groups

Each aspect of the requirement for a Tax Group is drafted (quite deliberately) in a very broad manner and further clarity is expected in the Implementing Regulations.

Treatment of Government Supply

Supplies by a Government entity will be subject to VAT where the activities are conducted in a "Non-Sovereign Capacity" or if the activities are in competition with the private sector.

The Implementing Regulations shall specify the Government entities and activities that are considered as conducted in a "Sovereign Capacity" and activities considered not being in competition with the private sector.

Tax invoice requirements

Whilst the VAT Law states that a VAT invoice is required to be issued, the Implementing Regulations will outline the exact content of such VAT invoices and the conditions and procedures for issuing such invoices electronically.

Preparing your business

With less than four months to go, the key areas to prepare your business for the implementation of VAT are as follows:

- **Register with the FTA**: currently the registration system is being piloted but is expected to be opened within a week or so.

- **Communicate with customers/suppliers**: the impact that VAT will have on your goods and services. By ways of example: (i) that there may be a price increase on your goods and services and (ii) that you will need a tax invoice from your suppliers;

- **Training**: invest in and obtain comprehensive VAT awareness training which should be provided to key staff on the VAT legislation. VAT will impact on all sections of a business including finance, IT, human resources, procurement, legal, sales and marketing. All transactions will have a VAT implication and adequate planning and training is required to ensure compliance and avoid fines;

- **Contracts**: steps should be taken to identify contracts that may need to be modified following VAT implementation. For example, checking whether existing contracts are exclusive or inclusive of VAT (if the contract is silent, VAT will be deemed to be included). Amendments to existing contracts may be required and businesses should consider including a clause into supply contracts which states that payment will not become due until a valid tax invoice has been issued;

- **VAT Records**: the GCC VAT Accords require records to be kept for a minimum period of 5 years. Further clarification around this is expected in the Implementing Regulations but business should ensure that by 1 January they have implemented internal record-keeping systems in relation to invoicing, imports/exports and other relevant documents to be able to produce an audit trail of their business; and

- **VAT Returns**: businesses should take steps to confirm that financial and point of sale systems and software are able to process VAT calculations and produce compliant VAT receipts.

Next steps

We have already assisted numerous clients considering their approach to VAT implementation in the UAE. We would be pleased to provide you with a more detailed consideration of the key areas your company should be thinking about and can offer you a fixed fee for undertaking this exercise.

For further information on this topic please contact one of the following Addleshaw Goddard contacts:

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