



keypoint

The GCC Excise Tax Treaty

The members of the Cooperation Council for the Arab Gulf States (GCC), namely:

the United Arab Emirates,
Kingdom of Bahrain,
Kingdom of Saudi Arabia,
Sultanate of Oman,
State of Qatar, and
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;

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 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 GCC Excise Tax Treaty and ratify it;

have agreed to the following:

Chapter 1: General Provisions

Article (1): Definitions

In the implementation of the provisions of this Agreement, the following terms shall bear the meanings set forth against each of them, unless otherwise implied in the context:

Council/GCC: Cooperation Council for the Arab States of the Gulf.

Agreement: The GCC Excise Tax Treaty.

Tax: The Excise Tax for the GCC.

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

GCC Territory: All territories of the GCC Member States.

The Ministerial Committee: The GCC Financial and Economic Cooperation Committee. **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. **Unified Customs System (Law):** The Unified Customs Law for the GCC States.

Tax Authority: The competent State or government entity mandated to administer, collect, and apply 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 according to the provisions of GCC Unified Customs Law.

Tax Suspension Situation: A situation in which the payment of tax on Locally Produced 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, transfer, acquire, store or receive Locally Produced or Imported Excise Goods under a Suspended Tax Situation.

Licensee: A person authorized, by the Tax Authority to produce goods or transfer, acquire, store, transport or receive Locally Produced or Imported Excise Goods in a Tax Warehouse in the context of his business.

Due Tax: Accrued tax amount due on Excise Goods to be paid to the Tax Authority.

The Taxpayer: The person responsible in accordance with the provisions of this Agreement for calculating, declaring and paying the Tax due on his account.

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 stated in the Unified Customs Law and its regulations.

Importer: A person who imports Excise Goods.

Article 2: Applicability of the Agreement

Without prejudice to any effective legislations 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: Tax Impose

Article 3: Excise Goods and Tax Rate

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

Article 4: Tax Maturity

1. Without prejudice to the provisions of Article (5) of this Agreement, the tax matures (becomes due) on the date of release of Excise Goods for consumption.
2. Excise Goods are deemed released for consumption in the following cases:
 - a. Excise Goods produced outside a Tax Suspension Situation.

- b. Excise goods released from a Tax Suspension Situation.
- c. Excise Goods, with unpaid due taxes, acquired outside of any Tax Suspension Situation.
- d. Import of Excise Goods unless it is in a Tax Suspension Situation.
- e. If Excise Goods were lost or damaged while in a Tax Suspension Situation in one state, and the Licensee did not provide proof that such loss or damage resulted from reasons beyond his control in accordance with the conditions and procedures set by the Member State where the goods in question were lost or damaged.

Article 5: Tax Suspension

1. Tax on Excise Goods shall be suspended in either of the following two cases:
 - a. Production of Excise Goods or the transfer, acquisition, storage or receipt of Locally Produced Excise Goods by a Licensee.
 - b. Transport of Excise Goods under Tax Suspension Situation in any of the following cases:
 - i. From one Tax Warehouse to another Tax Warehouse in the same Member State.
 - ii. From a Tax Warehouse to another Tax Warehouse in another Member State.
 - iii. From a Tax Warehouse to the goods exit point from the GCC Territory for export or re-export, according to the provisions of Unified Customs System (Law).
 - iv. While importing to a Tax Warehouse in a Member State.
2. The Ministerial Committee shall determine the rules of 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. An Excise Tax shall be imposed on tobacco as per the Supreme Council's decision in its 36th session, or any if its subsequent decisions in this regard.
2. Excise Taxes shall be imposed on the remaining Excise Goods based on their retail sale price, provided the retail sale price is that which is set by the importer or producer of these Excise Goods or in accordance with a standard price list to be periodically agreed upon by the GCC Tax Authorities, whichever is highest.

Chapter 3: Payment of Taxes

Article 7: The Taxpayer

1. The person required to pay taxes –Taxpayer - is:
2. The person who produces Excise Goods outside a Suspended Tax Situation.
3. A person who acquires Excise Goods with unpaid accrued taxes outside the Suspended Tax Situation as determined by the Tax Authority.
4. The Licensee when the Excise Goods are released from the Suspended Tax Situation.
5. The Licensee when Excise Goods are released for consumption due to loss or damage in a Suspended Tax Situation according to the provisions of paragraph (2-E) of Article (4) of this Agreement.
6. The importer of Excise Goods.
7. The Licensee when transferring Excise Goods in breach of the terms of Suspension set forth in Article (5) of this Agreement.
8. Any other person that releases Excise Goods for consumption.

