Value Added Tax in the GCC
Insights by industry | Volume 3
# Contents

<table>
<thead>
<tr>
<th>Page</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>04</td>
<td>Introduction</td>
</tr>
</tbody>
</table>
| 06   | Chapter 1  
  A quick guide  
  Answering your VAT questions |
| 12   | Chapter 2  
  Indirect tax client survey 2017  
  Preparing for VAT in the GCC – A Malaysian benchmark to guide GCC businesses |
| 16   | Chapter 3  
  Family offices  
  Why are family offices relevant to the VAT conversation? |
| 22   | Chapter 4  
  Importers, exporters and free zone entities  
  Where VAT complexities and practical arrangements meet |
| 28   | Chapter 5  
  Technology, Media and Telecommunications  
  Why VAT and the digital economy are a challenging mix |
Introduction
Introduction

Value added tax (VAT) is due to be implemented in the Middle East from 2018. Clients with operations in the Gulf Cooperation Council (GCC) countries including Bahrain, Kuwait, Oman, Qatar, Saudi Arabia (KSA) and United Arab Emirates (UAE) will be impacted; this is a fundamental change to business operations in a region with little history of taxation. Earlier in 2017, the regional VAT Agreement was signed by all of the six GCC countries. The next step will be the agreement of local implementation laws in each country. At the time of issue, KSA and the UAE have become the only countries to publish a finalized domestic law.

To help businesses in the GCC understand the potential impacts of the implementation of, and operation under, VAT, Deloitte Middle East has been issuing short papers in a number of volumes designed to provide a greater understanding of the impacts of the tax on specific industry types. We try, where possible, to outline the scenarios which are most likely, together with possible responses to them, in order to give a fuller flavor of the changes to be expected.

This third volume contains insight into the general questions around VAT, the impacts of the indirect tax on telecommunications and internet businesses, exporters, family offices, and finally the outcome of our VAT survey.

The second volume contained insight into the impacts of VAT on the real estate and construction, tourism, and oil and gas industries, and provided key considerations for the appropriate structure of a VAT function based on a European benchmark developed in collaboration with the specialist global indirect tax recruiters Beament Leslie Thomas (BLT). In addition, this volume discussed technology considerations with the aim to reduce the uncertainty for businesses and to highlight the key areas that organizations should focus on as they embark on their journey to VAT readiness.

The first volume provided an overview of how businesses should go about shifting from thinking to implementing, and putting themselves in a position to submit accurate, on-time VAT returns. Moreover, it looked at the retail, automotive, MICE (meetings, incentives, conferences and events) and financial services industries.

Contacts
Should you have any questions about these papers or just want to speak to us, please feel free to contact anyone in our VAT team. If you want us to consider your particular industry as part of our series, we would be pleased to take your suggestion.

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Chapter 1 – A quick guide

Answering your VAT questions
Deloitte | Value added Tax in the GCC | A quick guide
The GCC VAT Agreement sets out the framework of a VAT system between the six Gulf Cooperation Council countries – Bahrain, Kuwait, Oman, Qatar, KSA and the UAE.

**VAT timing**

“When will VAT be introduced?”, “When will the GCC VAT Agreement be available?”, and “When will final versions of local VAT laws be available?” are all commonly asked questions Deloitte receives on a frequent basis. The final answers are not clear yet and we can only speculate using information available to us. Although UAE and KSA have both publicly committed to introduce VAT on 1 January 2018, the dates are not clear for the rest of the Gulf countries. It is important to remember that they do not all have to implement VAT at the same time. Deloitte hopes that implementation across the GCC will happen soon as it will provide a much needed certainty and will help people plan ahead.

The agreement is not a document that taxpayers can rely on per se – one must look to local implementing laws to work out the precise mechanics of the VAT in each country.

**What is the GCC VAT Agreement?**

The GCC VAT Agreement, published in KSA, is a landmark document for the Gulf region. It sets out the framework of a VAT system between the six GCC countries – Bahrain, Kuwait, Oman, Qatar, KSA and the UAE.

The Agreement is also sometimes called the Framework Agreement, and it sets out the “wire frame” for a collaborative VAT system between the GCC countries. However, it is worth remembering that it is an agreement among the countries, and not a law in itself. It is therefore not a document that taxpayers can rely on per se – one must look to local implementing laws to work out the precise mechanics of the VAT in each country. As of today, VAT laws are only available in the UAE and KSA, but these give some insights as to how a domestic framework will look in a GCC context, and how other GCC countries might outline their domestic rules.

The Agreement sets out what one might call a “normal” VAT system, as it contains all the usual provisions one might find in a common international VAT system, including the input tax credit system, place of supply and time of supply provisions.

Therefore, anybody who is familiar with other VAT systems should have a reasonable working understanding of the core mechanics of how VAT will apply in the GCC.

**Is the GCC VAT system based on the EU model?**

People have inquired whether the GCC VAT system is based on the European Union (EU) model or the more modern systems found in the newer VAT implementing countries (e.g. Singapore or New Zealand). As a comparison, the
only multi-country VAT system within a Customs union is the EU. So, for that reason, it has many similarities to the EU system. These include the intra-GCC movement of goods (and some services) between businesses (B2B) as well as to private consumers. Distance selling provisions apply so that someone supplying goods valued over the annual VAT registration threshold to another country must register there. If you are familiar with the EU VAT system, then the ability to make B2B supplies to VAT registered customers in other GCC countries without charging a local VAT element will be very familiar.

However, the GCC VAT system has also adopted many strong policy attributes from more modern VAT systems. Firstly, taxation applies at a low rate but across a broad base: there are a relatively limited number of exemptions and zero-rates, and a very low standard rate of 5%. Possible exemptions and zero-rates are generally limited to a few specific categories of goods and services, and the system is therefore relatively simple and broad based. As a result, it is likely the GCC countries will be able to sustain low rates of VAT for the foreseeable future.

There are some unusual rules concerning the collection and distribution of import VAT for goods which are transited throughout the GCC; these are intended to accrue VAT revenues to the place of final consumption.

What might be VAT exempt or zero-rated?
Zero-rating for international transport of passengers and goods (including between two GCC countries) is a mandatory requirement of the Agreement. This is not optional. However, countries have the choice between exemption, standard rating and zero-rating for domestic passenger transport.

Similar choices are available for real estate, education, and healthcare. In these cases, the countries may choose between taxation, exemption, and zero-rating. In the healthcare field the Agreement requires countries to zero-rate certain pharmaceutical and medical devices, but this is based on a list that remains to be agreed on and is, therefore, unavailable at this time.

The food and oil and gas sectors are also areas where the countries are given a choice, albeit more limited – they may either zero-rate or standard rate the products. In the case of food, there is a ‘list’ of just under 100 items, composed primarily of commodity foods and not prepared foods, but which has not been made public. Even if a country opts for this treatment they may only zero-rate the specific food items included on the list.

