



Telecommunications Guideline

VERSION 1

Latest document
update **JULY 2020**



SCAN THIS CODE TO CHECK THE LATEST
UPDATE FOR THIS DOCUMENT AND ALL
PUBLISHED DOCUMENTS.

Change of VAT rate to 15% as of July 1, 2020

Upon the introduction of VAT in January 2018, the KSA applied a basic VAT rate of 5% to Taxable Supplies and Imports made in the Kingdom. The basic VAT rate was revised to 15% with effect from 1 July 2020 (the “Revised VAT Rate”).

Transitional rules have been introduced to clarify the VAT rate to be applied to long-term contracts for continuous supplies which span 1 July 2020, and for certain supplies where invoices are issued or contracts are concluded prior to 11 May 2020. These rules, and further detail surrounding the change to the VAT rate -including guidance in respect of specific types of supply- are detailed in a separate guideline on the Revised VAT Rate.

This Guideline was originally issued before the VAT rate was revised to 15%, and its content is based on the 5% rate in force at the time of its issue. Any references to the 5% VAT rate in this Guideline should be interpreted as 15% where applied to any Supplies or Imports made on or after 1 July 2020 and in accordance with the transitional rules. Monetary examples or calculations in this Guideline which include a 5% VAT rate should also be interpreted as if the 15% rate applied for all Supplies or Imports made on or after 1 July 2020 and in accordance with the transitional rules.

1. Introduction	3
1.1. Implementing a Value Added Tax (“VAT”) system in the Kingdom of Saudi Arabia (“KSA”)	3
1.2. General Authority of Zakat & Tax (“GAZT”)	3
1.3. What is Value Added Tax?	3
1.4. This Guideline	4
2. Definitions of the main terms used	5
3. Economic Activity and Registration	7
3.1. Who carries out an Economic Activity?	7
3.2. Mandatory registration	7
3.3. Optional VAT registration	8
4. Supplies in the Telecommunications sector	9
4.1. Supplies of Goods	9
4.2. Supplies of Telecommunications Services	9
5. Goods and Services sold in combination	12
5.1. Single or multiple supplies	12
5.2. Allocation of Consideration to individual supplies	13
5.3. Special case: direct carrier billing	14
6. Place of supply of telecommunications and electronic services	17
6.1. Services provided in a specific location	17
6.2. Services not provided in a specific location	18
6.3. Determining Place of Residence	18
6.4. Roaming	19
6.5. Data Centre Services	20
7. Place of Supply of Other Services	21
7.1. Place of supply	21
7.1.1. Basic rule	21
7.1.2. Place of Supply after full implementation of VAT for intra-GCC trade	21
7.2. Zero-rating of services provided to non-GCC residents	22
8. Vouchers	25
8.1. What is a “qualifying” Voucher?	25
8.2. Face Value Vouchers	25
8.3. Issue of a Voucher	25
8.4. Supply of a Voucher	25

8.5. Redemption of a Voucher for goods or services	25
8.6. Treatment of “non-qualifying” Vouchers	26
9. Promotions	28
9.1. Nominal Supplies – legal background	28
9.2. Free goods or services provided as part of another supply	29
9.3. Goods or services supplied independently for no Consideration	30
9.4. Loyalty programmes	31
10. Date of supply	32
10.1. Basic rule	32
10.2. Continuous supplies	32
11. Import of Goods	34
11.1. Collection of VAT on import	34
11.2. Customs duty suspension and temporary admission	34
11.3. Imports of goods for installation	35
12. Deduction of Input VAT	36
12.1. Resident suppliers	36
12.2. Proportional deduction relating to Input VAT	36
12.3. Non-resident suppliers	37
13. VAT obligations of the Taxable Person	38
13.1. Issuing tax invoices	38
13.2. Filing VAT Returns	38
13.3. Keeping records	39
13.4. Certificate of registration within the VAT system	39
13.5. Correcting past errors	39
14. Penalties	40
15. Applying for the issue of rulings (interpretative decisions)	41
16. Contacting us	41
Common Questions and Answers	42

1. Introduction

1.1 Implementing a Value Added Tax ("VAT") system in the Kingdom of Saudi Arabia ("KSA")

The Unified VAT Agreement for the Cooperation Council for the Unified Arab States of the Gulf (the "Unified VAT Agreement") was approved by KSA by a Royal Decree No. M/51, dated 3/5/1438 H. Pursuant to the provisions of the Unified VAT Agreement, the KSA issued the VAT Law under Royal Decree No. M/113 dated 2/11/1438 H ("the VAT Law") and its corresponding Implementing Regulations were subsequently issued by the Board of Directors of the General Authority of Zakat and Tax ("GAZT") by Resolution No. 3839 dated 14/12/1438 H ("the Implementing Regulations").

1.2. General Authority of Zakat & Tax ("GAZT")

GAZT, also referred to as "the Authority" herein, is the authority in charge of the implementation and administration of VAT (which may be referred to hereinafter as "the tax") in KSA. In addition to the registration and deregistration of Taxable Persons for VAT, the administration of VAT return filing and VAT refunds, and undertaking audits and field visits, GAZT also has the power to levy penalties for non-compliance with legal provisions relating to VAT.

1.3. What is Value Added Tax?

VAT is an indirect tax, which is imposed on the importation and supply of goods and services throughout the supply chain, with certain limited exceptions. VAT is imposed in more than 160 countries around the world.

VAT is a tax on consumption that is paid and collected at every stage of the supply chain, starting from when a manufacturer purchases raw materials until a retailer sells the end-product to a consumer. Unlike other taxes, persons registered for VAT will both:

- Collect VAT from their Customers equal to a specified percentage of each eligible sale; and
- Pay VAT to their suppliers equal to a specified percentage of each eligible purchase.

When Taxable Persons sell a good or provide a service, a 5% VAT charge – assuming a standard case – is assessed and added to the sales price. The Taxable Persons will account for that 5% that they have collected from all eligible sales separately from its revenue in order to later remit a portion of it to the Authority. The VAT Taxable Persons collect on their sales is called Output VAT.

That same will apply to purchase transactions, in that VAT will be added at the rate of 5% to purchases of goods or services from other Taxable Persons (on the assumption that the basic rate applies to those supplies). The VAT a business pays to its suppliers is called Input VAT.

Further general information about VAT can be found in the KSA VAT Manual or at vat.gov.sa

1.4. This Guideline

This guideline is addressed to all natural persons and legal persons who carry on an economic activity and who will be required to register for VAT. The purpose of this guideline is to provide further clarification to Taxpayers regarding the VAT implications of activities carried out by Taxable Persons in the telecommunications sector.

This guideline represents GAZT's views on the application and fair treatment of the Unified VAT Agreement, the VAT Law and the Implementing Regulations to the sector as of the date of this guideline. This guide amounts to a guideline, and does not include, or purport to include, all the relevant provisions in relation to the sector from those laws. It is not binding on the Authority, nor on any Taxpayer, in respect of any transaction carried out and it cannot be relied upon in any way.

