

Common Excise Tax Agreement of the States of the Gulf Cooperation Council (GCC)

November 2016

The Member States of the Gulf Cooperation Council (GCC), namely:

The United Arab Emirates,

The Kingdom of Bahrain,

The Kingdom of Saudi Arabia,

The Sultanate of Oman,

The State of Qatar, and

The State of Kuwait.

Pursuant to the objectives set out in the Statute of the Gulf Cooperation Council aimed to further develop existing cooperation relations amongst them in various fields; And in line with the objectives of the GCC Economic Agreement of 2001, which seeks to reach advanced stages of economic integration, and develop similar economic and financial legislation and legal foundations amongst Member States, and with a desire to promote the GCC economy and to proceed with the measures that have been taken to establish economic unity amongst Member States; and pursuant to the Supreme Council's decision, during its 36th session (Riyadh 9-10 December, 2015), which empowers the Financial and Economic Cooperation Committee to complete all the requirements for the adoption of the Common Excise Tax Agreement of the States of the GCC and ratify it; have agreed to the following:

Chapter 1

Definitions and General Provisions

Article (1)

Definitions

In the application of the provisions of this Agreement, the following words and expressions shall bear the meanings set forth against each of them, unless the context otherwise requires:

Council: Gulf Cooperation Council

Agreement: The Common Excise Tax Agreement of the States of the GCC

Tax: The Excise Tax of the GCC.

Member State: Any state with full membership of the GCC in accordance with the Council's Statute.

GCC Territory: All territories of the GCC Member States.

The Ministerial Committee: The Financial and Economic Cooperation Committee of the GCC.

Local Law: Excise tax law and any relevant legislation issued by each Member State.

Person: Any natural or legal person, public or private, or any other form of partnership.

Common Customs Law: The Common Customs Law of the GCC States.

Tax Administration: The governmental entity or department in the State having jurisdiction to administer, collect, and enforce the Tax.

Excise Goods: Goods that are taxable under the provisions of this Agreement.

Locally Produced Excise Goods: Excise goods produced within a Member State.

Import of Excise Goods: Entry of excise goods from outside the GCC Territory to any Member State in accordance with the provisions of the Common Customs Law.

Tax Suspension Situation: a situation in which the chargeability to tax of Locally Produced Excise Goods or Imported Excise Goods is suspended in accordance with the provisions of Article (5) of this Agreement.

Tax Warehouse: A place where the Licensee is allowed to produce, process, possess, store or receive Locally Produced Excised Goods or Imported Excise Goods in a Tax Suspension Situation.

Licensee: A person approved by the Tax Administration to produce goods or to process, possess, store, transport or receive Locally Produced Excise Goods or Imported Excise Goods in a Tax Warehouse in the course of carrying on his business.

Due Tax: Tax on Excise Goods due for payment to the Tax Administration.

Person Obligated to Pay Tax: The person responsible in accordance with the provisions of this Agreement for calculating, declaring and paying the Due Tax.

The Value of Excise Goods: The value used as a basis to calculate the Tax in accordance with the provisions of this Agreement.

Business Purposes: value or quantity of supplies that exceed what is provided for in the Common Customs Law and its Executive Regulations.

Importer: A person who imports Excise Goods.

Article (2)

Applicability of the Agreement

Without prejudice to any legislation in force within the GCC prohibiting the import, export or production of certain goods and any other indirect tax laws, the provisions of this Agreement shall apply to:

1. The production of Excise Goods within the territory of any Member State.
2. The Import of Excise Goods into the GCC Territory.

Chapter 2

Charging Tax

Article (3)

Excise Goods and Tax Rate

1. Tax shall be imposed on goods that are harmful to human health and to the environment, as well as on luxury goods, according to a list and the tax rates levied thereon as determined by the Ministerial Committee.
2. The Ministerial Committee shall be entitled to modify the aforementioned list and the tax rates levied thereon.

Article (4)

Tax Becoming Due

1. Without prejudice to the provisions of Article (5) of this Agreement, the Tax is due on the date of release of Excise Goods for consumption.
2. Excise Goods are deemed released for consumption in the following cases:
 - a) The production of Excise Goods outside a Tax Suspension Situation.
 - b) The release of Excise Goods from a Tax Suspension Situation.
 - c) The possession of Excise Goods outside of any Tax Suspension Situation, on which the Due Tax has not been paid.
 - d) Import of Excise Goods unless they are in a Tax Suspension Situation.
 - e) Loss or damage of Excise Goods while in a Tax Suspension Situation in the State in which they were physically in, and the Licensee has not demonstrated that such loss or damage resulted from causes beyond his control, in accordance with the conditions and procedures set by the Member State in which the goods in question were lost or damaged.