Other provisions in the Agreement allow for the zero-rating of means of transport (e.g. airplanes for passengers) and the compulsory zero-rating of exports of goods and services. These are expected reliefs in a normal VAT system.

What are the UAE and KSA doing?
Following the Agreement framework, the UAE and KSA have specified how they will treat international and local transport, and means of transport; real estate, education and healthcare; food, and oil and gas; and export of goods and services. There are some similarities in how the UAE and KSA will treat these industries. The table on the next page indicates the rates at which the UAE and KSA will apply VAT to these industries.

VAT flexibility
The Agreement illustrates that countries may have different domestic priorities and policy, and will not always agree on the same rules. Tax is ultimately a domestic matter, and the Agreement allows for quite a lot of flexibility for countries to vary the local rules. There is also some considerable flexibility given to countries on the treatment of some other important sectors – government entities, event hosting companies (under international agreements) and farmers and fishermen who are unregistered for VAT, as well as citizens building their homes.

For these groups the countries have flexibility over how they apply VAT to them – they may either refund the VAT to them or they may exclude them from paying tax on the supplies made to them. It is not clear what most GCC countries will do, but there is a possibility of differential treatment of supplies to these entities based entirely on the status of the recipient – this is potentially quite complex.

The UAE has confirmed it will only allow refunds in the case of specified government bodies, qualifying event hosting companies and citizens building their own homes.

Financial services
The countries will have flexibility on determining whether financial services may be exempt or treated in another way, and defining what exact offerings may be considered as financial services for VAT purposes.

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VAT grouping

There are some other choices available to GCC countries surrounding important administrative aspects of the VAT system. Each country may choose to allow VAT grouping (fiscal consolidation of related companies) as well as margin schemes for second-hand goods. The Agreement also provides for transitional provisions on the introduction of VAT, but does not particularly concern itself with grandfathering rules in respect of pre-existing contracts – so each country has flexibility in this area.

Is the VAT rate here to stay?

One of the issues that comes up from time to time is that the VAT rate is low. But how long can it stay low? The answer is probably quite a while. There are two main reasons for this, practicality and economics.

Although there is uncertainty, it is important to remember that VAT is VAT, and we expect the Agreement to set out a relatively “normal” VAT system and the core underlying processes will be the same.

The first main reason is practicality. The GCC VAT system has achieved something the EU has not – a unified VAT rate. Set at 5% it is one of the lowest in the world, and the fact that the six GCC countries managed to agree on this is somewhat of a political achievement. The EU VAT system does not have this level of harmonization: individual countries like

### VAT treatment by industry

<table>
<thead>
<tr>
<th>Sector</th>
<th>KSA</th>
<th>UAE</th>
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</thead>
<tbody>
<tr>
<td>International transport of passengers and goods, including intra-GCC transport</td>
<td>Zero-rate</td>
<td>Zero-rate</td>
</tr>
<tr>
<td>Local transport</td>
<td>Standard rate</td>
<td>Exempt</td>
</tr>
<tr>
<td>Food items</td>
<td>All standard rate</td>
<td>All standard rate</td>
</tr>
<tr>
<td>Real estate</td>
<td>Residential rental: exempt</td>
<td>Residential rental: exempt</td>
</tr>
<tr>
<td></td>
<td>All other real estate: standard rate</td>
<td>Bare land: exempt</td>
</tr>
<tr>
<td></td>
<td></td>
<td>New housing: zero-rate</td>
</tr>
<tr>
<td></td>
<td></td>
<td>All other real estate: standard rate</td>
</tr>
<tr>
<td>Education</td>
<td>Standard rate</td>
<td>Specified services: zero-rate</td>
</tr>
<tr>
<td></td>
<td>Public education: not expected to be subject to VAT</td>
<td></td>
</tr>
<tr>
<td>Health</td>
<td>Qualifying medicines and medical goods: zero-rate</td>
<td>Specified services: zero-rate</td>
</tr>
<tr>
<td></td>
<td>Public health: not expected to be subject to VAT</td>
<td></td>
</tr>
<tr>
<td>Oil and gas</td>
<td>Standard rate</td>
<td>Zero-rate</td>
</tr>
<tr>
<td>Means of transport (e.g. airplanes for passengers)</td>
<td>Zero-rate</td>
<td>Zero-rate</td>
</tr>
<tr>
<td>Export of goods and services</td>
<td>Zero-rate</td>
<td>Zero-rate</td>
</tr>
</tbody>
</table>

### VAT rules for other important sectors and unregistered entities

<table>
<thead>
<tr>
<th>Sector</th>
<th>KSA</th>
<th>UAE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government entities</td>
<td>Supplies to these entities will be taxed under the normal rules and VAT will be due.</td>
<td>Only allow refunds and only in the case of qualifying companies.</td>
</tr>
<tr>
<td></td>
<td>Refunds may be granted on VAT paid on supplies if not conducting a commercial business.</td>
<td>Supplies to these entities will be taxed under the normal VAT rules and VAT will be due.</td>
</tr>
<tr>
<td>Event hosting companies (under international agreements)</td>
<td>Supplies to these entities will be taxed under the normal rules and VAT will be due.</td>
<td>Only allow refunds and only in the case of qualifying companies.</td>
</tr>
<tr>
<td></td>
<td>Only allow refunds and only in the case of citizens building their own homes.</td>
<td>Supplies to these entities will be taxed under the normal VAT rules and VAT will be due.</td>
</tr>
<tr>
<td>Unregistered entities</td>
<td>Supplies to these entities will be taxed under the normal rules and VAT will be due.</td>
<td>Only allow refunds and only in the case of qualifying companies.</td>
</tr>
<tr>
<td></td>
<td>Refunds may be granted to selected entities (e.g. foreign governments and international organizations), taxable persons in another GCC member state and taxable persons outside the GCC.</td>
<td>Supplies to these entities will be taxed under the normal VAT rules and VAT will be due.</td>
</tr>
<tr>
<td>Financial services</td>
<td>Fee-based services: standard rate</td>
<td>Fee-based services: standard rate</td>
</tr>
<tr>
<td></td>
<td>Margin-based services: exempt</td>
<td>Margin-based services: exempt</td>
</tr>
<tr>
<td>Investment metals</td>
<td>Gold, silver and platinum at purity level no less than 99%: zero-rate</td>
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</tr>
</tbody>
</table>
to control their own economies and one of the levers to do this is tax rates. However, for any one of the GCC countries to move the VAT rate, they would now have to achieve a unified agreement to move the rate; this is because the VAT rate is hard coded into the Agreement. So the only way to change it is to either breach the Agreement or to agree to change it, which requires all six countries to agree.