For further advice on specific transactions you may apply for a ruling, or visit the official VAT website at (vat.gov.sa), which contains a wide range of tools and information that has been established as a reference to support persons subject to VAT, as well as visual guidance materials, all relevant information, and FAQs.

2. Definitions of key terms

Wired and wireless telecommunications services and electronic services is a defined term (as an overall concept) for VAT purposes. The Implementing Regulations set out a non-exhaustive list of services, which fall into this category:

“Wired and wireless telecommunications services and electronic services include, but are not limited to:

- a) any service relating to the transmission, emission or reception of signals, writing, images and sounds or information of any nature by wire, radio, optical or other electromagnetic systems,
- b) the transfer or assignment of the right to use capacity for such transmission, emission or reception,
- c) the provision of access to global information networks,
- d) the provision of audio and audio-visual content for listening or viewing by the general public on the basis of a program schedule by a person that has editorial responsibility,
- e) live streaming via the internet,
- f) Supplies of images or text provided electronically, such as photos, screensavers, electronic books and other digitised documents or files,
- g) Supplies of music, films and games, and of programs on demand,
- h) online magazines,
- i) website Supply or web hosting services,
- j) distance maintenance of programs and equipment,
- k) Supplies of software and software updates,
- l) advertising space on a website and any rights associated with such advertising.”⁽¹⁾

The individual components “telecommunications services” or “electronic services” are not separately defined terms for VAT purposes, nor are the individual items in the above list. However, further interpretation and examples are set out in section 4 of this guideline.

Place of Supply is a concept defined in the Unified VAT Agreement for different categories of supplies of goods or services⁽²⁾, with additional domestic interpretation provided for the KSA in some cases by the Implementing Regulations⁽³⁾. It is used in this guide to refer to the jurisdiction in which the supply takes place, and in which the tax is due to be accounted for.

Customer is defined as “A Person who receives Goods or Services⁽⁴⁾”.

Consumption and Enjoyment of Services is a term used in the Implementing Regulations to determine the place where a Customer receives and makes actual use of a supply of services provided to him. The place of Consumption and Enjoyment Different style dashes is used, please make similar is determined by specific rules discussed in section 6 in this guideline.

(1) Article 24, Wired and wireless telecommunications and electronic services, Implementing Regulations

(2) Chapter 3, Articles 10-21, Place of Supply, Unified VAT Agreement

(3) Chapter 4, Articles 21-28, Place of Supply, Implementing Regulations

(4) Article 1, Definitions, Unified VAT Agreement

A person **Resident** in the KSA for VAT purposes means a person (natural or corporate) who has a place of residence⁽⁵⁾ in the KSA for VAT purposes, whereas a **non-Resident** is a person with no such place of residence in the KSA.

A **Voucher** is a defined term for VAT purposes. It is “an instrument where there is an obligation to accept it as Consideration or part Consideration for a Supply of Goods or services, and where the nature of the Goods or services to be supplied or the identity of the Supplier is indicated on the Voucher or in related documentation⁽⁶⁾”. Vouchers are discussed in further detail in section 8 of this guideline.

A **Face Value Voucher** is defined as “a Voucher which is issued with a specific monetary redemption value indicated on the Voucher or in related documentation.”⁽⁷⁾

A **non-qualifying Voucher** is not a defined term for VAT purposes. It is used within this guideline to describe any document, instrument or offer which is commercially described as a “Voucher” but does not constitute a Voucher under the definition above.

(5) The terms Resident and Place of Residence defined by Article 1, Definitions, Unified VAT Agreement

(6) Article 19(3), Issue or Supply of a Voucher, Implementing Regulations

(7) Article 19(4), Issue or Supply of a Voucher, Implementing Regulations

3. Economic Activity and Registration

3.1. Who carries out an Economic Activity?

An Economic Activity may be carried out by natural persons or legal persons.

It will be presumed that a legal person that has a regular activity making supplies carries on an Economic Activity.

Natural persons may perform certain transactions as part of their economic activity, or as part of their private activities. There are therefore specific rules to determine whether or not a natural person falls within the scope of VAT. Please refer to the Economic Activity guideline for further details.

Natural persons and legal persons who carry on an economic activity must register for the purposes of VAT if so required, and such persons must collect the VAT applicable to their activities, and pay the tax collected to the Authority.

3.2. Mandatory registration

Registration is mandatory for all Resident persons whose annual turnover exceeds a certain threshold. If the total Value of a Resident person's taxable supplies during any 12 months exceeds SAR 375,000, (the "mandatory VAT registration threshold"), that person must register for VAT⁽⁸⁾ on the supplies made, subject to the transitional provisions provided for in the Implementing Regulations.

Taxable supplies do not include:

- Exempt supplies – such as exempt financial services or residential rental which qualifies for VAT exemption;
- Supplies taking place outside the scope of VAT; or
- Revenues on sales of capital assets – a capital asset is defined as an asset allocated for long-term business use⁽⁹⁾.

In certain circumstances, other tests will apply for mandatory registration:

- Persons who are not resident in the Kingdom of Saudi Arabia are required to pay the VAT in respect of supplies made or received by them in the Kingdom of Saudi Arabia and to register for VAT irrespective of the Value of the supplies for which they are obliged to collect and pay the VAT⁽¹⁰⁾.
- During a transitional period up to 1 January 2019, businesses will only be required to register where annual turnover exceeds SAR 1,000,000, and an application for registration must be submitted no later than 20 December 2017⁽¹¹⁾. Starting from 2019, the mandatory registration shall be required when annual turnover exceeds SAR 375,000 as required in the Unified VAT Agreement. For persons whose annual turnover will exceed SAR 375,000 during the 2019 calendar year, an application for registration must be submitted no later than 20 December 2018.

More information on mandatory registration for VAT is contained at vat.gov.sa

(8) Article 3, Mandatory registration - Supplies exceed the Mandatory Registration Threshold, Implementing Regulations

(9) Article 1, Definitions, Unified VAT Agreement.

(10) Article 5(1), Mandatory registration of Non-Residents obligated to pay Tax in the Kingdom, Implementing Regulations.

(11) Article 79 (9), Transitional provisions, Implementing Regulations

3.3. Optional VAT registration

Any Resident person in the Kingdom of Saudi Arabia who has taxable supplies or taxable expenses exceeding the “Optional VAT registration threshold” of SAR 187,500 in a twelve-month period may register for VAT on a voluntary basis⁽¹²⁾.

Optional VAT registration may be desirable where a business wishes to claim VAT charged to it on their costs before invoices are raised.

More information on voluntary registration for VAT is contained at vat.gov.sa

(12) Article 7, Voluntary Registration, Implementing Regulations

4. Supplies in the Telecommunications sector

VAT may affect the telecommunication industry both in respect of supplies of tangible goods such as hardware, and in respect of supplies of telecommunication and other services.

4.1. Supplies of Goods

In general, VAT will be applied to supplies of Goods within the sector in line with standard VAT principles. For domestic supplies of Goods supplied within the KSA, the General Guideline provides a summary of these standard principles. For international supplies of Goods (those involving the movement of goods to or from the KSA), section 11 of this guideline provides an outline of the VAT consequences of importing goods, and the Import and Export Guideline provides more detail on applying VAT to imports or exports.