Article 8: Place of Taxation 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 Unified Customs Law.
2. The Tax shall be imposed on Locally Produced Excise Goods in the Member State where they are released for consumption as defined in Article (4) of the Agreement.
3. The Tax shall be imposed on imported Excise Goods imported at the First Point of Entry of these 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 then was later transferred to another Member State, the Tax is imposed 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, Tax paid on Excise Goods released for consumption in a Member State may be refunded in case these goods being exported or re-exported for business purposes outside the GCC Territory.
2. Tax paid on Excise Goods may be recovered if these goods are used in the production of other taxable Excise Goods.
3. For the purpose of paragraph 4 of article 8, an application can be made to the Tax Authority in the first destination Member State for the refund of paid Excise Tax.
4. The Ministerial Committee will determine additional cases for tax refund if the Excise Goods were not consumed in the Member State.
5. The Member State will determine the rules and regulation for tax refunds.

Chapter 5: Exemptions

Article 10

1. On the condition of reciprocity, diplomatic and consular bodies, international organizations and heads and members of diplomatic and consular corps accredited by any Member State may be exempted from Excise Tax.
2. Excise Goods carried by travelers entering any Member State may be exempted from Tax, provided these goods meet the terms and conditions specified in the Unified Customs Law.

Chapter 6: Compliance Requirements

Article 11: Compliance at Import and Export

1. The importer shall be required to declare any tax amounts that are due upon import in accordance with the Unified Customs Law. Each Member State shall, at its discretion, determine tax payment procedures.
2. The procedures and mechanism of import and export specified in the Unified Customs Law shall apply to all Excise Goods import and export transactions, in a way that doesn't conflict with the provisions of this Agreement.

Article 12: Authorisation

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

Article 13: Registration

Any person designated by the Tax Authority as a Taxpayer shall be required to register for tax purposes in accordance with the provisions of Article (7) of this Agreement.

Article 14: Records and Book Keeping

1. Taxpayers are required to keep regular and independent accounting books and records to record the movement of Excise Goods, as well as supporting documents, and save them in an organized and logical system, 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 (5) years from the end of the fiscal year during which the last entry into the records or books was made, unless they are required to be retained for a longer period under any of the valid legislations 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 return period or periods provided they are no less than one month and no more than one year.
2. Each Member State is entitled to allow exceptions for importers from filing tax returns.

Article 16: Payment of Tax

Without prejudice to the provisions of articles 14 and 15 of this Agreement, a person required to file tax returns shall pay the full amount of taxes due for each month of the calendar year within a period of (15) fifteen days from the end of the month.

Article 17: Control and Inspection

Each Member State determines the necessary measures for monitoring tax application.

Article 18: Labelling Excise Goods

The Ministerial Committee shall determine the Excise Goods that shall be labelled, and the necessary related rules in the GCC Territory.

Chapter 7: Information Exchange and Cooperations among Member States

Article 19: Information Exchange

1. Tax Authorities 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 on Excise Tax.
2. Without prejudice to the provisions of international agreements which a Member State may be party to, information obtained by the Tax Authority shall be treated as confidential information in the same manner as information obtained under the Local Laws of that Authority. Such information shall only be disclosed to persons or authorities (including courts and administrative bodies) concerned with withholding, collection or implementation of Excise Tax, or those concerned with filing lawsuits pertaining to Excise Tax or selecting the related appeal or supervision of the foregoing. It is not permissible for such persons or authorities to use the information for any purposes other than the abovementioned purposes, and they may reveal such information in judicial proceedings in the courts or in judicial rulings. Regardless of the aforementioned, information obtained by the Tax Authority may be used for other purposes when the laws of both states permit their use for such other purposes, and the Tax Authority in the State that provides the information permits such usage thereof.
3. The provisions of paragraphs (1) and (2) of this article may not, under any circumstances, be interpreted in a manner that obligates any Member State to:
 - a. Implement administrative measures that conflict with the regulations and administrative practices in that State or in another Member State.