The second main reason the VAT rate will not necessarily go up any time soon is there is likely to be a lack of economic pressure to do so. This lack of pressure is caused by the broad base of the VAT system, which is notably lacking in reliefs and special rules. Whilst there is room for differences between the countries, in the main, each country will end up with very few things not subject to VAT. For this reason, the broad base will allow VAT revenues raised to be relatively high despite the low rate. This gives the GCC a massive design advantage over EU systems, as the many special rates and reliefs typically found in an EU system require a higher headline rate to sustain the revenues required by the government.

How long will it take my business to get ready?
This is one extremely important question that you must ask yourself. If the deadline is 1 January 2018 (as we know it is for the UAE and KSA), would my business be ready?

If the answer is no, would your business be ready by 1 February 2018, or 1 March? Do a few months really make a difference? What if you needed to be ready by 1 June 2018? Or is the reality that you are hoping the deadline gets extended? This may well happen, as governments recognize businesses need to be prepared. On the other hand, they understandably have little patience with those that don’t do anything. It is important to note that in Malaysia, when the Goods and Services Tax (GST), which is the same as VAT, was introduced, it was about eight or nine months in advance that the law was first exposed. Likewise, look at Egypt, where VAT is in place, but the executive regulations have not been made available.

What are you waiting for?
Many businesses have, in the past, advised us they are waiting for the Agreement or the local law to be released before getting ready (remember the Agreement which sets out a broad framework and then local VAT laws with the detail). The release of final laws in the UAE and KSA have now provided this clarity: and for other countries – the Agreement in itself provides sufficient clarity on the workings of the VAT system to start preparations. Although there may be uncertainty in specific sectors, remember that VAT is VAT, and the Agreement sets out a relatively “normal” VAT system and the core underlying processes are the same: collect invoices, claim VAT back, issue invoices, pay VAT.

The parts that will be different are important, but not always that complex. For example the VAT rates or reliefs applying to specific products and services may be different; albeit the system changes required to accommodate both are straightforward to make.

Firstly, not every business is exposed to these reliefs and secondly it does not take that long to take advice and work out the VAT liability of a food product. It does, however, take a long time to make sure your electronic point of sale system (EPOS) has the functionality to distinguish between them and report it, and rectify this if it does not. Likewise, it does not take long to work out the VAT liability of financial services (mostly), but it does take time to tell six enterprise resource planning (ERP) systems to apply that liability and collate them to file a VAT return consistently. Deloitte’s experience is that we know the answers to most questions, from the law released to date and from basic principles. Waiting for something which may not give you the clarity you desire (and may come too late to give you sufficient time) is risky – what is the harm in understanding what you need to do now?  

Deloitte | Value added Tax in the GCC | A quick guide
Preparing for VAT in the GCC - A Malaysian benchmark to guide GCC businesses
Deloitte is conducting a regular pulse survey – *Preparing for VAT in the GCC*, in order to gauge businesses’ attitudes towards the introduction of VAT. Surveys are a useful tool to provide us with a snapshot of market attitudes at a particular point in time, and in this case the results are representative of the messages we are hearing from businesses in the market place every day. Over 150 respondents participated, ranging from local businesses operating within one GCC state, to multinationals with operations across the GCC. The overall messages from the evolving results of the April, May and July survey runs indicate much of what we already understood about current business attitudes, as many are concerned about the introduction of VAT. There has been a growing sense of certainty that VAT is coming to the Gulf and businesses also seem to have become more informed about the indirect tax throughout the past year.

In order to give some context to the survey findings, a parallel client survey was launched by the Malaysian Tax Practice – *Journey to Malaysian GST* – which asked clients to look back on their implementation experience and offer their views on whether, with hindsight, they would have approached their implementation projects differently. This hindsight from businesses which have recently been through the exact process now being faced by GCC-based enterprises is invaluable, and the overarching theme arising from that survey was that businesses would have started to prepare for GST earlier had they understood the scale and complexity of the projects which were facing them.

Three key messages can be taken from the survey findings. Firstly, there is concern amongst businesses about how the VAT regime across the GCC will look, although businesses have come to trust the ability of the tax authorities now more than they did earlier this year. Based on our July survey, 48% of businesses have concerns about the ability of the authorities to administer VAT compared to 70% in the May survey. Secondly, the expectation amongst businesses as to how long it will take them to go through the preparation process may be underestimating the scale of the work involved, based on experience from Malaysia. Thirdly, the single largest area for concern is the effort involved in adapting and configuring business’ IT and accounting systems to deal with VAT. These messages all seem to fall within the overarching theme of preparedness – how prepared a business will be on the VAT go-live date will be driven by that business’ response to these challenges.

The single largest area for concern is the effort involved in adapting and configuring business’ IT and accounting systems to deal with VAT.

**The majority of businesses are concerned, but are yet to take action**

A theme is emerging amongst the business population that whilst many express concern about the introduction of VAT, only half of businesses have taken decisive action to begin preparing for this significant change to the regulatory environment. In all three surveys, more than 75% of respondents expressed concern about the introduction of VAT in the GCC states, whilst just half (increasing from 31.25% in the April survey) had undertaken contingency planning (such as setting aside a budget) for a VAT implementation project. This may be due to the relative unfamiliarity with taxation in general across the region, coupled with the delay in the formal publication of the agreement and domestic legislation in some of the GCC states.

Three-quarters of our first survey respondents (75%) cited internal factors as their main area of concern in ensuring their business is ready for the introduction of VAT, e.g. lack of knowledge regarding VAT rules, programming systems to account for VAT, resource constraints and the need to train or recruit specialists. Such concerns mirror those felt in Malaysia at the outset of the GST implementation, according to the respondents to the *Journey to Malaysian GST* survey. In that case, lack of knowledge of the GST rules (35%) and ensuring the IT systems could accommodate GST (27%) were the main areas causing concern as businesses began their GST implementation projects. In both cases, the majority of issues highlighted were internal to the business – the availability of information from the government being the only external factor. This emphasizes that whilst certainty over the detail of the VAT law is helpful, there are many other issues facing businesses on the brink of a VAT or GST implementation.

There is much that businesses can plan for now, regardless of whether they have access to the domestic legislation in their GCC state of operation(s); the ability to be able to raise a VAT invoice is a feature common to all VAT systems globally for example, as is the ability to identify every transaction within the accounting system and assign a VAT treatment to it. An IT project will need to be planned, with time set aside and a budget allocated, staff will need to be trained, contracts reviewed and customers communicated with, all in advance of the launch of the tax. Businesses are aware of their own challenges now and should begin to plan the time to address these challenges, recognizing the costs involved, to ensure they are able to be VAT-compliant from day one.

