Executive summary

Following the approval and publication of the Gulf Cooperation Council (GCC) Value Added Tax (VAT) Framework Agreement, officials at the Saudi Arabian Ministry of Finance have confirmed the introduction of VAT via the Kingdom of Saudi Arabia (Saudi Arabia) Approved Implementing Regulations.¹ The General authority for zakat and tax (GAZT) in Saudi Arabia has initiated the process of auto-VAT registration for large businesses with revenue over SAR40m (approx. US$10.7m) which are registered with GAZT for Tax.

The United Arab Emirates (UAE) followed suit with the official announcement of the landmark Federal Law No. 7 of 2017 (Law No. 7) regarding tax procedures.² Law No. 7 “sets the foundations for the planned UAE tax system, regulating the administration and collection of taxes and clearly defining the role of the Federal Tax Authority (the FTA).” This will, in turn, pave the way for the introduction of VAT in the UAE. The FTA has opened the online VAT registration portal and all businesses with an annual turnover exceeding AED150m (approx. US$40.8m) should have registered by 31 October 2017. All businesses with an annual turnover exceeding AED10m (approx. US$2.72m) should register by 30 November 2017.

The UAE VAT Law was signed on 23 August 2017 and the related Executive Regulations are expected to be issued towards the end of November 2017.
These official affirmations are in line with similar pronouncements made by government officials from Bahrain, Kuwait, Oman and Qatar.

Based on the above, businesses should expect that VAT in Saudi Arabia and the UAE will be implemented from 1 January 2018. This means that businesses have a short timeframe to prepare for VAT implementation and ensure compliance with the VAT laws in each GCC country.

It is anticipated that across the GCC, the healthcare sector will be heavily impacted by VAT with significant differences in the application of VAT between Member States.

Detailed discussion

Key points from the GCC VAT Framework Agreement and Saudi Arabia’s approved Implementing Regulations

- The standard VAT rate will be 5% unless a zero rate or exemption applies.
- Supplies of goods and services from a VAT-registered person in one Member State to a VAT-registered person in another is subject to the reverse charge mechanism.
- Businesses with annual revenue exceeding SAR375,000 (approx. US$100,000) will be required to register for VAT purposes on a compulsory basis.
- Businesses with an annual revenue between SAR187,500 (approx. US$50,000) and SAR375,000 will have the option to voluntarily register for VAT purposes.
- Businesses established overseas that make taxable supplies within the GCC, especially to final consumers, GCC will need to be VAT-registered regardless of the value of their supplies.
- Foreign VAT registrants may appoint a tax representative or register for VAT directly with the corresponding authorities, subject to certain domestic conditions.
- The Saudi Arabian authorities have indicated that there is a requirement to submit monthly VAT returns, subject to conditions, as opposed to the quarterly returns indicated in the GCC Framework Agreement.

VAT reporting

Subject to agreement, it is proposed that the Emirates-wise reporting rules will use the following location identifiers:

- Goods and services from a fixed place which were sold or performed on site will be the place of sale or performance
- Goods delivered will be the delivery address
- Services (not performed on site) will be the address of the recipient
- If not any of the above, the address of the supplier

The FTA also confirmed:

- Reporting of input VAT is not required to be by Emirate
- Large and very large taxpayers will have a monthly VAT reporting obligation

Other highlights

The FTA, together with the Ministry of Finance, has recently launched the second phase of their tax awareness plan. The FTA will conduct specialized workshops to focus on the VAT treatment of different business sectors with specific emphasis on the retail sector, real estate, exports and imports, and the financial services/insurance sector.

The tax period for payment of VAT shall be quarterly with an option to pay on a monthly basis.

Additionally, the announcements confirmed the commitment of the UAE Government to implement VAT by the target date of 1 January 2018.

Preparation for GCC VAT – Applicability to the Healthcare Sector

Given the potential impact of the proposed VAT regime in 2018, many companies have modeled the exposure that VAT will have across their business operations and have already initiated or completed assessment of the impact that VAT will have across their business operations and are working on clear implementation plans in key areas. However, businesses headquartered outside of the GCC that have business arrangements in the region may not have calculated the possible exposure and compliance implications of the new tax.