- b. Provide information which is not obtainable under normal administrative rules or regulations in that State or in another Member State.
 - c. Provide information that would lead to the disclosure of any trade, business, industrial, 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 resort to its own procedures for collecting the required information, even if the other State doesn't need this information for its own taxation purposes. The commitment set forth in the preceding sentence shall be subject to the restrictions contained in paragraph (3), but, in no case should these restrictions be interpreted as stating that a Member State is entitled to decline to provide information solely because it has no 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 pretext that the information in question is held by a bank or any other financial institution or an authorized person, proxy or trustee or because the information is linked to the interests pertaining to proprietary interest in a 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, operate a central website or electronic system to follow up the information related to Intra Supplies and exchange this information with the concerned Tax Authorities in the Member States; provided the website or electronic system of the tax information center must include the following information at least:
 - a. The TIN for the Supplier and the Customer;
 - b. Number and date of the Tax Invoice;
 - c. Description of the transaction;
 - d. Consideration of the transaction.
2. If the information registered by 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 Authority and to confirm that this information matches what is included on Tax returns and other relevant information provided pursuant to this Agreement.
3. The system must be safe and secure and does not allow the Supplier or the Customer access to any information other than what they are allowed access to.
4. The concerned Tax Authority in each Member State shall have access to the information related to Intra Supplies.
5. The System allows the tracking of goods transfer evidence to the Final Destination Point of Entry.

Article 21: Cooperation among Member States

1. Member States, pursuant to a proposal from the Secretary General of the Gulf Cooperation Council to the Ministerial Committee, may take the necessary measures related to administrative cooperation among them, especially in the following areas:
 - a. Sharing information needed to determine Tax accuracy based on the request of each Member State;
 - b. Agreeing to synchronized auditing procedures and participating in audits performed by any Member State pursuant to the approval of the concerned Member State.
 - c. Acquiring help in collecting Tax and taking the necessary procedures related to collection.

2. Taking into consideration the provisions of any international treaties in which that Member State is a party, each Member State shall obligate the employees of the concerned Tax Authority not to disclose or use information they receive as part of their duties from another Member State in any other purposes not related to their duties. Each Member State shall 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 to or from a Member State in a way that violates the laws in force in that State without payment of Due Tax in part or in full, or in a way that violates the prohibition or restriction provisions contained in the applicable laws of the Member State.
 - b. The production, transfer, acquisition, storage, transport or receipt of Excise Goods with unpaid Due Tax in a way that violates the provisions of this Agreement and Local Laws with the 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, fraudulent or fabricated documents, returns or records, or placing false labels with the intent of evading the payment of Due Tax or of receiving unlawful refunds.
2. Each Member State may determine other cases of tax evasion.
3. Each Member State shall determine at its discretion sanctions for tax evasion.

Article 24: Appeals

Each Member State shall determine the terms and limitations for appealing the concerned tax authority's decisions, including the right to resort to the concerned local courts in each Member State.

Chapter 9: Final Provisions

Article 25: Executive Rules and Conditions

The Ministerial Committee shall be the competent body entrusted with setting forth the necessary rules and conditions to ensure the implementation and interpretation of the present Agreement.

Article 26: Supplements

Any other supplements 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 the present Agreement. However, should amicable settlement prove difficult, Member States shall refer to arbitration as per arbitration regulations to be agreed.

Article 28: Amendments

The present Agreement may be amended upon the approval of all Member States and upon the proposal of any of them, and the execution of such amendments shall be subject to the procedures stipulated in Article (29) of this Agreement.

Article 29: Validity

The GCC Supreme Council shall adopt this Agreement which shall then be ratified by Member States in accordance with their constitutional procedures.

1. This Agreement shall become effective as of the deposit of the ratification document by the second Member State at the GCC General Secretariat.
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 taxation in a manner that does not violate the provisions of this Agreement.
3. A 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.

The present agreement is executed in Arabic in Riyadh onH1438, corresponding to /.../.. 2016 in one original copy deposited at the GCC General Secretariat, and one conformed copy thereof 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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Sultanate of Oman
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State of Qatar
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State of Kuwait
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