**GCC businesses expect preparations to take around six months, but experience from Malaysia would suggest longer**

Over two-thirds of survey respondents (69%) estimated that it would take six months or more to review their business operations and make the changes
necessary to prepare the business to be VAT-compliant. The remaining 31% consider this work would be achievable in less than six months, however experience from Malaysia would suggest this is an ambitious estimate – of those surveyed, only 10% responded that it took them less than six months to adequately prepare for the introduction of GST. In fact, over half (54%) of respondents to the Journey to Malaysian GST survey stated that with hindsight, they would have started their GST implementation process earlier, knowing what they now know about the extent of work involved.

Given the anticipated VAT go-live date across the GCC of 1 January 2018, it is becoming increasingly important that businesses raise VAT on the boardroom agenda and secure buy-in for managing the change project. The extent and duration of the project will differ from business to business depending upon operational complexity, IT capability and the intricacy of the VAT rules applicable to the industry or industries in which the business operates. Add to this fact that best practice would usually involve allowing a ‘buffer’ at the end of the project of around a month prior to the official launch of VAT in order to allow for unforeseen issues, and the window available for businesses to adequately prepare is closing fast.

**IT system changes are a common area of concern and most likely to cause budget overruns**

In the case of respondents to the Journey to Malaysian GST survey who stated that their implementation project had exceeded the initial budget allocation, almost 70% confirmed that the overrun was overwhelmingly as a result of issues with the IT system. Underestimating the scale of work involved in adapting the current IT system to deal with the new tax is costly and time consuming. Failing to properly understand the work involved and planning sufficient resources to deal with any issues which arise could be the downfall of a project. Even where ERP systems have built-in tax capability, consideration needs to be given to the cost of adapting and customizing the tax capability to deal with the tax rules in the country of operation.

The Preparing for VAT in the GCC survey indicates the expectation amongst respondents that the cost of configuring or adapting IT systems could be significant. Almost a third of respondents (29.73%) estimate that the cost of system changes alone could reach between US$25-100,000 with a further 24.32% believing this cost would exceed US$100,000. In the event that a business’ current IT system is not able to be adapted to deal with VAT, costs could be even greater again. Ignoring other project costs involved in a VAT implementation (contract negotiations, commercial pricing decisions, consultant’s fees etc.), the risk of underestimating the scale of work involved in the IT configuration aspect of a project could have grave results for project budgets, not to mention the ultimate impact on VAT compliance.

Whilst the broad principles of the GCC Agreement will apply across all six GCC states, certain rules are expected to differ subtly from country to country. Where business operations cross more than one tax jurisdiction, the accounting systems need to be configured to properly capture where the transactions take place and apply the correct tax treatment. The GST implementation in Malaysia concerned only one country, whilst in the GCC we are dealing with six different countries and six sets of domestic legislation. The potential for IT-related issues is therefore greater where GCC VAT implementation is concerned, particularly for multi-jurisdiction businesses.

**VAT implementation is a whole-business process – time is becoming critical**

The implementation of VAT is not a matter which will affect only the finance function of a business – it affects business operations across the board. Processes need to be re-designed, transaction mappings need to be re-assessed, staff need to be trained adequately, consideration needs to be given to pricing strategy, contracts need to be renegotiated, procurement decisions need to be taken – the list goes on.

As we have seen, much can be learned from the experience of businesses operating in jurisdictions which have recently been through this process, and given that the GCC implementation involves six countries rather than one, businesses should take care to ensure that they take on the lessons learned from recent experience internationally in order to avoid running in to issues. After all, failing to prepare is preparing to fail.

We have reached a critical point for businesses to react to the quickly evolving tax environment. There is a great deal to be done for every business to ensure it can be compliant on day one. Those businesses which have yet to take decisive action to assess their current position should ensure VAT implementation is placed on the priority list – VAT is coming to the GCC and preparing for its arrival is unlikely to be as straightforward as one might think.

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We are reaching a critical point in time for businesses to react to the quickly evolving tax environment. There is a great deal to be done for every business to ensure it can be compliant on day one.
Chapter 3 – Family offices

Why are family offices relevant to the VAT conversation?
Reaching a consensus on the definition of a family office is something the wealth management industry and families themselves are unlikely ever to achieve. It is, however, widely accepted that “once you have seen one family office, you have seen one family office”1 and so with this in mind, we will consider some of the more common attributes of family offices in the GCC and how their activities will be affected by the implementation of VAT.

Many family offices help administer the personal finances of the family members, liaising with bankers, lawyers and trustees on their behalf. In other family offices the depth of the financial services provided is much more akin to a commercial asset manager, with analysts and researchers employed to manage the family’s wealth.

There is also often an element of concierge/PA type services provided whereby the team will assist the family with travel arrangements, including visas, sourcing specific items or services, or booking tickets for various events. Administrative functions often include bill payments, coordinating calls, document management etc.

Family offices often get involved in the management of luxury assets and real estate, either directly or indirectly. They are often the first port of call for advisers and service providers and act as a gatekeeper for their principal/s.

One of the critical functions of the family office is to liaise with the family business, particularly when it comes to cash flow or treasury management. This provides the team with a unique perspective over all of the family’s interests.

Funding invariably comes from the patriarch, or the founder. In some more structured families, the family office is effectively a filter between the family and the business, allowing it to withhold funds from dividend payments received from the business before distributing to family members accordingly. This ensures that contributions to the family office running costs are shared amongst the members making use of the team’s services, and also enables the family office to fund some of the family fundamentals, e.g. health insurance, education, philanthropic endeavors as mandated by the founder.

Why are family offices relevant to the VAT conversation?
As described above, the variety and breadth of services that family offices can and do provide mean that it is difficult to generalise; the extent of exposure to VAT of each family office will of course depend on the particular facts of each structure.

However, every family office operating in the GCC will be affected by VAT because anything purchased in the GCC (e.g. computers, mobile phones etc.) is likely to be subject to VAT. Unless they are able to reclaim the VAT on these items (“inputs”), then the family office will see their costs rise.

In order to be able to recover the VAT on the inputs, then the family office must register for VAT in the same way as trading businesses must register for VAT and they may have to charge VAT on any “outputs” (i.e. services provided). The time and financial cost implications associated with being VAT-registered may, in some instances, outweigh the advantages of being so registered. Furthermore, as explained further below, the option of registering for VAT may not even be available to the family office.

Irrespective of their registration status, family offices will inevitably be dealing with VAT-registered businesses as suppliers, or advisers to the family, and they will need to ensure that the VAT is treated correctly here too.
The family office VAT paradox

Many family offices appear to be run as businesses. They may be established as a separate legal entity with family shareholders, often with a full board, robust governance, employees and bank accounts separate from those of the family or family business. Other family offices may be less formally constituted and have evolved from within the finance function of the family business, but are still run along commercial lines, with ledgers and budgets prepared regularly.

