

TAX NEWSLETTER

Monthly Updates on Tax

UAE: VAT Public Clarification (VATP028): Mobile Phones, Airtime, and Data Packages Made Available to Employees for Business Use.

UAE Federal Tax authority (FTA) published a public clarification on 6th Dec 2021 regarding the recovery of Input tax for use of Phones, Airtime, and Packages.

This Public Clarification provides guidance on the application of the VAT legislation in respect of the recovery of input tax incurred on Phones, Airtime, and Packages acquired for business use.

As per executive regulation of VAT Law, Taxable person cannot recover input tax incurred on goods or services purchased to be used by an employee for their personal benefit without any charge to the employee, unless there is a legal or contractual obligation on the employer to provide such service in order for the employee to perform their role, or it is a deemed supply.

Below are the key highlights of the public clarification:

- According to the guidance, input tax on mobile phone expenses can only be recovered if the taxpayer has a strict business-use policy in place and also the same need to be properly enforced and monitored. FTA has clearly mentioned that there should be robust monitoring in place to substantiate the actual business use.
- FTA mentions that taxpayers cannot amend their present policy to apply retrospectively. As a result, this guidance could have an impact on input VAT previously recovered for mobile phone expenses, and any incorrect VAT claims would need to be remedied.
- The requirements for Input Tax recovery are as follows:

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1. VAT registered business should have purchased phones, airtime, and packages in its own name, and proper tax invoices and service provider contracts addressed to the businesses should be kept as evidence.
2. Business should have a policy in place that specifies that the phones, airtime, and packages may only be used for business purposes, and that any personal use will result in severe consequences.
3. Business should keep track of how much airtime and packages are used on a regular basis and keep track of the reasons for any variance.
4. In compliance with the written policy, business should take action against employees who use their phones, airtime, or packages for personal purposes.

If all of the above requirements are not satisfied, input tax recovery in respect of phones, airtime and packages will not be allowed.

UAE VAT : Temporary zero-rating of certain medical equipment

Federal Tax Authority ('FTA') had issued public clarifications in 2020 and 2021 on temporary zero-rating of certain medical equipment's (personal protective equipment). The first decision was effective from 1st Sept 2020 to 28th Feb 2021 which was later extended (via VAT public clarification VAT P025) till 31st December 2021. Such medical equipment's were limited to below:

- Medical face masks
- Half filtered face masks
- Non-Medical "community" face masks made from textile
- Single-use gloves
- Chemical disinfectants and antiseptics intended for use on the human body but excluding detergents, cosmetics and personal care products

As per the last clarification, the temporary zero-rating benefit is until 31 December 2021 and FTA has not yet issued any further clarification for extending the same.



Therefore, it is advisable for businesses to consider charging 5% VAT on such medical equipment's starting from 1 January 2022.

Oman VAT registration: last phase started in December 2021

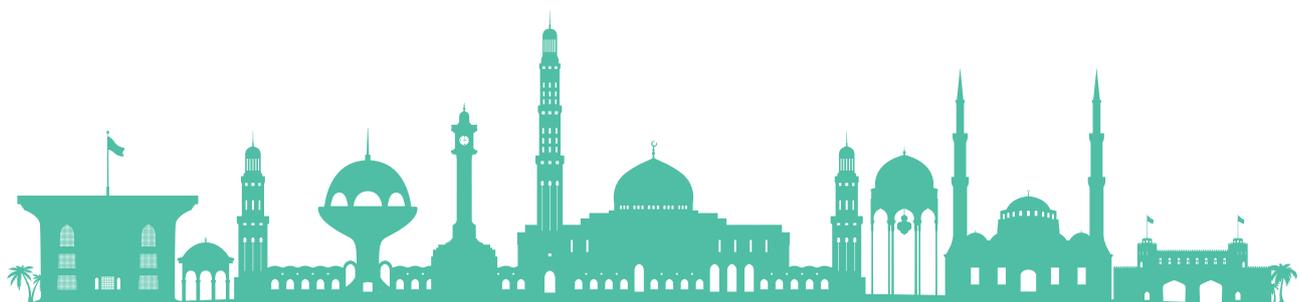
The Oman Tax Authority (OTA) had started the VAT registrations in a phased manner i.e. based on the revenue of the taxable person.

The final phase of registration timelines for the category of taxable persons having annual value of supplies is between 38,500 and 249,999 OMR has

started from 1 Dec 2021 to 28 Feb 2022, the effective date of registration will be 1 April 2022 for the registrant getting registered in aforementioned timeline.

Below were the timelines for different category of taxable persons:

SR	Category	Registration timelines	Effective date of Registration
1	For a person whose annual value of supplies exceeds or is expected to exceed one million (1,000,000) OMR	1 Feb 2021 - 15 Mar 2021	16-Apr-21
2	For a person whose annual value of supplies is between 500,000 to 1,000,000 OMR	1 April 2021 - 31 May 2021	01-Jul-21
3	For a person whose annual supplies are between 250,000 and 499,999 OMR	1 July 2021 - 31 Aug 2021	01-Oct-21
4	For a person whose annual value of supplies is between 38,500 and 249,999 OMR	1 Dec 2021 - 28 Feb 2022	01-Apr-22



Bahrain Update: VAT rate change from 5% to 10%.