In particular the correct VAT classification of healthcare services will be crucial as it will dictate:

a. Where VAT has to be charged
b. The base for claiming input VAT

UAE update

Below are the key announcements made by the UAE FTA during the press conference held in Abu Dhabi on 16 August 2017.
The following chart reflects initial considerations on the likely VAT treatment of healthcare services provided by the healthcare sector:

<table>
<thead>
<tr>
<th>VAT Liability</th>
<th>Category of transactions</th>
<th>Saudi Arabia</th>
<th>Category of transactions</th>
<th>UAE</th>
</tr>
</thead>
</table>
| Standard-rated| ■ Some pharmacy supplies such as cosmetics, alternative medicines, etc.  
■ Medical, dental, nursing services and other forms of healthcare services whose purpose is to protect, maintain or restore health of the concerned individual.  
■ Supply of nurses to building sites |               | ■ N/A |               |
| Zero-rated    | ■ Prescription medicines |               | ■ Prescription medicines |               |
|               | ■ Medical, dental, nursing services and other forms of healthcare services whose purpose is to protect, maintain or restore health of the concerned individual.  
■ Supply of nurses to building sites |               |               |               |               |
| Exempt        | ■ Medical services provided by Government |               | ■ N/A |               |

**Compliance and penalties**

It appears from the GCC Framework Agreement and Saudi Arabian Implementing Regulations, that the penalties for non-compliance of VAT can be significant. Penalties for non-compliance may be levied in the case of:

- Failure to register for VAT despite breaching the mandatory VAT registration threshold of SAR10,000
- Incorrect filing of a VAT return - up to 50% of the underpaid VAT
- Late filing of a VAT return - up to 25% of the VAT payable

**Implications**

The impact of VAT on the healthcare sector should not be understated. Considering the key points published under the GCC Framework Agreement, the Saudi Arabian Implementing Regulations and updates on UAE VAT, healthcare services are likely to be exempt from VAT although some countries could be contemplating the application of a zero-rate. Exemption from VAT means that no VAT will be charged on the provision of such services and VAT incurred in relation to making these supplies cannot be reclaimed.

What is defined as healthcare services will have to be interpreted from a broad perspective in regards to the industry. This will also create scenarios of mixed supplies, as some of the services provided by healthcare sector (e.g., cosmetic surgery, car parking fees, in-house pharmacy, in-house lab services and rental of clinics to doctors) may actually be standard or zero-rate rated within the definition perspective. The healthcare sector is thus a complicated industry because each of the services will have to be analyzed in order to determine the correct VAT treatment. In light of above, the healthcare sector needs to make a detailed analysis of their taxable and exempt supplies, and there will be a mandatory requirement for hospitals to register if gross revenue from taxable supplies during a twelve-month period exceeds the mandatory registration threshold of US$100,000.

Taxpayers will be required to register for VAT in each GCC state in which they meet the registration requirements (or choose to voluntarily register). The registration deadlines vary by each GCC state, although the UAE did announce that “large” taxpayers, defined as businesses with an annual turnover exceeding AED150 million (US$40.8 million), should have registered.
in the UAE by 31 October 2017 with other businesses with annual turnover in excess of AED10 million (US$2.7 million) are required to register by 30 November 2017.

VAT as a cost to business
Healthcare providers will have to re-evaluate the cost of doing business within each respective GCC Member State once VAT has been implemented in early 2018. One key consideration would be VAT charged on purchases made from local providers that are registered for GCC VAT. It is likely that in Member States where healthcare is VAT exempt, service providers will face tax cost due to irrecoverable VAT incurred on purchases made.

Effect to related industries
Counterparties in related industries such as insurance will also be affected by VAT, as a significant proportion of sales in healthcare sectors are through insurance claims. Insurance relating to health could be standard-rated resulting in additional costs to consumers. This could also result in insurance companies revising their policies.

Recovery of VAT under Capital Goods Scheme
In accordance with the key points of the GCC Framework Agreement, the Saudi Arabian Implementing Regulations and updates on UAE VAT, business such as the healthcare sector that are likely to have a high proportion of VAT exempt supplies will need to perform a capital goods scheme calculation during each reporting period. It is likely that VAT recovery on capital items for Healthcare sector will be spread over a number of reporting periods.

In the case of capital assets, (tangible or intangible) VAT recovery for equipment may have to be spread over 7 years. In the case of immovable property this could be increased to 15 years.

The introduction of monthly VAT return(s) as opposed to quarterly returns has increased the risk of error in the reporting of VAT. It is therefore imperative that healthcare sector carefully consider how their VAT compliance responsibility will be managed.

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