Both types of family offices are likely to be funded by the family, either directly, or indirectly via the family business. Before distributing dividends to the family, the family office may deduct an amount for their costs, or for providing services to them; a percentage of investment returns may be paid to the family office, or family members may transfer funds directly from their own personal accounts.

Irrespective of the funding or structural arrangements, it would be unlikely that a single family office would be run with a view to realizing profits. Consequently, family offices are notoriously difficult to classify in a VAT context.

In comparison to trading businesses, the incidence of family offices is relatively low. This is true of the GCC as well as other jurisdictions that already have a VAT system in place. Being a niche ‘industry’ there is often no specific statutory guidance for family offices, and so they are often dealt with by the local tax authorities on a case-by-case basis. The GCC countries have not yet indicated how they intend to treat family offices; whether they will recognize the paradox and allow family offices to register, or whether they will apply the business test as a pre-requisite. Only once they have had an opportunity to analyze several family offices on the facts can we expect more specific guidance on how family offices should be treated for VAT purposes.

Implications for a family office which is not registered for VAT

As an unregistered entity, the family office will be treated in the same way as an individual consumer. When they buy goods or services which are subject to VAT (and reflected in the price), the net cost to them will always be the VAT inclusive amount. This is because being unregistered means that they are unable to reclaim the VAT charged. Running costs will therefore inevitably rise.

On the other hand, the unregistered family office will not be required to issue VAT invoices and charge VAT on any services provided to the family. There will also be no requirement to report transactions to the tax authority.

Having an unregistered entity as part of the family structure can create difficulties for the family business. This is because the trading business will be at risk of penalties if they inadvertently reclaim the VAT on a supply of goods or services which are used wholly or partly by the family office.

Another example is if the family office and the family business share office space, where one entity is registered and the other is not. For example, if the rent on the office space is subject to VAT, the VAT registered entity (the family business) will wish to reclaim the VAT paid. However, if part of the office is used by the family office, because they are not a business and cannot reclaim VAT on inputs, the VAT on their share of the rent cannot be reclaimed. Likewise with shared photocopiers, coffee machines, furniture in staff rest areas etc., the VAT on these items would normally be reclaimed in full by a registered business, but where there is also use by a non-registered entity, the calculation becomes problematic. And as for stationery supplies, will the family business wish, or even be able, to restrict access to pens, notebooks, calculators etc. to non-family office staff to enable them to reclaim the VAT in full?

Implications for a family office which is registered for VAT

In this instance, a VAT-registered family office can share office space, coffee machines and stationery supplies with the family business with little adverse impact on the family business.
When buying new computers, mobile phones or other office supplies, as a ‘business’ the family office can reclaim the VAT incurred in full. This means that even if they have to pay VAT, providing that the equipment is used for business purposes, VAT can be reclaimed, so it does not directly impact their running costs.

The trade-off of being a business and being able to reclaim input tax is a requirement to charge VAT on outputs, i.e. services provided to the family. Clearly, this will increase the cost to the family member since they, as individual consumers, cannot reclaim or offset the VAT on the services provided.

The family office has an obligation to collect the VAT charged and pay it over to the tax authorities in a timely manner, and so if there is a delay in family members settling their invoices, there is a cash flow impact for the family office. Ensuring that the invoices are correctly issued, that the VAT return is accurate and up to date is an additional administrative task with an associated time and financial cost. The family office is also exposed to the VAT risk in case of errors or omissions on the return.

Where some of the family members are resident in a different jurisdiction, and different types of services are provided to them, then the reporting becomes a little complicated and the ‘place of supply’ rules have to be considered. Usually the place of supply (and therefore the VAT rules that must be applied) is the place where the service is provided, but in some cases it can be where your customer belongs. The finance team associated with or part of the family office will need to be very careful that the VAT invoices issued correctly reflect the appropriate VAT rules when dealing with cross-border transactions.

Liaising with the family business
In the family business context it is not unusual to see a blurring between assets acquired for the company and assets acquired for the family. Sometimes there is also both personal and business use of the assets. From a VAT perspective, this means that the amount that can be reclaimed is restricted. Businesses must therefore be careful that they do not over-claim VAT on items which have a duality of purpose (i.e. are used for business and personal activities).

For example, consider a family member who decides he would like a new desk for use in the office. The business pays for this new desk and submits a VAT reclaim for the VAT incurred. The desk is delivered to the office two weeks later, and the individual decides that he would rather have it in his home office where in the evenings he deals with work emails, but also where he deals with his personal investment and residential property portfolios, family matters etc. The family office arranges for the desk to be transported to his home. It is possible that the finance team of the family business would not be immediately aware that the desk had been installed in his home and so may not qualify fully for a VAT refund.

Luxury goods
Private jets and yachts
The administration of high value luxury assets like jets and yachts is very often delegated to a specialist service provider who can also provide engineering maintenance, specialist storage and staff. However, the family office will invariably be the main point of contact for the service provider and will often liaise with them to arrange flights or to book charters, organize funding, or arrange transportation of the family’s personal belongings, etc.

Ensuring that the invoices are correctly issued, that the VAT return is accurate and up to date is an additional administrative task with an associated time and financial cost. The family office is also exposed to the VAT risk in case of errors or omissions on the return.
The VAT cost of private jet charters is a complex area, which is outside the scope of this white paper. However, family office executives charged with administering this aspect of the family’s travel arrangements should be trained on the high level issues involved, and know who to go to for professional advice if a new situation arises. Private jets that are not designed for commercial passenger transport are likely to be subject to VAT – but will this VAT be recoverable? This will depend on the extent of business use. We know for example that the KSA only intends to extend zero-rating to a means of transport which is not adapted for private use.

The acquisition of jets and planes will require specialist VAT advice, particularly when the usage will involve travel across borders.

**Objets d’art etc.**

Where VAT has been charged on antiques, jewelry, paintings etc. acquired outside the GCC, the family office is probably used to dealing with the VAT reclaim (under the export rules) for the GCC resident purchaser. The processes and procedures for dealing with such purchases will need to be updated to take account of the GCC VAT legislation.

The family office team, in conjunction with the family business finance team, should try to limit (or preferably avoid) such transactions being undertaken by the business for and on behalf of the family in the interest of keeping non-business purchases very distinct from business transactions.

**Sporting activities**

The extent to which family offices are involved in matters associated with race horses, camels and falcons etc. will differ from family to family. Where they are involved in providing funding for stabling, feed, vets bills, farm fees, transportation costs, etc., they will need to budget for the increased costs associated with the VAT rise. Since such ventures are, by and large, not run as a business, the VAT on these costs will not be available to reclaim. Any prizes (cash, cars, holidays etc.) will also then be outside the scope of VAT.

In some jurisdictions, the authorities have taken steps to allow owners to register for VAT, which allows them to reclaim the VAT on the expenses. As this is a reasonably niche area compared to the wider economy, we do not anticipate any specific scheme along these lines in the early years of VAT, but this may change over time.