Article (5)

Tax Suspension

1. Tax on Excise Goods shall be suspended in the following two cases:
 - a. Production of Excise Goods or the processing, possession, storage or receipt of Locally Produced Excise Goods by a Licensee.
 - b. Transport of Excise Goods in a Tax Suspension Situation in any of the following cases:

- 1) From one Tax Warehouse to another Tax Warehouse in the same Member State.
- 2) From a Tax Warehouse to another Tax Warehouse in another Member State.
- 3) From a Tax Warehouse to the place where goods exit the GCC Territory for export or re-export, according to the provisions of the Common Customs Law.
- 4) Upon import to a Tax Warehouse in a Member State

2. The Ministerial Committee shall determine the rules for the application of this article and the mechanism for the movement of Excise Goods in a Tax Suspension Situation among Member States.

Article (6)

Value of Excise Goods

1. The value on which Tax shall be levied on tobacco shall be determined in accordance with the Supreme Council's decision in its 36th session, or any subsequent decisions of the Supreme Council in this regard.
2. The value on which Tax shall be levied on the remaining Excise Goods shall be determined on the basis of their retail sale price provided by the importer or producer of the Excise Goods, or in accordance with a standard price list to be periodically agreed upon by the GCC Tax Administrations, whichever is higher.

Chapter 3

Payment of Tax

Article (7)

Person Obligated To Pay Tax

The Person Obligated To Pay Tax is:

1. A person who produces Excise Goods outside a Tax Suspension Situation.
2. A person who possesses Excise Goods on which the Due Tax has not been paid outside the Tax Suspension Situation as determined by the Tax Administration.
3. The Licensee when the Excise Goods are released from the Tax Suspension Situation.
4. The Licensee when Excise Goods are released for consumption by reason of loss thereof or damage thereto in a Tax Suspension Situation according to the provisions of paragraph (2-E) of Article (4) of this Agreement.
5. The importer of Excise Goods.
6. The Licensee when transporting Excise Goods in breach of the terms of Suspension provided for in Article (5) of this Agreement.

7. Any other person releasing Excise Goods for consumption.

Article (8)

Place of Chargeability to Tax and Collection Mechanism

1. For the purposes of the provisions of this Article, the First Point of Entry shall have the following meaning: the first customs point of entry of Excise Goods into the GCC Territory in accordance with the Common Customs Law.
2. Tax shall be imposed on Locally Produced Excise Goods in the Member State where they are released for consumption as specified in Article (4) of the Agreement.
3. Tax shall be imposed on imported Excise Goods in the State of the First Point of Entry of the goods unless they are in a Tax Suspension Situation.
4. For Excise Goods that have previously been released for consumption and subjected to Tax in one Member State and have been later transported to another Member State, the Tax is imposed on the Excise Goods at the Point of Entry of that other Member State.

Chapter 4

Tax Refund

Article (9)

General Principle

1. Without prejudice to the provisions of Article (8) of this Agreement, there shall be a right of refund of Tax paid on Excise Goods released for consumption in a Member State in the event of export or re-export for business purposes outside the GCC Territory.
2. There shall be a right of refund of Tax paid on Excise Goods if they are used in the production of other taxable Excise Goods.
3. For the purpose of paragraph (4) of Article (8), an application may be made to the Tax Administration in the first Member State for the refund of Excise Tax that has been paid.
4. The Ministerial Committee shall determine additional cases for tax refund in the case of non-consumption of the Excise Goods in the Member State.
5. Each Member State shall determine the conditions and procedures for refunds.

Chapter 5

Exemptions

Article (10)

1. Diplomatic and consular bodies, international organizations and heads and members of diplomatic and consular corps accredited by any Member State shall, on the condition of reciprocity, be exempted from tax on Excise Goods.

2. Excise Goods accompanied by travelers entering any Member State shall be exempted from Tax, provided that they are of non-commercial status, and that they satisfy the terms and conditions specified in the Common Customs Law.

Chapter 6

Compliance Requirements

Article (11)

Compliance on Import and Export

1. An importer shall be required to declare any Due Tax upon import in accordance with the provisions of the Common Customs Law. Each Member State shall determine the payment procedures.

