

Tax Newsletter

FTA publishes guidance on stock reporting requirements for Excisable goods



Overview

UAE Federal Tax Authority (FTA) has published two new Excise Tax guides. The guides relate to Excise stock movements for warehouse keepers who are registered and who are not registered for Excise Tax.

The purpose of these guides is to assist registered and non-registered warehouse keepers, in navigating the FTA's e-Services portal for submission of relevant declarations for the purpose of declaring Excise Goods they hold in the Designated Zones (DZs), which they are going to manage from 1 January 2021.

Warehouse Keepers who are registered for Excise Tax

FTA has issued guide at beginning of Dec 2020 which lays down the process of declaring Excise Goods that belong to registered Excise taxpayers that are held in their Designated Zone as on 1st of January, 2021.

The guide provides an overview of the various declaration forms that need to be filed and who, how & when a Warehouse Keeper should complete and submit each of them to the FTA.

The registered Warehouse keepers are required to submit the Opening Stock Declaration (EX204) between 1 January 2021 and 31 January 2021. They must declare the opening stock of Excise Goods belonging to registered Excise Taxpayers in their DZ(s) and should submit the declaration once for each TRN holder. Step by step process of filling the form is explained in the FTA guide.

Warehouse Keepers who are NOT registered for Excise Tax

Those warehouse keepers who are not registered for Excise Tax are required to complete the following:

- Declare the Excise stock held in their DZ by owners who are registered for Excise Tax by submitting EX204; and

- Declare the Excise stock held in their DZ by owners who are not registered for Excise Tax by submitting the Non-Registered Excise Stock Movement Declaration (EX204A) in each period from 1 January 2021.

Opening stock audit requirement

Further we understand that the FTA has been contacting Excise taxpayers directly to inform them about additional stock reporting requirements, including the requirement to **appoint a certified external auditor to audit the Opening Stock as of 1 January 2021 in each DZ per Excise Tax registrant.**

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CbCR Deadlines:

- CbCR notification for the 2019 fiscal year need to be resubmitted on the new portal by deadline of 31st December 2020.
- CbCR notification for the 2020 fiscal year need to be submitted by deadline of 31st December 2020.
- CbCR report for the 2019 fiscal year need to be submitted by deadline of 31st December 2020.

UAE – ESR and CbCR deadlines

Overview

Economic substance regulations (ESR) and Country-by-Country reporting compliance obligations for applicable UAE businesses are due by 31st December 2020.

Economic substance regulations

All companies and certain other business forms registered in UAE conducting a Relevant activity must comply with Economic substance regulations.

UAE Ministry of finance (MOF) began receiving ESR notifications and reports through the portal on 1st December 2020.

ESR deadlines

- **ESR notification** needs to be submitted within 6 months of end of financial year. However, in first year of implementation, this deadline

has been extended to 31st December 2020. For example, entities with 31st March 2020 or 30th June 2020 financial year end will also be required to submit the notification by 31st Dec 2020

- Entities which had financial year end of 31st Dec 2019 and already submitted the notification earlier by the deadline of 30th June 2020 are required to **re-submit the notification by no later than 31st Dec 2020**
- As per law, ESR report needs to be submitted within 12 months of end of financial year. Therefore, the deadline for filing **ESR report** for entities with financial year commencing on or after 1st Jan 2019 and ending on or before 31st Dec 2019 shall be **31st Dec 2020**

Country by Country Reporting (CbCR) requirements

The ultimate parent entity (UPE) of MNE groups headquartered in the UAE (with consolidated group revenue of more than AED 3.15 billion in the previous year) must file the CbC report and notification in the UAE for years beginning on or after 1 January 2019.

CbCR portal is available on UAE MOF website.

General Authority of Zakat and Tax (GAZT) of KSA published E-invoicing regulations

Highlights

GAZT issued the e-invoicing regulations on 4th Dec 2020. KSA is implementing electronic invoicing due to various reasons such as reducing the shadow economy, increase tax compliance, adopting best practices, enabling fair competition etc.