4.2. Supplies of Telecommunications Services

Telecommunications services form part of a broader term used in the Implementing Regulations, being “wired and wireless telecommunications services and electronic services”. Telecommunication services and Electronic services are closely related, being services that involve the transmission of information to a recipient or recipients. The Implementing Regulations provide the following non-exhaustive list of services that fall within the definition of this term:⁽¹³⁾

- a) Any service relating to the transmission, emission or reception of signals, writing, images and sounds or information of any nature by wire, radio, optical or other electromagnetic systems.
- b) The transfer or assignment of the right to use capacity for such transmission, emission or reception.
- c) The provision of access to global information networks.

GAZT views that these categories include telecommunications services and electronic services, for example, a subscription to the use of a mobile or a “landline” or fixed network; the provision of access to a computer network and ancillary services, transmission of data, and of online storage and access to data. GAZT’s interpretation is that these categories are not narrowly interpreted to a specific technology, but are instead viewed broadly to give a similar treatment to electronic transmission and network services.

- d) The provision of audio and audio-visual content for listening or viewing by the general public on the basis of a program schedule by a person that has editorial responsibility.

Broadcasting of television or radio programmes would fall under category (d); provided that there is a program schedule as well as editorial responsibility. Watching films or TV series on demand is more likely to fall within category (g).

- e) Live streaming via the internet.

An example may be the live streaming of a sports match.

It should be noted that not all situations where there is live steaming involved are considered telecommunication or electronic services. Namely, an important characteristic of telecommunications and electronic services is the technological component. This means that in most cases the services are actually performed without human intervention.

As such, following an educational course streamed online where there is live interaction possible with a teacher involves human intervention as a material component of the underlying service, and does not fall into the live streaming category.

- f) Supplies of images or text provided electronically, such as photos, screensavers, electronic books and other digitised documents or files.

(13) Article 24, Wired and wireless telecommunications and electronic services, Implementing Regulations

Electronic books supplied online fall within this category. E-books on a physical carrier such as a flash drive are not considered supplies of services but rather supplies of goods;

g) Supplies of music, films and games, and of programs on demand.

h) Online magazines.

Supplies of online newspapers/magazines or newspapers/magazines that can be downloaded on e.g. a tablet are considered electronic services. Often these are supplied on a subscription basis whereas also combinations with hard copy versions of such newspapers/magazines may be possible. Section 5.1 of this guideline discusses the VAT treatment in cases where a combination of goods and services are supplied together.

i) Website Supply or web hosting services.

Including website hosting services (and website providers who provide a package of design and hosting services). Cloud computing services, involving provision of services through a network and over the Internet, are electronic services.

j) Distance maintenance of programs and equipment.

GAZT considers that 'distance maintenance' is that carried out online and automatically without human intervention.

k) Supplies of software and software updates.

Software supplied on a physical medium such as an USB drive or a CD-ROM would normally not fall within this category. Online downloads of word processing, anti-virus software, and similar programs would be expected to fall into this category.

l) Advertising space on a website and any rights associated with such advertising.

The list of included services mentioned above is a non-exhaustive list. This allows for new and similar services to fall within the definition, particularly those services which arise quickly due to the pace of technological development in the sector.

Telecommunications services traditionally relate more to means of transmission and receipt (of content) whereas Electronic services more relate to the content itself. The Implementing Regulations do however not separately define the two categories and these are mostly treated alike for VAT purposes⁽¹⁴⁾.

It is important to note that not all content-related services that are delivered through a telecommunications network or via the internet are qualified as electronic services. For example: electronic services do not include services provided over the telephone, such as help desk services rendered by call centres.

Example (1): Ahmed is a KSA resident who purchases a used mobile device and wishes to deactivate use of a device from the KSA mobile network. Ahmed is not a Customer of the mobile network and does not receive telecommunications services. However, Ahmed is required to phone the helpline of the KSA network provider for assistance. An employee of the telecommunications company provides live support. The telecommunications provider charges a fee of SAR 2 per minute for the call. This separate assistance fee is not in return for a telecommunication service.

Example (2) Abdullah Tax Consultancy provides tax advice to its Customer. The advice takes the form of a memo that is sent by email to the Customer. The advice sent to the Customer is not considered a telecommunications or electronic service, despite being delivered electronically.

5. Goods and Services sold in combination

(14) As an exception, specific rules apply to electronically supplied services supplied by a non-resident through an online portal or interface. Article 47, Persons liable to pay Tax, Implementing Regulations

A supply can involve multiple different goods or services being provided by the supplier to the Customer. In many cases, each good or service has an individual Value, and these are added together to calculate the total Value of the supply and the total Consideration payable.

However, there may also be situations where multiple elements (multiple goods, multiple services, or any combinations of goods and services) are sold for a single price. This section describes how VAT is applied in these situations.

5.1. Single or multiple supplies

The first step is to determine whether the goods and services rendered constitute a single supply or multiple supplies. This is particularly important where any element may not be subject to VAT at the 5% rate (e.g. in the case of zero-rated or exempt goods and services).

Multiple supplies will be recognized in situations where a **bundle of different and distinct** elements (goods or services) are offered, those elements each have a Value and can be enjoyed in their own right, and the Customer has the option to choose whether to purchase each element.

A **single supply** should be recognized from a VAT perspective in cases where:

- A supply consists of multiple components, but it is evident that one component is clearly dominant and the other component(s) is/are to be enjoyed as part of that dominant component and is/are considered ancillary to this principal supply.
- A single supply consists of multiple elements, however these components serve to create one finished product or package whose components could not or would not be supplied separately in usual commercial practice.

An important factor in determining whether a supply is a single supply or a multiple supply is the intention of the Customer and the supplier. Does the Customer intend to purchase one predominant good or service, or many individual components with independent Values? The result will be a matter of judgment based on an objective assessment of all the facts and circumstances.

In addition, where the separate elements of the supply can be purchased individually from various suppliers this can be an indication of multiple (separate) supplies, but is not decisive.

Standard commercial documents may be referred to in order to identify the intention of the supplier and Customer – for example:

- **Contractual provisions** (for example: whether individual elements are referred to separately in the contract, or for one combined price)
- **Invoicing arrangements** (for example, whether multiple elements are shown on the invoice with separate Consideration, or a single dominant element shown only)

Commercial documentation is not decisive in all cases. It is possible that these can be incorrectly issued, may lack sufficient detail, or can in some cases be intentionally manipulated to achieve a desired VAT treatment. The Authority may consider that an alternative interpretation is appropriate, based on the commercial substance of the arrangements.

Example (3): A telecommunications company sells handsets together with plans for data, texts and minutes. A fee is charged upfront when the contract is entered into and then monthly payments are made for a period of 24 months. The fee charged upfront is allocated to the supply of the handset. The monthly payment is for the telecommunications services provided under the contract. Therefore, the handset and the telecommunication services, whilst sold at

the same time, are multiple supplies. VAT will be applied to the handset as a supply of goods, and to the telecommunications services as supplies of services.

