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VAT IMPACT ON THE EDUCATION SECTOR



VAT INSIGHTS

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Kuwait has seen various improvements in the quality of education, with rising literacy rates and increased involvement of women in education. Kuwait is ranked 63rd in the Human Development Index (HDI), which is higher than the regional average. Kuwait's government allocated 9.5% of its 2016 budget to education. The majority of the education expenditure by the government goes to Kuwait University and scholarships. Kuwait also has numerous private universities accredited by the Ministry of Higher Education.

Meaning of education: Article 21 of the Unified Agreement classifies education as a service, so the relevant VAT rules of services must be applied. As per Article 29 of the Unified Agreement, each individual state in the GCC has the right to exempt or zero-rate its education sector from VAT. However, since the education sector comprises of multiple dimensions (such as primary, pre-school, higher education and vocational courses), it is important to consider the classification of 'education services' for determining the applicability of VAT.

Private Education: Private education is taxable in KSA since there are no exemptions or zero-rate treatments provided.

However, in UAE, private education (specifically nurseries, preschool, and elementary school) is zero-rated subject to the following condition: the institution and its curriculum is recognized by the governmental entity that regulates the education sector. As for higher education, zero-rate only applies if the institution is either owned by the government or receives at least 50% of its funding from government.

Public Education: Article 30 of the Unified Agreement states that member states may exclude government bodies from tax payment. KSA and UAE distinguishes government bodies acting in public (sovereign) capacity from government bodies acting in commercial (non-sovereign) capacity. Acting in public capacity means that the government body is not carrying out economic activity (therefore, not required to register and is eligible for refund). However, if it is deemed to act in commercial capacity and is in competition with the private sector, it would be deemed to be carrying out economic activity. Although further Cabinet decisions are pending for clarity as to whether public education will be deemed to be public or commercial capacity, public education may likely be treated as commercial capacity due to its competition with private education.

Ancillary services: In addition to the tuition fee, a service provider in the education sector charges students for various ancillary or education-related goods & services as well. The applicability of VAT to such ancillary services can sometimes be complex. UAE regulations go into depth in this matter in Article 40, stating that if the institution provides other goods or services directly related to education, it is also zero-rated. However, there are other education-related supplies that would not be zero-rated, such as student uniforms, food & beverage, field trips, electronic services, etc.

Cash flow issues: Educational supplies coming under the zero-rated category would create cash flow and refund issues for businesses. Since the institutions would not collect output VAT from customers, but incur input VAT from purchases, the time it takes to be able to refund the tax credit may prove to be a cash burden.

Place of supply: As per Article 21 of the Unified Agreement, the place of supply of educational services is the place of actual performance of that service. This will often be a domestic supply, especially if it is a brick-and-mortar institution where the students physically attend. However, some place of supply complications may arise, for example, in case of cross-border online education. The e-learning services qualify as electronic services. In this case the place of supply is the place of actual use and enjoyment of the services which is not always easy to find out.

Special case with Building: Both UAE and KSA apply the standard rate for commercial buildings. However, article 38 of the UAE regulations state that if the building is used for a charitable purpose, such as advancing education, the first sale or lease of that building would be zero-rated.

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