2. The procedures and mechanism of import and export specified in the Common Customs Law shall apply to all import and export transactions of Excise Goods, in such a manner as not to conflict with the provisions of this Agreement.

Article (12)

Licensing

The Tax Administration may license any person to allocate a Tax Warehouse in accordance with the rules and conditions specified by the Member State.

Article (13)

Registration

For tax purposes, any person designated by the Tax Administration as a Person Obligated to Pay Tax shall be required to register in accordance with the provisions of Article (7) of this Agreement.

Article (14)

The Making and Keeping of Records and Books of Account

1. Persons Obligated to Pay Tax are required to keep regular and independent accounting books and records to record the movement of Excise Goods, as well as supporting

documents, and to maintain them in an organized and logical manner, making it possible for the Tax Authority to monitor the accuracy of tax calculation and payment.

2. Accounting books and records and supporting documents shall be retained for a period of five years from the end of the fiscal year during which that operation took place, unless they are required to be retained for a longer period under any of the laws in force in each Member State.

Article (15)

Tax Returns

1. A person required to register shall file tax returns. Each Member State shall determine its own tax period or periods, provided that no period shall be less than one month and or more than one year.
2. Each Member State is entitled to except importers from filing tax returns.

Article (16)

Payment of Tax

Subject to the provisions of Articles (14) and (15) of this Agreement, a person required to file tax returns shall pay the Due Tax for each month of the Gregorian year within 15 days from the end of the month.

Article (17)

Control and Inspection

Each Member State shall determine the measures necessary for monitoring the correctness of the application of tax.

Article (18)

Special Marks/Stamps on Excise Goods

The Ministerial Committee shall determine the Excise Goods upon which special marks/stamps shall be placed, and the rules necessary for that purpose in the GCC Territory.

Chapter 7

Exchange of Information and Cooperation among States

Article (19)

Information Exchange

1. Tax Administrations in Member States shall exchange information relevant to the implementation of the provisions of this Agreement, or to the administration or implementation of Local Laws related to Excise Tax.
2. Subject to the provisions of international agreements to which a Member State is party, information obtained by the Tax Administration shall be treated as confidential information in the same manner as information obtained under the Local Laws of that Administration. Such information shall be disclosed only to persons or entities (including courts and administrative bodies) concerned with the recording, collection or enforcing of Excise Tax, or with filing lawsuits pertaining thereto or determining the related appeal or supervision of the foregoing. It is not permissible for such persons or entities to use the information for any purposes other than the above-mentioned purposes, and they may disclose such information in judicial proceedings in the public courts or in judicial rulings. Regardless of the foregoing, information obtained by the Tax Administration may be used for other purposes when the laws of both states permit their use for such other purposes, and the Tax Administration in the State that provides the information permits such use.
3. The provisions of paragraphs (1) and (2) of this article may not, under any circumstances, be interpreted in a manner that results in any Member State being obliged to:
 - a) Implement administrative measures contrary to the regulations and administrative practices in that State or in another Member State.
 - b) Provide information, which is not obtainable under normal administrative regulations or directives in that State or in another Member State.
 - c) Provide information that would lead to the disclosure of any secret relating to trade, business or industry, or commercial or professional secrets, or trade processes or information the disclosure of which would violate public policy (public order).
4. If a Member State requests information under this Article, the other Member State shall employ its own procedures for collecting the required information, notwithstanding that the other State may not need this information for its own taxation purposes. The obligation set forth in the preceding sentence shall be subject to the restrictions contained in paragraph (3), but in no case may these restrictions be interpreted as permitting a Member State to decline to provide information on the sole ground that it has no local interest in it.
5. Under no circumstances shall the provisions of paragraph (3) be interpreted as allowing a Contracting State to decline to provide information on the sole ground that the information in question is held by a bank or any other financial institution or an authorized person, or a person acting as a proxy or in a trustee capacity or on the grounds that the information is linked to interests pertaining to ownership by any person.

Article (20)

Electronic Service Systems

1. Each Member State shall create an electronic services system for the purposes of complying with requirements related to Tax. The GCC Secretary General shall take the necessary measures to establish a tax information center, and to operate a central website or electronic system to follow up the information related to Intra-GCC Supplies and exchange of information between the concerned Tax Authorities in the Member States; provided that the website or electronic system of the tax information center must include the following information at least:

- a) The Tax Identification Number for each of the Supplier and the Customer;
- b) Number and date of the Tax Invoice;
- c) Description of the transaction;
- d) Consideration for the transaction.