Example (4): A telecommunications company sells home broadband and television as part of a package, with an optional subscription to a sports TV channel available for SAR 240 per month.

Customers who purchase the sports TV channel subscription are provided with a monthly magazine, containing programme listings and some sport articles. The magazine is not available for separate purchase and does not have a material value compared to the subscription. Customers cannot choose whether to take the magazine or not. The magazine is not a separate supply and forms an ancillary part of the single supply of the TV subscription.

5.2. Allocation of Consideration to individual supplies

If a single price is given for **multiple supplies** of goods and services, the supplier must determine the Value for each individual supply, and calculate VAT accordingly. If the supplier issues a standard Tax Invoice covering multiple supplies - the Value, and amount of VAT, must be shown for each supply⁽¹⁵⁾.

In cases where a multiple supply exists:

- If each supply has the same VAT rate, then VAT should be calculated on the full Value of the Consideration received for those supplies.
- If different supplies have different rates or treatments, the VAT must be calculated and applied based on the Value of each supply.

The Value of each individual supply should accurately reflect the relative commercial Value of goods and services supplied. Suppliers should not seek to artificially value zero-rated or VAT exempt supplies at a higher Value than those supplies taxable at the 5% rate. Suppliers should be able to provide support of the commercial pricing adopted upon request by The Authority.

In case of a **single supply**, the entire supply must have the same VAT treatment (i.e. standard rated, exempt or zero-rated).

Example (5): A telecommunications company sells mobile phone contracts for data, texts and minutes for a monthly fee of SAR 200 over two years. A handset is also provided to the Customer but no upfront payments are due at the time that the contract is entered into. The handset is described as "free" in the marketing material.

This is not a single supply of telecommunications services as the handset has value and can be enjoyed in its own right. The supply of the handset (Goods) and the telecommunications services have different VAT treatments in respect of the date of supply, and therefore the telecommunications company will be required to allocate value to the services and handset based on their relative commercial value.

The telecommunications company estimates that the value of the phone is SAR 800 (with VAT

(15) Further detail may be required, such as showing a unit price for supplies of goods. A full list of details required is provided in Article 53(5), Tax Invoices, Implementing Regulations. Further guidance can be found in the Invoicing and Records guideline.

due upfront on the transfer of the handset), and the value of the telecommunications services is SAR 4,000 (with VAT due periodically throughout the contract for continuous supplies of services). The company should ensure that the tax invoices and VAT reporting appropriately records the separate supplies, regardless of the use of the word “free” in marketing material.

5.3. Special case: direct carrier billing

In practice, a Customer may make a single payment to one Taxable Person which is in respect of different supplies made by more than one Supplier. A particular example relevant to the telecommunications industry is direct carrier billing.

Direct carrier billing is a payment method that allows users to make purchases of digital products from third party vendors by charging payments to their mobile phone bill. The mobile telecommunications provider (the ‘carrier’) acts as Agent in collecting payment for the third party vendor.

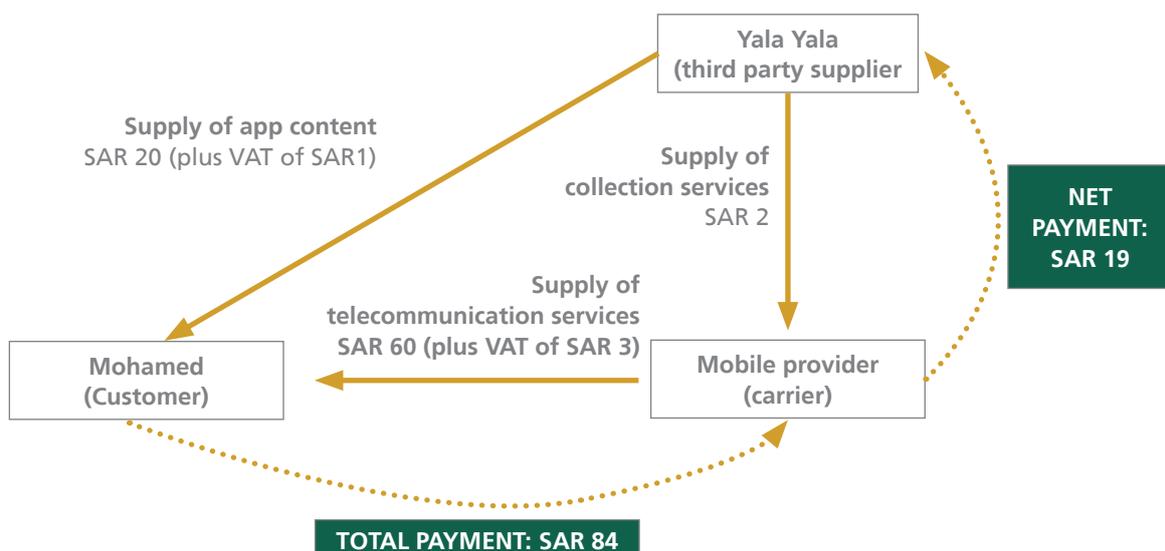
Under direct carrier billing arrangements, the third party vendors generally make a payment to the carrier for the provision of payment processing services or payment collection services. The value of the services the carrier provides to the third party vendor is often the difference between the payment collected from the Customer and the payment passed on to the third party vendor.

Example (6): Mohamed has a monthly mobile phone contract with a KSA carrier, under which he pays SAR 63 (including VAT) for network connection, together with a bundle of calls and text usage.

During the month of October 2019, Mohamed downloads a mobile app from Yala Yala, a third party app provider in the KSA, paying a price of SAR 21 (including VAT). Mohamed elects to pay Yala Yala using carrier billing, under which his phone company pays directly to the third party supplier, and collects this through the monthly invoice.

The invoice from the telecommunications company for October shows the following amounts due:

Monthly mobile plan	SAR 60
VAT at 5%	SAR 3
Collection of payment on behalf of vendor: Yala Yala	SAR 21
Total amount due	SAR 84



The third party vendor makes a supply worth SAR 21 including VAT to Mohamed. The carrier collects the SAR 21 on behalf of the third party: but this is not a separate supply made by the carrier. The carrier charges a fixed amount of SAR 2 (including VAT) to Yala Yala as a fee for payment collection.

Overall, the three persons have the following VAT position and payments resulting from their October transactions:

Mobile phone carrier:

Supplies telecommunications services to Mohamed (SAR 63 including VAT)

Supplies payment collection services to Yala Yala (SAR 2 including VAT)

Collects SAR 21 on behalf of Yala Yala, and remits payment of SAR 19 (net of the collection fee)

The carrier is responsible to account for Output Tax on taxable supplies (SAR 3.10, being VAT fraction of total Consideration received from all supplies of SAR 65).

Yala Yala:

- Supplies content to Mohamed (SAR 21 including VAT)

- Receives payment collection services from the carrier (SAR 2 including VAT)

Responsible to account for Output Tax on taxable supplies (SAR 1, being VAT fraction of SAR 21).

The company may deduct Input Tax in respect of taxable supplies received (SAR 0.10, being VAT fraction of taxable supplies received)

Mohamed

- Receives telecommunications services from carrier and content from YalaYala.