Again it is imperative that the family business does not get financially involved in any of these transactions as there is unlikely to be a business purpose. Any commercial sponsorship by the family business of the animal(s), jockeys or trainers should be carefully dealt with and advice should be sought as to the deductibility of any VAT incurred.

**How should a family office prepare for the onset of VAT?**

The importance of segregating family and business expenditure to avoid difficulties with VAT has been emphasized in this white paper. However, such segregation is good practice in any event (for corporate governance, family governance and succession planning reasons), but the advent of VAT makes this exercise even more important to mitigate the risk of excess reclains and under reporting of VAT, as well as to simplify the process for the finance team in the business.

A thorough review of the family office’s processes and procedures should be carried out. Such processes should be classified between those relating to the family and those relating to the business so that appropriate restructuring and segregation of staff, entities or bank accounts, etc. can be arranged.

A review of the expenditure of the family office should also be undertaken, with a view to identifying any non-family expenditure (i.e. business expenditure) and calculating the additional costs that VAT will represent for the family office. Conversations with the CFO of the family business and family members should also be started sooner rather than later to agree on how the family office and the family members will deal with the increased costs. The family office may even want to reconsider the way it is funded and carries out business – careful restructuring may give a better ‘VAT outcome’.

If the family business has appointed advisers to assist them with the implementation of VAT, then the family office should ensure that their role is fully understood and their requirements taken into consideration, since they will play a key role in ensuring a smooth transition for the family.

**References**

1. Attributed to Patricia M Soldano, Chair of GenSpring Family Offices’ Western region, in the following Forbes article: www.forbes.com/sites/toddganos/2013/08/13/what-is-a-family-office/.
Chapter 4 - Importers, exporters and free zone entities

Where VAT complexities and practical arrangements meet
Deloitte | Value added Tax in the GCC | Importers, exporters and free zone entities
VAT reporting and invoicing requirements will likely be triggered on intra-GCC movements of goods between member states, which will provide a level of transparency around practices at the borders as well as oversight of these movements at a federal and regional level.

**Introduction**
In a region with little history of taxation, local customs authorities provide a foundation for revenue enforcement and compliance across the six GCC member states. Dubai Customs, for example, is one of the earliest government departments in the region, with a history spanning over a century. More recently governments across the region committed to the Common Customs Law, which came into force in 2002 and established one of the key pillars of the GCC Customs Union, to which the VAT Agreement is geographically aligned.

As with the expectation for VAT, the legislative approach to customs matters across the GCC is consistent with international best practice. All GCC member states are members of the World Trade Organization, and are contracting parties to the World Customs Organization’s (WCO) Revised Kyoto Convention, the primary agreement in respect of global customs administration and procedures. It therefore creates a meaningful lens through which we can view the introduction of VAT.

At a practical level, VAT will interact with customs duty and customs authorities at national borders. Import VAT should be payable on the customs duty inclusive value of taxable goods introduced into the GCC from third (non-GCC) countries. VAT reporting and invoicing requirements will likely be triggered on intra-GCC movements of goods between member states, which will provide a level of transparency around practices at the borders as well as oversight of these movements at a federal and regional level.

**Imports**

**Local requirements**
Within GCC countries, there are multiple restrictions on who can act as an importer of record, and usually this role is limited to entities with a local presence. This affords local control and accountability over who and what can be imported into the region.

Consistent with the WCO standards, the declarant of import should generally be the party which has the right to dispose of the goods. This may, however, vary in practice. Duties, fees and charges on import must be paid prior to the clearance of the goods, forming a primary mechanism of control.

With the introduction of VAT, it is likely that practical arrangements for the clearance of goods may either become more administratively challenging or create an additional cost. For example, where the importer of record does not use the imported goods in its business activities (as it does not own them), it may not have an entitlement to deduct the import VAT incurred from its VAT liabilities.

Another area of potential challenge with the implementation of VAT is in respect of local documentation requirements for import. Where there is a chain of transactions between the export of the goods from a third country and the import into the GCC, the exporter invoice may not meet local clearance requirements or may not declare the final transaction value prior to import. Where commercial documents are used in lieu of invoices for customs purposes, these may not meet the requirements for import VAT recovery.

**Cash flow**
Import VAT will be payable at the first country of import into the GCC, consistent with the payment of customs duties in the union. Each GCC member state may introduce ways to relieve the cash flow cost on import for VAT-registered importers. A GCC member state may establish an import VAT deferral regime, or reverse charge mechanism, for example, to defer the payment of import VAT to a later date.
However, for importers who move goods from the first country of import directly to another GCC member state, the situation is more complex. In this instance the import VAT will be payable at the time and place of import, and recoverable in the destination GCC member state. This arrangement is further complicated where the import VAT was initially recovered in the country of first import, and the goods were subsequently moved to another GCC member state by the importer. In this scenario it is likely that the import VAT would need to be repaid at the country of first import, and recovered in the destination country.

**Preferential rates**

Where preferential duty rates are claimed on import, the transaction may still be subject to import VAT. The rate of import VAT applied is based on the nature of the goods, regardless of preferential duty rate, country of origin or free trade agreements which may be in place. However, where a preferential duty rate applies, it will result in a lower value on which the VAT is to be applied, as import VAT is expected to be applied on the customs duty inclusive value of the goods being imported.

**Exports**

As VAT is a tax on local consumption, in line with international best practice it is expected that VAT will not be payable on exported goods in the country of export. However, it is expected that the place of supply (the mechanism for determining in which country VAT is payable) will remain the country of export. This means that even though the transaction may be considered as a taxable supply in the country of export, it would be taxable at a zero-rate of VAT. If the requirements for zero-rating are not met, or evidence of such is not retained, the transaction would be subject to the standard rate of VAT.

The most common requirements for the zero-rating of exports are:

1. The supplier has removed the goods from the country of export; and
2. The time limits for export have been met.

Evidence must be retained by exporters that the two criteria above have been met. VAT audits commonly target the reconciliation of export supplies to export documentation. Where there are gaps, a VAT assessment and penalty may result, as the supply would be considered as taxable, subject to the standard rate of VAT.

Internationally, the standard documentation required to evidence export varies. Examples of export documentation may be a combination of: export clearance documentation, shipping documentation, contractual terms, Incoterms, and customer residency. It is expected that each of the GCC member states will indicate what evidence it will consider appropriate, and this will need to be retained in line with the national retention period.

Obtaining evidence to support the zero-rating of an export becomes more challenging when there are several parties in the chain or where the supplier is not...
It is likely that there will be a heavy reliance on customs authorities to establish processes to assist with the implementation of VAT at the border.

