VAT brief | Telecommunications, media and technology (TMT)

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keypoint

Saudi Arabia and the UAE implemented VAT on 1 January 2018. Bahrain has confirmed implementation on 1 January 2019, with the other GCC countries expected to follow over the next 12 months. Business leaders should now be more aware than ever that we have entered a new tax era. Key decision makers in the UAE, Saudi Arabia and Bahrain need to ensure their processes and systems are - and remain - VAT-compliant, while their counterparts in the other GCC states need to start preparing now for the implementation of VAT.

What is VAT?

- VAT is a tax on consumption.
- The GCC countries have agreed a standard VAT rate of five percent.
- The supply of goods and services can be exempt, zero-rated or standard-rated (five percent), or out of scope.
- The mandatory registration threshold is the equivalent of US$100,000 - as set out in the GCC VAT treaty. The voluntary registration threshold is the equivalent of US$50,000.
- Registered businesses account for VAT on the price charged for the goods or services they supply and pay it to the tax authority on a regular basis.
- Registered businesses should (where the supplies they make are either standard- or zero-rated or out of scope with recovery) be able to recover the VAT they have incurred in the course of making those supplies.
- Registered businesses that make supplies that are exempt from VAT cannot recover the VAT they have incurred in the course of making those supplies.
- Registered businesses may not be able to recover the VAT they have incurred on certain purchases that are deemed to have a private element.
- Registered businesses that make supplies that are predominantly zero-rated are likely to be in a VAT refund position.
- Businesses that make both exempt and taxable supplies can only recover a proportion of their input VAT.

How does VAT affect the TMT sector?

- The GCC VAT treaty and the Saudi, Emirati and Bahraini VAT laws contain “use and enjoyment” rules for wired and wireless telecommunications services, as well as electronically supplied services, which impacts the place of supply for the telecommunications, media and technology (TMT) sector.
- In essence, the “use and enjoyment” VAT rules affect businesses providing specified services across borders, with the place of supply determined by where the services are consumed or ‘enjoyed’. This means telecommunication and other electronically supplied services are subject to VAT in the country where the actual use occurs.
- This could require TMT businesses to carefully monitor movements of their customers and register for VAT in more than one GCC state, even where they do not have a presence or establishment in that other GCC state.
- For TMT providers, establishing whether their GCC customers are VAT-registered is critical to determining whether they have an obligation to be registered in that GCC state, as VAT-registered customers must self-account for VAT, instead of requiring the supplier to register and account for VAT on the services.

- The timing of accounting for VAT – and its effect on cash flow – could pose a significant issue. Typically, VAT is accounted for at the earlier of the supply being made or the payment invoice date – so VAT may be payable to the tax authority a long time before payments are collected from customers.

What should TMT service providers be doing now?

- Carefully consider the place of supply of services and introduce robust processes to track use and enjoyment of those services overseas.
- Establish whether they have to register in other GCC member states. There is no mandatory registration threshold for businesses located outside of the GCC, meaning any non-GCC resident business making supplies for which it is required to account for VAT automatically triggers a registration liability.
- Review long-term contracts that span VAT's introduction to determine whether the supplier has the contractual right to charge the VAT amount on top of the contract price or to apply any concessionary transitional provisions.

Contact us:

Mubeen Khadir
Head of Tax
mubeen.khadir@keypoint.com
+973 17206879
+973 32226811

George Campbell
Associate Director
george.campbell@keypoint.com
+973 17206872
+973 38338641

Chris Park
Senior Manager
chris.park@keypoint.com
+973 17206845
+973 38338634

Omar Hisham
Manager
omar.hisham@keypoint.com
+973 17206877
+973 38338640

Willem Bam
Manager
willem.bam@keypoint.com
+973 17206875
+973 38338649