- Makes single payment of SAR 84 to carrier.

6. Place of supply of telecommunications and electronic services

Place of supply rules have been agreed at a GCC level in the Unified VAT Agreement to clarify which state should apply VAT in cases of cross-border transactions (where goods move from one state to another, or where the Supplier and Customer are resident in different states).

KSA VAT is only chargeable on transactions which take place in the KSA for VAT purposes. Generally, transactions with a place of supply in the KSA will have KSA VAT applied, either at a 5% rate or zero-rate.

Transactions with a place of supply outside the KSA will not be subject to KSA VAT. The country where the place of supply is located may, however, seek to impose VAT or a similar transactional tax.

Special rules apply to determine the place of supply of telecommunications and electronic services. Primarily, VAT applies in the country in which the services are actually used or benefited from.

From a practical perspective, determining the exact place where usage of a particular telecommunication or electronic services takes place can often be difficult. However, the VAT Law and the Implementing Regulations set forth rules for determining the place of actual use of or benefit from the services.

For supplies of telecommunications and electronic services, there is no distinction between the place of supply applying to supplies to Taxable Persons (often referred to as "Business to Business", or "B2B" supplies) and the place of supply applying to non-Taxable Persons (often referred to as "Business to Consumer", or "B2C" supplies).

6.1. Services provided in a specific location

In some cases, an individual Customer must be physically present in a specific location in order to receive the service. This is the case for services which are accessible at a specific physical location. Where the Customer consumes and benefits from the services at that location, such location is the place of actual use or benefit. This would be the case for a telephone box, a telephone kiosk, a Wi-Fi hot spot, an internet café, a restaurant, a hotel or other cases where the physical presence of the Customer in a specific location is needed for the services to be provided.

Example (7): A business lounge in Dammam charges a Customer to use a high-speed Wi-Fi connection within the lounge. Since this may only be accessed by a customer in that specific location, the place of actual use of the service is in the KSA, regardless of the customer's residence or VAT registration status.

Example (8): An individual pays to use a telephone booth to make a call in the reception of a hotel. Since the Customer must be physically present in that specific location to use these services, the place of actual use of the services is in the KSA, regardless of the customer's residence or VAT registration status.

6.2. Services not provided in a specific location

In many cases, a customer will not be required to be physically present in a specific location to use telecommunications and electronic services. Due to the portability of electronic devices, telecommunication services are often accessible from multiple locations. For purposes of determining the place of supply of such services, the Customer's usual place of residence is

deemed the place of actual use. Accordingly, the place of usual residence is the place of supply of the services.

Example (9): A business consultant resident in the KSA pays an annual fee of SAR 1,000 for a mobile phone contract to a KSA carrier, including voice calls, SMS, and data. He uses the service whilst on business in other countries. Although the use of the mobile phone can take place in other countries, the presence of the Customer in a specific location is not required for use of roaming. Therefore, the actual use and benefit of the services is deemed to be in the KSA, the Customer's place of residence. VAT is chargeable by the carrier in the KSA on the entire annual fee.

6.3. Determining Place of Residence

Unless telecommunications or electronic services are provided to a Customer at a specific location (as outlined in section 6.1 above), the supplier of telecommunications or electronic services must determine the usual place of residence of its Customer to determine the place of supply of the services. Accurate determination of a customer's residence may be difficult for the supplier, especially in the case of individual Customers without a registered office or place of business. However, certain Customer information may be relied upon by suppliers as they are deemed highly indicative of a Customer's usual place of residence.

Such Customer information includes⁽¹⁶⁾:

- The invoicing address of the Customer
- The bank account details of the Customer
- The internet protocol (IP) address used by the Customer to receive the wired and wireless telecommunications services and electronic services
- The country code of the SIM card used by the Customer to receive the wired and wireless telecommunications services and Electronic Services.

The determination of a Customer's residence should be based upon the information held at the time the supply is made. Where commercially possible, the supplier should collect information that indicates the Customer's residence and apply a consistent approach in determining the place of residence based on this information.

Where there is a discrepancy in the place of residence from different sources of information obtained, the supplier should seek to obtain additional information to determine the Customer's residence in respect of that supply. In cases where it is not possible to collect sufficient information, GAZT considers that the supplier should apply KSA VAT if any of the usual information the supplier collects to determine residence suggests the customer has a KSA residence.

Example (10): A KSA individual pays for an additional 1 GB data from a telecommunications provider using a KSA SIM. The data can be used from any location. The telecommunications provider is provided with a billing address (entered by the Customer) and the mobile number of the SIM card. As the supplier is provided with verified information on the Customer's SIM card, it uses this as a standard practice to determine the Customer's usual place of residence. It has a process in place to compare this with the standard billing address for audit purposes and undertakes further checks if the information does not match.

(16) Article 24 (4), Wired and wireless telecommunications and electronic services, Implementing Regulations

In this case, the supplier charges KSA VAT on the supply of data on the basis that the Customer will be deemed to consume and enjoy the services in his usual place of residence.

Example (11): A KSA mobile telecommunications provider has a default policy to charge VAT on all telecommunications and electronic services provided to a customer registered with a KSA SIM. From its Customer records, it identifies some Customers on its database with a billing address outside of the KSA. It contacts these customers to confirm the residence status and obtain additional evidence of a usual residence outside the KSA. If Customers have not provided sufficient evidence, the company continues to apply the default policy and charge KSA VAT.

The place of actual use or benefit is determined based on the circumstances at the time of supply. Changes in circumstances that occur subsequent to the time the Supply is made should not be taken into account for determining the place of actual use or benefit.

6.4. Roaming

Roaming refers to use of mobile telecommunications services via another operator's network, typically when travelling overseas.

Telecommunications companies or carriers normally charge other (foreign) carriers when Customers of the foreign carriers make use of the network in a specific country. For example, a KSA carrier will normally charge a network fee to a foreign (e.g. British) carrier when its British Customer "roams" and makes use of the KSA mobile phone network. In this example, the British Customer would be charged by the British carrier for the roaming service.

Roaming charges are consideration for telecommunication services. Hence the place of supply is the usual place of residence of the customer. A roaming fee charged by a KSA carrier to a KSA resident for mobile phone use outside the KSA (including another GCC state) will be subject to KSA VAT at a rate of 5%.

Example (12): A Chinese resident spends 12 days in the KSA on a business trip and uses his mobile registered to his home network, Sinophone. Whilst in the KSA, his mobile roams using the KSA provider, Arabia Telecom Network.

Arabia Telecom Network makes a charge to Sinophone for the use of KSA network by the Chinese resident. Sinophone makes a separate charge to its customer based on the agreed prices.

In both cases, the charges for roaming are provided to a non-resident and are not subject to KSA VAT.

6.5. Data Centre Services

Data centres are repositories that hold computer facilities such as servers, routers, and firewalls that are used for the remote storage, processing, or distribution of large amounts of data. Data centres can be shared data centres that are maintained by one business and made available to third parties.

Generally, services provided by a business from a data centre, such as provision of bandwidth, server capacity, connectivity, network access and similar services will fall within the scope of telecommunication and electronic services. Where this is the case, the place of supply will be based on the rules outlined above.

