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VAT AND E-COMMERCE OF GOODS



VAT INSIGHTS

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Online B2C sales of goods is becoming ever more important in the economy on a worldwide basis. Obviously, it is also the case in the GCC States. The E-Commerce is conducive to economic growth and job creation.

The 2016 report of the payment platform PayFort indicates that the Middle East e-commerce market trend leads to a revenue over \$69bn by 2020.

The same report forecasts a \$27 billion e-commerce market for UAE and the \$22 billion market for Saudi Arabia in 2020. VAT implementation is one of the most pervasive event that will ever affect the companies operating in E-Commerce.

With such amounts at stake, the compliance with VAT rules is more than key and the Non-Implementing States could face competition disadvantage.

Among the Implementing States (KSA and UAE as of today) for the e-commerce or so-called "distant sales", the complex rules are provided by the GCC VAT agreement.

If the client and the supplier are located in the same state, it is a taxable domestic sale at the rate of 5 %.

When the supplier and the client are not located in the same Implementing State, the supplier must invoice with VAT and declare this VAT in his VAT return.

For goods only, when the turnover of a supplier during any 12 months period exceed an amount of SAR 375,000 in another Implementing States he must register for VAT in this country and invoice and declare the VAT in that country and comply with the local VAT regulations. This rule is not applicable if the supplier is located in a Free Zone or a Designated Zone in UAE.

Following the article 78 of the CCG VAT agreement, Non-Implementing States will be seen as non-GCC countries.

Therefore, the goods and services sold by suppliers located in an Implementing States to clients located in a Non-Implementing State will be zero-rated as export. The same VAT treatment will apply when the client is located outside GCC.

Therefore, the same merchant website must be capable to manage taxable sales in different countries and zero-rated sales.

It must also be capable of issuing regular invoices.

Another very important thing, the website must retain proof to justify the VAT regime applied for each sale.

Knowing that taxable and zero-rated sales are to be made, a technical and practical solution must be found to comply with the article 25 of the GCC VAT agreement stating that published prices in the local market for goods and services must include VAT.

In UAE failure to comply with this obligation leads to a fine of AED 15,000.

If shipping costs and/or custom duties are asked from the client, those amounts must be included in the total price and obviously in the VAT taxable base of the sale. For instance, it could be the case for a supplier located in a designated Zone in UAE.

It must be emphasised that for each cross border sale the client will have to pay custom duties in his country. The question of the information of the client could be raised.

Effectively, on top of his obligations, the supplier and the website must also comply with consumers protection laws.

For example in UAE among other rights of the consumers, the article 8 of the Federal Law No 24 of 2006 and the article 29 of the consumers protection executive regulations demand a very clear and transparent information concerning the prices.

Therefore, the clarity of the information concerning the prices is crucial on VAT and legal standpoint.

The goods sold by suppliers located in Non-Implementing States to client located in KSA or UAE will support 5% of import VAT when the value exceed the postal franchise of SR1000.

On the contrary, sales from KSA or UAE to a client in a Non-Implementing State will be free of VAT. It will be the same scheme for all types of goods or services.

This leads to a competitive disadvantage for the Non-Implementing States.

Contact

Jean-Paul Ouaksel

Partner – Tax Services

RSM KUWAIT

E: jeanpaul.ouaksel@rsm.com.kw

Arraya Tower 2, Floors 41 & 42 , Abdulaziz Hamad Alsaqar St.,
Sharq, P.O. Box 2115, Safat 13022, State Of Kuwait

T: +965 22961000 | **F:** +965 22412761 | **M:** +965 66334467

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