The challenges around chain transactions are highlighted in the example of back-to-back on-board sales. The zero-rating for export (or alternatively the treatment of goods as outside the scope of VAT prior to import) may be challenged when the transactions occur after clearance for export (or conversely, prior to import) but title transfers within territorial waters. There are many international examples of ambiguity on this point. Where uncertainty exists, it only takes one party in the chain to consider the supply taxable to create additional, potentially irrecoverable, costs for the other parties in the chain.

Indirect exports may occur where the supplier sells using an ‘ex works’ Incoterm, yet treats the supply as an export for VAT purposes, where its customer is responsible for the collection and exportation of the product. Zero-rating for export on these types of transactions may be limited to supplies to non-residents. The difficulty arises in the timing requirements for exported goods. As VAT should not be a tax on business, but a cost to the final consumer, there should be some mechanism of VAT relief for businesses operating within free zones. How this relief will operate in practice remains to be seen. The UAE VAT law has provisions allowing for the specification of special areas – “Designated Zones” which are treated as outside the territory of the UAE. By extension therefore supplies within those zones may not be taxed.

Free zones
As VAT should not be a tax on business, but a cost to the final consumer, there should be some mechanism of VAT relief for businesses operating within free zones.

Finally, many countries have implemented timing requirements for exported goods. Commonly this is between 60 and 90 days. The clock typically starts at the tax point, which may be the earlier of invoice issuance, or any receipt of consideration. This may be a particular issue where goods require dismantling prior to export, or where manufactured goods are paid for in advance.

VAT compliance requirements, depending on the nature and value of these services.

Practical next steps
Importers, exporters and free zone entities should review their regional supply chains closely to understand at an operational level how movements are undertaken, and identify the parties involved. In addition, activities in the region must be clarified, including on-shore activities, asset ownership, costs recharges and revenue streams to understand the potential VAT impact.

Finally, many businesses in the region, both locally established and free zone entities, rely heavily on third party customs brokers to manage compliance in respect of imports and exports. Clear and documented procedures which incorporate relevant delegations and controls are required prior to VAT implementation to mitigate the potential additional cost of irrecoverable VAT, assessments or penalties.

Conclusion
It is likely that there will be a heavy reliance on customs authorities to establish processes to assist with the implementation of VAT at the border: VAT on imports, intra-GCC reporting and the monitoring of VAT compliance on exports. Although this may allow importers and exporters to rely on existing processes and controls in this area, it may create complexities where practical arrangements do not meet VAT requirements, or result in additional compliance or cash flow costs. Although the delegation of authority between the tax authorities and customs authorities is not clear at this stage, it is expected that the two will work closely on overlapping responsibilities going forward. The key for both importers and exporters at this stage of implementation is to obtain clear oversight over transaction flows in the region, from an operational, contractual and practical perspective.
Chapter 5 – Technology, Media and Telecommunications

Why VAT and the digital economy are a challenging mix
Globally there is a trend that governments seek to incorporate specific rules targeting telecommunication and electronically provided services and the consumption of end-customers.

In essence VAT is a tax based on consumption, meaning that in line with international principles the VAT should be due in the country where it is consumed and ultimately borne by the end-consumer. This used to be a relatively straightforward concept; where the VAT was due could be determined based on the movement of the goods. However, due to globalization and innovation, and the move away from consumption of goods to consumption of services, this is becoming increasingly hard to track – people move around the world accessing networks, Wi-Fi, and so on extensively.

Nowadays, we live in a digital world. We are surrounded by technology and applications (apps), are always connected, and would not know how to live without this scenario. Whether we are aware of it or not, every aspect of our life is affected by technology: either by using apps on our phone, accessing the internet, or by other entities such as a retailer or advertisement company who use technology to understand our shopping behavior and preferences. Even regular activities such as grocery shopping and electricity consumption use an internet connection and sophisticated technology. And with the introduction of VAT, and more technologies like blockchain and artificial intelligence around the corner, the question arises as to how we can prepare for the day of tomorrow?

One of the core VAT issues with these types of services is the place of supply, i.e. knowing in which country the VAT is due. This is a recurring problem around the world, and the GCC will be no different. In this whitepaper we walk you through the place of supply rules in the GCC Agreement, the VAT definitions for Technology, Media and Telecommunications (TMT) services, and the expected challenges before and after the VAT implementation.

Place of supply

As previously mentioned, the core attribute of TMT services is their place within the international VAT framework. Globally there is a trend that governments seek to incorporate specific rules targeting telecommunication and electronically provided services (hereafter e-services) and the consumption of end-customers.

For example, the EU introduced anti-avoidance rules for non-EU established services providers which provide telecommunication and/or e-services to private individuals. Later, in 2015, the EU introduced more specific place of supply rules with respect to telecommunication, media and e-services provided by EU suppliers to private individuals in order to capture the VAT in the country of consumption of the end-customer. Based on the 2015 rules, the place of supply for TMT services is deemed to be where the private individual has their usual residence. The introduction was followed by the VAT implementing regulation and further guidance from the European Commission on how these rules should be interpreted. These included the usage of presumptions on where the services would be deemed to be consumed.

Likewise, other countries, such as Japan and Australia, have introduced or announced similar rules. As of October 2015, Japan introduced the rule that digital supplies made by foreign providers to Japanese customers would be subject to Japanese consumption tax (JCT). The JCT makes a distinction in the treatment between B2B and B2C supplies of digital services, which is merely based on the nature and the terms of the contract of the digital services rather than the status of the customer. More recently, Australia announced plans to introduce a new law in order to apply GST to the supply of digital products to Australian customers.
These global changes for TMT services are in line with the international principle that VAT should be due in the country of consumption and create a level playing field between domestic and foreign service providers. The GCC VAT system is based on international VAT principles and the place of supply rules in this regard. Article 20 of the GCC Agreement includes a special place of supply rule for telecommunication and electronically supplied services as follows:

“The place of supply for wired and wireless telecommunication Services and electronically supplied Services shall be the place of actual use of or benefit from these Services”

This will mean that VAT is due in the country where the recipient is using and enjoying the services irrespective of the contractual and payment arrangements.

As of now, the GCC Agreement does not provide any further guidance on the interpretation of the place of supply rule, leaving this to each of the GCC member states to implement in their laws and regulations. It remains to be seen how the actual use and benefit will be interpreted by each country and how it needs to be established and proved by the taxpayer.

In order to be able to establish and prove where the use and enjoyment of any services takes place, it is likely that businesses will be required to keep records of the actual use and enjoyment of each service. The GCC Agreement does not set out any evidence requirements.

In the EU the following evidence can be used to prove the place of use and enjoyment (but is not limited to):
- IP address of the device used by the customer
- Billing address of the customer
- Customer bank details
- Country code of the SIM card used
- The location of the fixed land line through which the service is supplied
- Other commercially relevant information (for example, product coding information which electronically links the sale to a particular jurisdiction).