2. If the information registered by each of the Supplier and the Customer matches, each of them shall be given a confirmation number that must be retained for Tax audits performed by the concerned Tax Administration and to ascertain that this information matches what is included on Tax returns and other relevant information provided pursuant to this Agreement.

3. The system must be reliable and secure and shall not allow the Supplier or the Customer access to any information other than that to which they are permitted to access.

4. The concerned Tax Administration in each Member State shall have a right of access to the information related to Intra-GCC Supplies.

5. The System shall allow the tracking of evidence of the transportation of the goods to the country of Final Destination.

Article (21)

Cooperation among Member States

1. Member States may, pursuant to a proposal from the Secretary General of the Gulf Cooperation Council to the Ministerial Committee, take the necessary measures related to administrative cooperation among them, in particular in the following areas:

- a) Exchange of information needed to determine Tax accuracy based on the request of each Member State;
- b) Agreeing to simultaneous auditing procedures and participating in audits performed by any Member State pursuant to the approval of the concerned State.
- c) Assisting in collection of Tax and taking the necessary measures related to collection.

2. Subject to the provisions of any international treaties in which a Member State is a party, a Member State shall obligate its employees not to disclose or use information they receive in the course of their work from another Member State for any other purposes not related to the execution of their duties. Each Member State may determine penalties that apply in the event of violation.

Chapter 8
Penalties and Tax Evasion

Article (22)

Penalties

Each Member State shall impose administrative penalties for violations of its Local Laws.

Article (23)

Tax Evasion

1. For the purposes of the provisions of this article, tax evasion means the following:
 - a) Bringing or attempting to bring Excise Goods into a Member State, removing, or attempting to remove them therefrom in violation of the laws in force in that State without payment of Due Tax thereon in part or in whole, or in a manner contrary to the prohibition or restriction provisions contained in the applicable laws of the Member State.
 - b) The production, processing, possession, storage, transport or receipt of Excise Goods on which the Due Tax has not been paid, in violation of the provisions of this Agreement and Local Laws with intent to avoid the payment of the Due Tax, or to circumvent the prohibition or restriction provisions contained in the applicable laws of the Member State.
 - c) Submitting incorrect, falsified or fabricated documents, returns or records, or placing false marks/stamps with intent to evade the payment of Due Tax or to receive refunds without claim of right.
2. Each Member State may determine other cases of tax evasion.
3. Each Member State shall determine the penalties for tax evasion.

Article (24)

Objections and Appeals

Each Member State shall determine the conditions and rules for objecting to the concerned Tax Administration's decisions, including the right of recourse to the competent local courts in each Member State.

Chapter 9

Closing Provisions

Article (25)

Executive Rules and Conditions

The Ministerial Committee shall have jurisdiction to lay down the necessary rules and conditions for the implementation and interpretation of this Agreement.

Article (26)

Schedules

Any schedules agreed upon pursuant to this Agreement shall be considered as an integral part of this Agreement.

Article (27)

Dispute Resolution

Member States shall strive to amicably resolve any disputes that may arise amongst them pertaining to this Agreement, and they may by agreement, if a settlement as aforesaid is not possible, refer the dispute to arbitration in accordance with rules of arbitration to be agreed.

Article (28)

Amendments

This Agreement may be amended upon the approval of all Member States and upon the proposal of any of them, and the coming into force of such amendments shall be subject to the same procedures provided for in Article (29) of this Agreement.

Article (29)

Coming into Force

This Agreement shall be adopted by the GCC Supreme Council and shall be ratified by Member States in accordance with their constitutional procedures.

1. This Agreement shall be treated as coming into force from the deposit of the ratification document by the second Member State at the General Secretariat of the GCC.
2. Each Member State shall take the necessary internal procedures to issue a Local Law to implement the provisions of this Agreement, including setting the policies and procedures necessary for the implementation of the Tax in a manner consistent with the provisions of this Agreement.
3. Each Member State that has not implemented its Local Law shall remain outside the scope of implementation of this Agreement until such Local Law becomes effective.

This agreement is executed in Arabic on 27/2/1438 Hijri, corresponding to 27/11/2016, in one original copy deposited at the General Secretariat of the GCC, and one copy of the original shall be delivered to each of the Member States that are party to this Agreement.

The United Arab Emirates

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The Kingdom of Bahrain

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The Kingdom of Saudi Arabia

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The Sultanate of Oman

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The State of Qatar

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The State of Kuwait

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Unofficial Translation