A data centre may provide colocation services where Customers have their hardware equipment installed in the data centre, and where secure power, bandwidth, IP address, cooling, backup, etc. is available for Customers to successfully deploy this equipment. Often strict rules apply to security and physical access to the data centre as part of the service (it is possible that the Customer has no right to physical access of the data centre). A specific area within a data centre may be assigned to the Customer, but this is not always the case: the customer may simply receive a bundle of rights (which may include an agreed amount of space).

The provision of colocation services allows a bundle of services and rights to the customer. The VAT treatment of the colocation services will therefore depend on the exact circumstances and what is provided in each case.

On the basis that a customer does not obtain access or other rights relating to a specific location, or the use of secure power or other components for an unrelated use, GAZT considers that a fee for colocation services will generally be a single supply of telecommunications and electronic services.

However where the predominant element of the service is the provision of the right to use a specific area of the data centre (for example where an office is leased within the data centre to the Customer) - then this is a supply of a real estate related service. All services relating to real estate in the KSA will be subject to VAT, regardless of the country in which the supplier or recipient resides.

If a colocation fee contains elements which can be individually used or consumed in the KSA for a separate purpose than the overall deployment of equipment and network access, then the VAT consequences of those elements should be analysed as a distinct supply.

Example (13): Solid Data Ltd, a business based in Jeddah, charges Technology Now LLC, a UK company with no establishment in the KSA, for colocation services provided via a data center based in KSA. Under the agreement for colocation services, Solid Data provides the installation and configuration of equipment, and the necessary networking and infrastructure facilities for their operation. The supply qualifies as supply of wired and wireless telecommunications services and electronic service.

The place of supply for these services is where the usual place of residence of Technology Now LLC is, being the UK.

Solid Data Ltd also leases an office space in the complex near the data center to another UK company, Primary Technology Limited for a commercial lease fee. The office lease includes secure access to power and network facilities. In this case, as the primary feature of the supply is the provision of a defined area of office space, this would be a supply of a real estate related service in KSA. VAT is chargeable by Solid Data Ltd to Primary Technology Limited in respect of the lease.

7. Place of Supply of Other Services

7.1. Place of supply

7.1.1. Basic rule

The place of supply rules clarify which state should apply VAT in cases of cross-border transactions. KSA VAT is only chargeable on transactions which take place in the KSA for VAT purposes. Transactions with a place of supply outside the KSA will not be subject to KSA VAT.

The basic rule states that place of supply for services provided by a Taxable Supplier shall be the place of the Supplier's residence⁽¹⁷⁾.

In cases where the Supplier or Customer is established or has a place of residence in more than one member state, the relevant state of that Person's residence in respect of any particular supply is the state most closely connected with that Supply.

Example (14): IT Help Ltd, is an IT consultancy business established in KSA, with a branch office established in Bahrain. IT Help Ltd provides IT support services to largely individual Customers. A Customer receives onsite support via a walk in appointment from IT Help Ltd's Bahrain branch. Although IT Help Ltd is a KSA entity, the place of residence most closely connected to the supply is its Bahraini branch. Therefore, the place of supply is in Bahrain.

There are exceptions to the basic rule (special cases), however unless these special cases apply, the basic rule will apply to services supplied to non-taxable Customers after the full implementation of VAT in the GCC, unless special circumstances are applicable.

7.1.2. Place of Supply after full implementation of VAT for intra-GCC trade

Additional rules apply to the place of supply of goods and services, once the GCC States introduce an Electronic Services System to fully introduce VAT on intra-GCC trade. At the time of issue of this guideline, an Electronic Services System has not yet been issued. The Authority will issue an Order confirming its introduction and the application of these additional rules.

For services of a type that do not fall within the Special Cases contained within Articles 17 to 21 of the Unified VAT Agreement (such Special Cases including telecommunications services and electronic services) an alternative place of supply rule will apply, instead of the default rule outlined in 7.1.1. Under this alternative rule, services provided by a Taxable Supplier in a GCC State to a Taxable Customer established in another GCC state will have a place of supply in the state where the Taxable Customer resides⁽¹⁸⁾.

During the transitional period for the introduction of VAT, this exception will only apply in respect of supplies made to persons who are registered for VAT in a Member State which has implemented a VAT system, and has an Electronic Services System in place with the KSA, at the date of supply.

Customers who are registered for VAT in a non-GCC state (or a similar tax system such as GST) are not considered Taxable Customers for the application of the place of supply rules.

The table below shows the rules which will apply after the complete VAT intra-GCC trade system is fully operational.

(17) Article 15, Place of Supply of Services, Unified VAT Agreement

(18) Article 16, Place of Supply of Services between Taxable Persons, Unified VAT Agreement

Description of the supply	Country where supply takes place	KSA reporting requirements
KSA VAT registered business makes supplies to KSA VAT registered business	KSA	Supplier charges VAT to Customer
KSA VAT registered business makes supplies to UAE VAT registered business	UAE	Outside of KSA VAT – recipient self-accounts for VAT in UAE (once the Electronic Services System is implemented)
UAE VAT registered business makes supplies to KSA VAT registered business	KSA	Recipient self-accounts for VAT using Reverse Charge Mechanism
Non-GCC supplier makes supplies to KSA VAT registered business	KSA	Recipient self-accounts for VAT using Reverse Charge Mechanism (refer to Section 7.3)
KSA VAT registered business makes supplies to Non-GCC Customer	KSA	Subject to KSA VAT. May be possible to zero rate as an export (refer to Section 7.2)

Example (15): A telecommunications provider in the KSA provides payment collection services to a customer who is registered for VAT in the UAE. An Electronic Services System is in place between the KSA and UAE when the services are supplied (transitional rules no longer apply). The service is provided to a Taxable Customer in another GCC state and is not subject to KSA VAT. Instead the Taxable Customer accounts for VAT in the UAE under the Reverse Charge Mechanism.

Example (16): A telecommunications provider in the KSA provides managed professional services (not telecommunications or electronic services) to a UK entity who is registered for VAT in the UK, but has no establishment or VAT registration in the KSA. The service is not provided to a Taxable Customer and therefore falls within the scope of KSA VAT. However, the provisions for exported services may result in KSA VAT being charged at the zero rate.

7.2. Zero-rating of services provided to non-GCC residents

The supply of services by a KSA supplier to a Customer who does not reside in the GCC Territory and who benefits from the service outside the GCC Territory, is in principle subject to KSA VAT at the zero-rate.

In order to apply the zero-rate, the supplier must ensure it can meet each of the criteria set out in the Implementing Regulations:

- a. The supply of those services does not take place in any Member State under “special cases” described in the Unified VAT Agreement.

Example (17): A business established in India pays a hotel in the KSA for use of high speed Wi-Fi in the hotel lobby by one of its consultants. The supply of telecommunications services used at a physical location is a special case for place of supply purposes, which is deemed to be supplied where carried out (KSA). Zero-rating cannot apply to a service which is a special case. The hotel charges KSA VAT at 5%.