Bahrain amended VAT law has been released on 23 December 2021 for the change in standard rate of VAT from 5% to 10% w.e.f. 1st January 2022.

National Bureau of Bahrain ("NBR") also issued VAT rate change transitional provisions guide to provide an explanation on the transitional rules, which apply during the transitional period between the 5% vat rate and 10% vat rate.

1. One-off supplies

SR	Scenario	VAT rate
1	Contracts entered before 24th Dec 2021 and date of supply is till 31st Dec 2022	VAT rate 5% (provided no changes to contract made prior to the supply)
2	Contracts entered before 24th Dec 2021 and date of supply is on or after 1st Jan 2023	VAT rate 10%
3	Contracts entered on or after 24th Dec 2021 and date of supply before 1st Jan 2022	VAT rate 5%
4	Contracts entered on or after 24th Dec 2021 and date of supply on or after 1st Jan 2022	VAT rate 10%

In case, where the contract is entered on or after 24th Dec 2021 and tax invoice is issued or consideration received before 1st Jan 2022 for a one-off supply of goods or services to be made on or after 1st Jan 2022, then under transitional rule 10% VAT will apply on such supplies.

2. Continuous supplies

SR	Scenario	VAT rate
1	Contracts entered before 24th Dec 2021 and date of supply is till 31st Dec 2022	VAT rate 5% (until any change or renewal or expiry of contract)
2	Contracts entered before 24th Dec 2021 and date of supply is on or after 1st Jan 2023	VAT rate 10%
3	Contracts entered on or after 24th Dec 2021 and date of supply before 1st Jan 2022	VAT rate 5%
4	Contracts entered on or after 24th Dec 2021 and date of supply on or after 1st Jan 2022	VAT rate 10%

In case, where contract is entered on or after 24 December 2021 (or if entered before 24th Dec 2021 but changed between 24th Dec and 31st Dec 2022), 5% VAT will apply on value of goods and services delivered before 1st Jan 2022 and 10% VAT rate will apply on value of goods and services delivered on or after 1st Jan 2022 (in case of contract change done before 1st Jan 2022). Where contract change takes place after 1st Jan 2022, 10% VAT rate will apply from the date the contract is amended/changed.

KSA: Real estate transaction tax (RETT) – Proposed amendments

On 15th December 2021, Zakat, Tax and Customs Authority (ZATCA) proposed amendments to certain articles of the Real Estate Transaction Tax ("RETT") Executive Regulations.

Below are the highlights of some of the amendments and additions proposed by "ZATCA" in "RETT".

SR	Article Details	VAT rate
1	Article 1 - "Definitions"	New definitions has been added for "relatives up to the third degree" and for "first, second, third degree relatives".
2	Article 3 (A) - "Exclusions"	<ul style="list-style-type: none"> Provisions related to disposal of real estate with no consideration to an offspring civil endowment (waqf) to be amended; New Amendments made in provisions related to the transfer of the property as an authenticated gift; A new exclusion related to the transfer of the property under a notarized will, has been added; Excluded Joint Venture from the exclusion list for in kind contributions of a real estate property.
3	Article 4 - "Due date of the tax"	<ul style="list-style-type: none"> Addition to include to the date of authentication requirement of having a public notary or licensed governmental bodies; In paragraph 4 related to right of the Minister to exclude any other cases related to tax due date to be deleted

The draft amendments were published by ZATCA on 15th of December 2021 to receive feedbacks and suggestions from Interested parties and taxpayers by 29th of December 2021 before the amendments and additions gets implemented.

KSA: ZATCA published the “Guideline to Procedures to Issue Origin Reports”

According to the published guideline by ZATCA, Origin report issued by a Chartered Accountant in Arabic language is compulsory to obtain benefit from the customs duty exemption on GCC manufactured goods as per the Rules and Conditions for Verification of Proof of Origin.

The guideline provides details and procedures to be followed for verification of proof of origin and the supporting documents required as supporting to claim preferential tariff treatment in KSA such as,

- A valid Certificate of Origin issued by the competent authority in the GCC country of origin
- Copies of invoices of the goods being imported
- An Origin Report issued by a Chartered Accountant (In Arabic)



Authority has also issued the criteria for a Chartered Accountant to become eligible to issue the Origin report, as listed below:

- Is a natural or legal person licensed to practice the profession of accounting and auditing in the country of origin;
- has a branch in KSA, an office, a partnership, a network, or a legal representative, accredited and licensed with the Saudi Organization for Chartered and Professional Accountants (“SOCPA”); and
- must be different from the Chartered Accountant who audits the final annual accounts of the producer in the country of origin.

Along with the above criteria for chartered accountants, the public clarification also provides guidelines and instructions for a chartered accountant on obtaining reasonable assurance while issuing an origin report.

The clarification also guides on the other documents which required in the process such as Product Information Declaration form, Supplier declarations, Import declarations etc.

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