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VAT AND OIL & GAS

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VAT INSIGHTS

VAT and oil & gas

Even though the VAT oil/gas regime are not exactly the same in KSA and UAE, the main issues are common in both countries.

However UAE has created two specificities concerning the rate and the tax payer for domestic sales.

The article 29 of the GCC VAT agreement is offering an option to each Member State to tax at zero-rate oil, oil derivatives and gas sector.
KSA did not take this option and UAE took it for crude oil and gas only.

Selling zero-rated products is not always an advantage and could become a burden.

For instance, an oil company is paying VAT on the whole procurement costs but without output VAT collected from the clients to offset against the input VAT, the company will have a recurring VAT credit position.

This situation leads to a real cash burden during the time of the VAT refund procedure.

The VAT agreement provide also a specific regulation concerning the place of supply, that is to say the country of taxation for operation between two GCC Member States.

The article 14 enacts that the place of supply for oil and 'gas (...) through the pipeline distribution system by a taxable Person who is established in a Member State to a taxable trader established in another Member State shall be the place where the taxable trader is established.

The supply to a person who is not a taxable trader is taxable at the place of actual consumption.

A taxable trader is defined as a taxable Person in any Member State whose main activity is the distribution of Oil, Gas, Water or Electricity.

The taxation in the Member State where the taxable Trader is established leads to the loss of the traceability of the product and could open a door to fraud.

Effectively for instance, a KSA supplier can invoice a taxable Trader in UAE and deliver the product in KSA or in Kuwait at the request of his client.

When the client is not a taxable Trader, he could be a taxable or non-taxable Person.
If the supplier and the client – taxable Person or not –are established in the same implementing State the sale is a domestic taxable supply at the rate applicable to the product sold.

If the client is located in a non-implementing country or outside GCC the operation is exempt as export.

If they are not established in the same implementing State there are two cases.
If the client is a taxable Person, then the place of taxation is the State of the client via the reverse charge mechanism.

If the client is a non-taxable Person the VAT is due in the State of the supplier. However, when the supplies done in the other implementing State exceed the threshold of SAR 375,000 the place of supply switch to the other State and the supplier must register in this State for VAT purposes.

It should be noticed that the distributions by sea or by road are not impacted. Those operations follow the classical VAT regime of internal supply. If the client is not a taxable Person then the VAT is due where the transportation or dispatch commences. The VAT is to be paid in the country where the transportation finishes, via the reverse charge mechanism, if the client is a taxable Person.

UAE has created a special domestic reverse charge mechanism when the client is a taxable Trader. This VAT regime is applicable to any crude or refined oil, unprocessed or processed natural gas, or any hydrocarbons.
If prior the supply, the client provides the supplier with a written confirmation that his acquisition of the goods is for the purpose of resale, then the supplier invoices without VAT and the client applies the reverse charge mechanism.

There is no need to explain that the majority of the GCC member States' revenues derives from oil and gas. Therefore, on a VAT standpoint, the stakes are high as well.
This is the reason why an accurate VAT implementation in the processes and IT systems of the companies is so important.

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