Businesses within the TMT industry will need to make sure that their processes, procedures and IT systems are able to capture the use and enjoyment, and related requirements.

The EU has also introduced presumptions in order to ease the burden of proof. Under the presumptions, a business is allowed to assume that the place of residence of the customer is where the use and enjoyment of its customer takes place, and less supportive evidence is required to substantiate the place of residence. Depending on the type of service a different assumption can be taken, in which case no further evidence is required. This could be the place of the landline for services provided through a fixed landline, or the country of the mobile country code for services provided through the mobile phone network. For services which are not part of the presumptions list, two pieces of (non-contradicting) evidence should be collected.

As the GCC Agreement has not introduced any guidance on evidence it will be up to each of the GCC member states to introduce their own requirements for the use and enjoyment, i.e. the information to be gathered, pre-assumptions (if any) and what/how evidence should be retained.

Businesses within the TMT industry will need to make sure that their processes, procedures and IT systems are able to capture the use and enjoyment, and related requirements.

B2B vs B2C
It is important to note that article 20 of the GCC Agreement does not make any reference to or distinction between B2C and B2B customers. This could complicate the treatment of the supply of the services cross border, as it is not clear if and how the use and enjoyment place of supply rule would apply.

It will be interesting to see what approach the GCC member states will take. They will also need to consider the international agreements for cross border services. The International Telecommunications Union (in particular the Melbourne agreement) provides a framework for international telecommunication services, including the measures to avoid double taxation on international telecommunication services. Based on this agreement, countries are free to levy taxes on the services; however, international double taxation should be avoided. As most of the GCC member states are a signatory to the Agreement, we expect that the GCC countries will need to take this into account with respect to the treatment of international charges; however, it will be interesting to see how they will meet this requirement.

Definitions
What exactly are TMT services? It is difficult to define the terminology for the TMT industry as it is in continuous development, embracing new technologies and creating new products and/or services. The industry requires...
flexible and broad definitions in order to be able to capture the different services and the services of tomorrow.

There is no definition for TMT services laid down in the GCC Agreement, and as such we will need to rely on the local laws. The only reference in the Agreement is in Article 20 where it mentions wired and wireless telecommunication services and electronically supplied services without any further clarification. This creates the opportunity for each of the GCC member states to develop and introduce their own definitions in their own law and regulations. Based on international principles, we expect that in the GCC TMT services will be defined perhaps along the following lines:

**Telecommunication services** such as services relating to the transmission, emission or reception of signals, words, images and sounds or information of any nature by wire, radio, optical or other electromagnetic systems, including related transfer or assignment of the right to use capacity for such transmission, emission or reception.

**Media services** such as broadcasting services including television, video and advertisement. In most cases media services use a (telecommunication, satellite or electronic) network to transmit the content.

**Electronically supplied services** are likely to be regarded as services which are delivered over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention, and impossible to provide in the absence of information technology.

From an international perspective these types of services are often already unclear and dependent on the peculiarities of the case at hand (e.g. qualification differences between distance learning, online class room training and recorded training), providing uncertainty that will need to be addressed during the design phase of the VAT implementation process. A complicating factor for the GCC is that the definitions will most likely be laid down in the regulations of each GCC member state. This could potentially lead to differences in definitions between the countries and hence differences in the treatment of similar supplies in particular for cross-border supplies of these services. As such, companies within the TMT industry need to carefully review their business transactions, and how they fit within the expected VAT law of each of the GCC member states.

During previous VAT implementations in, for example, Malaysia, we have seen that some of the regulations and published guidance provided by the tax authorities may not be clear or available before the implementation date. As such, businesses should consider whether to approach tax authorities to obtain necessary clarity. Additionally, it is important to touch base and communicate with customers and vendors the expected treatment of the supplies.

**More challenges ahead**

In many VAT jurisdictions, TMT companies are facing specific attention points for VAT apart from those mentioned above. These may be the same in the GCC, and could potentially include amongst others:

**Supply chain**

The supply chain within the TMT sector is complex. Take, for example, a regular app, for which several parties are involved: content supplier, network provider, platform, telecommunication provider, payment intermediary, etc. However from an end-user perspective, there is only once service recognized: the app. In addition, the contractual, financial and operational relationships between all parties involved make it difficult to determine who is liable for VAT, for what part and where the VAT should be accounted.

VAT recognizes different partnership structures, such as commissionaire and (disclosed) agents, and it treats each of them differently. Difficulties arise as not all of the parties involved have access to the same customer information.

**Vouchers**

Businesses should review the impact of VAT on vouchers and cards. As an example, there are different treatments expected for pre-paid and post-paid cards and plans. Vouchers can differ in treatment based on their type (e.g. multi-
purpose vs. single purpose), their billing (tax point on redemption vs. tax point on sale) and pricing (exclusive vs. inclusive of VAT). Specific considerations are required for the transitional period, in particular for cards and vouchers already on the market.

**Fixed establishment**
The GCC Agreement also introduced the definition of a fixed establishment in its article 1:

Any fixed location for a business other than the Place of Business (i.e. place of establishment) in which the business is carried out and is distinguished by the permanent presence of human and technical resources in such a way to enable the Person to supply or receive goods or services.

Considering the global trends within VAT and corporate tax/transfer pricing, and the fact that the GCC is basing their system on these global principles, companies should carefully review their presence in each of the GCC member states. For example, the presence of servers (and personnel) could trigger a fixed establishment and related VAT obligations based on a recent judgment of the European Court of Justice.

**Barter transactions**
Barters are common in the industry. From a VAT perspective, it is important that all transactions are recognized and accounted for. Where at present there may not be a requirement to legalize, document and invoice the barter transactions, this will be required going forward.

**Volume discounts**
In many cases it is common practice that the value of the supply is dependent on targets or volumes, e.g. a price is agreed based on the amount of clicks on or viewers of an advertisement. This could result in volume-based discounts which are provided at the end of a period or year. For these volume discounts the appropriate documents and reference should be issued and kept.

**The day of tomorrow**
As mentioned, the TMT industry is recognized for new concepts, products and services. From a VAT perspective, it will be key to understand what is provided, what are the roles of the parties involved, and where is the place of supply. As the GCC Agreement only provides for a specific place of supply rule for telecommunication services and e-services, further guidance from each of the GCC member states will be awaited.

Potentially, each of the GCC member states will introduce its own rules for the determination of the use and enjoyment, differences between B2B and B2C, and the evidence required.

With the international standards in mind and the pace of the developments in the industry, how then should businesses prepare for the day of tomorrow? Considering that at this point in time no detailed guidance from any of the GCC member states has been provided, preparation for the VAT implementation becomes even more challenging. As such, when designing the future state for the implementation of VAT, companies within the TMT industry should keep in mind flexibility and adaptability combined with a vision of the future.
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