- b. The supplier has no evidence that the Customer is resident in any GCC Member State and has evidence that the Customer is a resident outside the GCC Territory. GAZT expects this evidence will generally be satisfied in practice by the issue of an invoice or other correspondence to a non-GCC address. Any publicly available information showing the recipient having an office or branch in the GCC should result in further investigation.

Example (18): A German telecommunications provider has an established branch in the KSA with an office, employees and a Commercial Registration. The head office (in Germany) requests local tax advice from a KSA accountancy firm. The supplier is aware that the German company has a place of residence in the KSA, so cannot apply the zero rate. KSA VAT is charged at 5% on the invoice.

- c. The benefit of the Services is not received by the Customer, or any other person, when that Person is situated in the KSA. A non-resident Customer with no GCC establishment may still have employees or other representatives in the KSA on a temporary basis, who can receive the direct benefit of services in the KSA. Where this happens, the zero-rate should not apply.

GAZT interprets the phrase "the benefit of the services" to mean the direct and predominant benefit of the services. In general, it is acknowledged that services provided directly to one recipient may have a secondary or ancillary benefit to other third parties. In cases where the direct benefit of the services is received by a person outside the KSA, but any person in the KSA receives or enjoys a secondary or ancillary benefit, the secondary or ancillary benefit should not affect the ability of the supplier to apply the zero-rate specified in article 33 of the Implementing Regulations.

Returning to example (18): but in this case, the German company has a subsidiary entity in the KSA who requires assistance with VAT returns. The German company contracts with a KSA accountancy firm to provide VAT assistance. Whilst the accountancy firm is instructed by and enters into a contract with the German company, it provides assistance directly to the team of the KSA subsidiary. The benefit of the services are directly received by a person in the KSA and the invoice to the German company is not eligible for zero-rating.

Example (19): A mobile telephone provider enters into an agreement with a provider of mobile content established outside the GCC, to collect payment from KSA Customers via carrier billing. The mobile phone company collects funds from KSA Customers and passes these to the non-resident content provider, and is not involved in purchasing or selling the content in its own name.

Whilst the carrier must interact with its KSA Customers to obtain payment, the carrier acts upon instruction from the non-resident content provider, and the direct benefit of the services in this case is received by the non-resident content provider. The carrier may apply the zero-rate to the fee charged for payment collection.

- d. The services are not related to any tangible goods or property located in the GCC Territory during the supply. This should be seen to include any services which affect or have the tangible goods or property as a central part of the service.

Example (20): A logistics provider charges a Korean supplier of mobile phones and accessories for storage and distribution of a stock of goods held in the KSA. The services relate to tangible goods located in the KSA, and the supply may not be zero-rated. The logistics provider charges KSA VAT at 5% on the storage and distribution services.

- e. The supplier intends for the services to be enjoyed outside the GCC Territory. The supplier should anticipate that the recipient will use the services in the course of activities outside of the GCC.

- f. The supplier has no evidence that the benefit of the services will be enjoyed within the GCC Territory. This requirement (to provide evidence) concerns the original supply by the supplier: the Customer should ultimately benefit from the services outside the GCC. The supplier should not zero-rate if his services are directly provided to a Person in the GCC (but paid for by a non-GCC Customer). The onwards provision of services by the Customer to a third party (an indirect Customer) which is later enjoyed in a GCC country does not breach this requirement (to provide evidence).

7.3. Receipt of Services by a Taxable Person in the KSA

If a KSA Customer is a Taxable Person who receives services from a non-resident Supplier, the place of supply will generally be the KSA (unless any of the Special Cases apply to deem the place of supply to occur in another country).

The Reverse Charge Mechanism applies in cases where a Taxable Person receives a supply of services from a non-resident supplier (not including imports of goods). In these cases, the Customer is deemed to make a supply of those services to himself⁽¹⁹⁾, with VAT due under the Reverse Charge Mechanism.

(19) Article 9, Receiving Goods and Services, Unified VAT Agreement

8. Vouchers

8.1. What is a “qualifying” Voucher?

Vouchers are physical or electronic documents, which entitle Customers to redeem them as consideration for goods or services from a supplier or group of suppliers. A Voucher is not a form of currency, but can be exchanged and used as non-monetary Consideration (and often shows an equivalent monetary Value). A Voucher generally only has commercial Value due to the supplier’s undertaking to allow its redemption as Consideration for Goods and services.

8.2. Face Value Vouchers

Vouchers will often show or store an equivalent monetary amount, allowing use of that amount as Consideration for a supply or multiple supplies. Vouchers with a monetary amount are defined as “Face Value Vouchers”.

Gift vouchers, phone cards and electronic top-up cards are examples of face value Vouchers.

8.3. Issue of a Voucher

Where a person issues a new Voucher, whether for Consideration or for no Consideration, this is not considered to be a supply for VAT purposes⁽²⁰⁾. A Voucher can be issued by the supplier who will redeem it (for example, a Voucher issued by a telecommunications company allowing redemption of the Voucher in any of its retail stores or online), or by a third party (for example, a mall management company issuing a Voucher which can be redeemed in any store within the mall).

Where an existing electronic Voucher is able to contain a stored monetary Value, the issue of additional Value (also known as the “top up”) of that electronic Voucher is also seen as the issue of a Voucher for VAT purposes. An example may be adding credit to mobile phone top-up or prepaid card.

As a measure to prevent abuse of the special Voucher rules, a supply of services arises in any case where the Consideration payable for the issuing of a Face Value Voucher exceeds its face Value. This scenario is not expected to occur in usual commercial practice.

8.4. Supply of a Voucher

The supply of an existing Voucher is not considered to be a supply for VAT purposes, unless the Consideration payable for a Face Value Voucher exceeds its face value. If the Consideration payable exceeds the face Value, this is a supply of services to the extent the Consideration exceeds the face Value.

8.5. Redemption of a Voucher for goods or services

When Vouchers are redeemed for a supply of goods and services, VAT is charged at the appropriate rate on the goods and services provided, with the Voucher forming non-monetary Consideration for that supply.

If the Voucher is a Face Value Voucher, the value of the non-monetary Consideration will be valued at the amount of face Value used.

(20) Article 19, Issue or Supply of a Voucher, Implementing Regulations

Example (21): A Customer uses a Voucher with SAR 100 of Value as part Consideration to purchase a mobile phone handset, paying an additional SAR 150 using his credit card in store. The store accounts for Output VAT on the supply based on the Face Value Voucher (SAR 100) plus the monetary Consideration (therefore SAR 250 in total).

If the Voucher is not a Face Value Voucher, its Value will be based on the Fair Market Value of goods and services provided.

8.5.1. Activation of credit

A Voucher entitling any person to a monetary amount of credit, or a certain amount of Goods or services, is redeemed when that Voucher is “activated” and applied to a specific Customer’s account for redemption with a known supplier.

There is no subsequent adjustment to VAT if the full amount of the credit is available for use but not used by the Customer before expiry.

