



Indirect Tax Update

Update on various publications released by the Federal Tax Authority (FTA)

14 June 2018

Dear clients and contacts,

Over the past two months, the FTA has released several important publications which shed light on a variety of VAT topics in the United Arab Emirates (UAE). We summarized these publications.

1 Applicability of VAT to Directorship Services

The FTA confirmed our original understanding that directors' services are considered a taxable supply of services. On this basis, executive or non-executive directors who provide directorship services must register for UAE VAT purposes if the fees for their services (in addition to the fees for any other taxable supplies they may be providing) exceed the mandatory registration threshold.

Once VAT-registered, directors or businesses must ensure that they comply with the provisions of the UAE VAT legislation. This includes a thorough understanding of the instances in which input tax incurred by a director is recoverable, as well as the requirement to issue Tax Invoices in relation to supplies of director's services.

In case the director is partially/fully remunerated for his services through non-monetary means of payment (e.g. goods or services, stock options), VAT is applied on the total value of the director's services. This includes both the value of the monetary remuneration in addition to the value of the non-monetary means of payment calculated according to its fair market value.

Determining the Place of Supply for Director's Services

UAE VAT is only applicable on directorship services if the place of supply of such services is the UAE. Therefore, it is important to accurately determine the place of supply of directorship services.

Since director's services do not fall under any of the services for which special place of supply rules apply, the general principle is used in determining the place of supply for director's services. Accordingly, the place of supply for directorship services is where the director is resident. This is unless the recipient of the services is also a taxable person in another GCC State considered to be an Implementing State, in which case the place of supply of these services will be the customer's place of residence.

As a brief reminder, currently both the UAE and the KSA do not consider one another as Implementing States. Therefore, until the time that the GCC States formally recognize one another as Implementing States, the place of supply for director's services will be where the director is resident.

Exports of Director's Services

Directors who are resident in the UAE may apply the zero-rate to a supply of directorship services under either of the following scenarios:

- The director's services are physically performed outside the GCC Implementing States, such as attending a board meeting outside the GCC, or
- The director provides services from the UAE to a company which is not resident for VAT purposes in a GCC Implementing State, and the performance of the services is not received in the UAE by any person who wouldn't be able to fully recover input VAT they incur in the course of making supplies.

Appointment of Directors by other Entities

In certain cases, a business or government entity may appoint a person to serve as a director of another business or government entity. This includes instances where a business has an investment stake in another business and is exercising a legal or contractual right to appoint a director to the board of the other business.

A fee is typically charged by the business appointing the director and is payable by the business to which the director is appointed. This fee should be treated as consideration for a taxable supply made by the business appointing the director. Accordingly, the business appointing the director must issue a Tax Invoice in relation to this supply and should ensure that VAT is properly accounted for on it.

2 Obtaining Clarifications from the FTA

The FTA has released a guide outlining a formal procedure in which taxable persons may submit a clarification request to the FTA to seek an opinion on technical tax matters. This is subject to a number of conditions, most notably the following:

- The person has analyzed the UAE VAT legislation as well as the guidelines and previous clarifications published by the FTA, and the answer is still uncertain to him, and
- The person has a genuine commercial interest in the matter at hand.

A form that is available on the FTA's website must be filled out and sent to a particular email address. The submission must also be accompanied by certain supporting documents, including a formal letter with details of the facts as well as any tax advice received in relation to the matter of uncertainty.

Please let us know in case you have any matters for which you have an uncertainty regarding how VAT is applicable to them. We will assist you in lodging a formal clarification request with the FTA.

3 Refund of VAT for International Customers of Exhibitions and Conferences

The FTA has published detailed guidance regarding the mechanism through which suppliers of exhibition and conference services that take place in the UAE may apply for a refund of VAT charged to international customers of such services.

The services which fall under this scheme are both those pertaining to the right to occupy space for the purpose of conducting an exhibition or conference, as well the service of granting the right to attend or participate in such an event.

Certain conditions must be met before a supplier of such services is able to apply this scheme, including the requirement for the supplier to obtain a license from the FTA that enables him to apply this scheme, as well as the receipt by the supplier of a written certification from the international customer that the customer is not registered or required to register for VAT with the FTA, and further that the customer is not legally established and does not have any fixed presence in the UAE.

The licensing process requires the supplier to fill out a specific form available on the FTA website and to send it to a particular email address along with certain supporting documents. If the application is accepted, the FTA will send a scanned copy of the license by email.

In practice, eligible suppliers who elect to apply this scheme do so by reporting the VAT that should have been charged to the international customer in their tax return as they would have normally done. However, the suppliers must not collect the VAT amount from the customers. Instead, the suppliers may apply for a refund of an amount less than or equal to the VAT amount that was not collected through the same VAT return.

There are also specific invoicing and record-keeping requirements involved for suppliers who elect to apply this scheme.

In case you believe that you qualify for applying for such a license and wish to obtain one, please let us know so that we may assist you in the licensing application process.

For more information, please **contact us**.



Philippe Norre
Partner – Head of Indirect Tax
Tax and Corporate Services
E: pnorre@kpmg.com

[Privacy](#) | [Legal](#)

INTERNAL USE ONLY

©2018 KPMG Fakhro, a Bahrain partnership registered with the Ministry of Industry, Commerce and Tourism (MOICT), Kingdom of Bahrain and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International Cooperative ("KPMG International").

kpmg.com/bh