Mandatory implementation date for resident taxpayers has been kept as 4th December 2021.

GAZT also published an e-invoicing guide and FAQs.

What is an Electronic invoice?

An invoice generated, stored and amended in a structured electronic format through an electronic solution, which includes all the requirements

of a tax invoice. A handwritten or scanned invoice is not considered and Electronic invoice.

Applicability

Resident taxable person in Saudi Arabia will be subject to e-invoicing regulations.

The requirements also apply to third parties who are issuing tax invoices on behalf of resident taxable persons.

The e-invoicing rules will not apply to taxable persons who are not resident in Saudi Arabia.

E-invoices must be issued for all transactions for which tax invoices must be issued. Taxable persons must also issue credit notes and debit notes in an electronic format.

Implementation of E-invoicing system

It will be implemented in 2 phases:

- **Phase 1** includes issuing and storage of invoices in electronic format through an electronic solution (*this will be mandatory from 4th Dec 2021 onwards*)
- **Phase 2** includes integration of the tax payers electronic solution system with GAZT's system for sharing data and information (*GAZT will issue details on this requirement within 180 days of publication of regulations*)

Way forward

Businesses should start assessing their readiness for the e-invoicing regulations and also look at how their systems will be able to integrate with GAZT system in the future.

KSA - Recovery of Input VAT by real estate developers

Overview

GAZT had issued rules and conditions for recovery of input tax related to exempt real estate supplies.

The Ministerial Resolution came into effect from 30 November 2020

Eligibility

The real estate developer who is engaged in exempt real estate transactions can seek to recover Input VAT if it is set-up as one of following legal types:

- Real estate investment fund;

- Sole proprietorship under a commercial registry;
- Cooperative organization or institution; or
- Any other legal entity under the KSA companies law

Further, the real estate developer should have license for any of below activities:

- Sale, lease, purchase and development of real estate;
- Sale, purchase, of land and properties, as well as off-plan; and

- Construction of buildings.

The real estate developer will also need approval from the Ministry of Housing ("MoH") as an eligible real estate developer. GAZT will check that the developers satisfy the required eligibility conditions.

Persons who do not currently qualify to be treated as real estate developers will be able to recover VAT incurred on expenses made on or after 4 October 2020, for real estate supplies that have been defined as exempt provided they meet the requirement before 31st Jan 2021.



Oman VAT implications for financial services

Oman VAT law mentions that financial services are exempt as per Article 47.

It has been specified that further conditions and details related to financial services exemption will be included in the regulations.

VAT treatment

Exempt services

Based on the VAT treatment in KSA, Bahrain and UAE, it is expected that Oman will follow the same treatment and only **interest or margin based financial services** will be treated as exempt services. Regulations will confirm the exact conditions to be applied in Oman.

Input VAT cannot be recovered on supply of exempt services.

Standard rated services

Generally, if the financial services are supplied for an explicit fee or commission, those will be subject to standard rate (5%) of VAT. Such standard rated supplies include bank charges, remittance fees, loan processing fee, annual card fees etc. It is expected that Oman will follow same treatment however details will be confirmed in the regulations.

Input VAT can be recovered on costs fully related to standard rated supplies.

Zero-rated services

Supply of financial services to a recipient established outside GCC/Oman will be subject to zero-rate (0%) of VAT

Issues of irrecoverable VAT

The irrecoverable VAT may constitute an important cost for financial institutions and potentially impact their pricing policy. This would require an early assessment of the VAT cost and impact to the bottom-line.

Input VAT allocation

It is always a complex issue for financial institutions to track and allocate Input VAT between taxable supplies and exempt supplies.

Each GCC country has issued its own method for apportionment of Input vat, which businesses will need to use to calculate the recoverable amount of input vat, incurred on overheads. Regulations will confirm the method to be applied in Oman.

Mixed supplies

Some financial services may comprise of a number of components ('bundled services'), which if supplied separately, may be subject to different VAT treatment.

In order to establish the correct VAT treatment of such bundled services, certain characteristics will need to be assessed to determine whether different VAT treatments will apply.

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