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VAT AND AGENTS



VAT INSIGHTS

VAT and Agents

The agents have a special place in the economic circle as they intervene in lot of operations.

There are two types of agent: undisclosed and disclosed. The activity of each agent is defined in the article 9 of the KSA VAT Law and article 9 of the UAE Decree Law.

The undisclosed agent is acting in his name and on behalf of a principal. The disclosed agent is acting in the name and on behalf of the principal.

The VAT regime of the undisclosed agent is not complicated since the supplies of goods or services through such agent are considered to be direct supplies by the agent.

So on a VAT standpoint it is simply a buy and sale activity. He buys goods or services from the Principal and sale them to the final clients.

This kind of agent does not invoice a commission as such.

His compensation is included in the resale price of the goods or services like a margin. The VAT treatment follows the common VAT rules for sales of goods or services.

The disclosed agent organizes transactions between two other parties and invoices a commission to his principal.

This kind of agent could be a selling or purchasing intermediary.

The VAT regime is less obvious.

First, it should be noted that there are very few provisions on this item in the KSA and UAE regulations.

There is one regulation in UAE; the article 33 of the Decree Law. This article provides that the agent's residence is deemed to be the place of residence of the principal if the agent regularly negotiates and makes deal or hold a stock for the principal.

This provision will be complex to implement when the agent is not established in the state of the principal.

Should all the non-UAE agents have to be registered in UAE when the principal is located in this state? Hence, the practical applicability of article 33 is not obvious.

KSA and UAE regulations apply the zero rate to any services connected and incidental relating to international transport of goods or passenger.

The commission of a disclosed agent involved in this kind of supply, for instance travel agency, should be zero-rated.

Furthermore, in UAE the article 31-1-c of the Executive Regulations states that the zero-rate applies if the supply consists of the facilitation of outbound tour packages; which is the case on an intermediary.

In the frame of intermediary in financial services, in UAE and KSA commission for brokerage services are exempt.

Since there is no other provision available for the VAT treatment of the commission of the disclosed agent in the implementing States, the general VAT rules for supply of services apply to agents' commission in UAE and KSA.

So aside specific provisions for exemption or the rate zero, the services of disclosed agent will be always taxable at 5% even when he intervenes in an exempt or zero-rated supply.

The place of supply will follow general rules that could lead to difficult situations mainly for clients located in non-implementing States or outside GCC and for individual clients.

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