Example (22): A KSA mobile telecommunications provider issues a pre-paid mobile phone Voucher, allowing for any Customer to redeem the Voucher for 50GB of mobile data, during a six month period starting upon activation. The issue of this Voucher for Consideration is not a supply. If the Voucher is traded after its issue, supplies of this Voucher before activation are likewise not subject to VAT. The activation of this Voucher and transfer of the data allowance to a Customer account is its redemption. VAT is due, based on the Value of the mobile data, at the time of activation.

8.5.2. Unused Vouchers

If a Customer does not redeem the Voucher for goods and services at all, then VAT does not become due.

If a Consumer redeems a Voucher in part then output VAT is to be accounted for by the supplier to the extent of the redeemed amount only.

8.6 Treatment of “non-qualifying” Vouchers

Other commercial documents which are described as “Vouchers”, but do not meet the definition of a Voucher for VAT purposes are called “non-qualifying” Vouchers in this guideline.

A non-qualifying Voucher is treated under standard VAT rules.

Examples of non-qualifying Vouchers include the following:

- 1) A document entitling a Customer to a discount on a supply of goods and services. These documents are often issued for free by a supplier as a promotional measure, and reflect a discount that is commercially acceptable to the supplier. If a Customer “redeems” a discount Voucher, this is simply treated as a discount to the Consideration.
- 2) A document which evidences a pre-payment for a known supply of goods or services, or a supply to a known Customer. For example, a non-qualifying “Voucher” is issued when a telecommunications company sells a Voucher in April 2023 for SAR 120, allowing a Customer to receive a specified mobile handset on 17 September 2023. This is an advance payment in April for a supply of goods (the handset) in September, requiring VAT to be reported in the company’s Tax Return for April 2023.

9. Promotions

In some cases, a good or service will be described as “free” as promotional language, but are provided as part of a package of other goods or services (for example, a retailer sells two identical goods with a third sold “free”, or a telecommunications company will provide a “free” additional service as part of a mobile phone package). The provision of free items requires analysis of whether a Nominal Supply is made.

9.1. Nominal Supplies – legal background

For VAT purposes, some specific events which do not involve supplies to third parties for Consideration are nonetheless deemed to be supplies for VAT purposes. These events are called Nominal Supplies, and are outlined in the Unified VAT Agreement⁽²¹⁾.

The provision of free goods or services as part of a business promotion can result in a Nominal Supply. The definition of “Nominal Supply” includes (amongst other events):

“... (2) supplying Goods without Consideration, [unless the Supply is in the course of business, such as samples and gifts of trivial value as determined by each Member State]; and

...

(4) supplying Services without Consideration.”

The default position is that goods and services supplied by a Taxable Person without receiving any Consideration (from any person) will result in a Nominal Supply by that Taxable Person. However, this is subject to the three exceptions below.

Exceptions:

- a) **Low-valued items:** A Nominal Supply does not take place where a Taxable Person provides goods as gifts or samples, or otherwise provides goods and services to promote its economic activity. This is subject to an annual limit of SAR 200 for each recipient and a total annual limit of SAR 50,000 for that Taxable Person, based on the Fair Market Value of those goods and services⁽²²⁾.
- b) **Items where Input tax was not deducted:** A Nominal Supply is not recognized in cases where Input tax has not already been deducted by the supplier in relation to the goods or services provided⁽²³⁾.

The Authority interprets this concept to extend to any Input tax that is attributable to the goods or services which would be the subject of the Nominal Supply. For example, this would include the purchase of the goods or services themselves; or constituent expenditure (such as raw materials to make goods, or equipment used for supplying services).

Example (23): KSA Telecoms purchases designer watches from a KSA supplier to provide as gifts to selected Customers, suppliers and other important guests. It knows that these items will be used as gifts (supplies for no Consideration), and does not deduct Input tax on the purchase. Therefore, KSA Telecoms is not required to report a Nominal Supply when the items are eventually gifted for no Consideration.

(21) Article 8, Nominal Supplies, Unified VAT Agreement

(22) Article 15, Nominal Supplies, Implementing Regulations

(23) Article 8(3), Nominal Supplies, Unified VAT Agreement

(c) Items provided as an ancillary part of another supply for Consideration. This concept is discussed further in section 9.2 below.

9.2. Free goods or services provided as part of another supply

In some cases, a good or service will be described as “free” as promotional language, but this may not represent the commercial reality. For example:

The goods or services may, in fact, be provided together with and as an ancillary part of another single supply which is the main intention of the Customer. For example: a “free delivery” forms an ancillary part of the sale of a printer. In this case, the free good or service is not an independent supply for no Consideration. As such, the supplier does not make a Nominal Supply.

Example (24): A business is a wholesaler of phone headsets. For all large orders of office accessories, it provides free delivery to the Customer’s premises. ABC Bank purchases 50 headsets for its employees. The ABC Bank paid a special price of SAR 400 per headset, with delivery to its offices.

In this case, the facts indicate that there is not a separate supply of delivery services. Instead, the wholesaler makes a single supply of delivered goods to ABC Bank. Therefore, the sales invoice does not refer separately to a delivery service – an excerpt of the invoice is shown below:

Description	Quantity	Unit Price (excl. VAT)	VAT rate
Phone headsets (black)	50	400	5%
Total (excluding VAT)		SAR	20,000
VAT at 5%		SAR	1,000
Total payable		SAR	21,000

The “free” goods or services may be provided as **part of a package of other goods or services sold for a combined price**. For example, a retailer sells two identical goods with a third provided “free” – this is the sale of three identical goods at a discounted price. In these cases, the Consideration relates to all goods and services supplied, and should be allocated accordingly across the goods and services. No Nominal Supply will arise in this case.

Example (25): A telecommunications business runs a promotion during March 2020. This promotion offers Customers who purchase any new mobile phone handset with a fitness watch at no additional cost. The promotional language describes this as a “free” fitness watch for Customers buying a new mobile phone handset. The watch can be purchased individually in store for SAR 420 (including VAT).

In this example, the facts suggest that the Customer pays a single price but expects to get two specific items, the mobile phone handset and the fitness watch. Despite the promotional language using the word “free”, the supplier effectively offers a discount to both items.

A KSA Customer sees the promotion and purchases the mobile phone handset priced at SAR 3,150. He pays SAR 3,150 in cash for the mobile phone handset and the fitness watch. The telecommunications business issues a Tax Invoice reflecting the sale – an excerpt of this invoice is as follows:

Description	Quantity	Unit Price (excl. VAT)	VAT rate
Mobile Phone Handset Model Number 45678	1	3,000	5%
Fitness Watch – Model Number F100	1	400	5%
Subtotal			3,400
Less: Discount – March Fitness Watch Promotion			(400)
(Total (excluding VAT		SAR	3,000
VAT at 5%		SAR	150
Total paid		SAR	3,150

The telecommunications business includes Output Tax in its VAT return of SAR 150 on this sale. As there is not a Nominal Supply in this circumstance, it does not report any additional Output Tax.

9.3. Goods or services supplied independently for no Consideration

If a good or service is provided without any Consideration payable and independently of any other supply made by the Taxable Person to that same recipient, this is a supply for no Consideration.

If a good or service is shown on a tax invoice with a corresponding unit price or service Value of zero, this may indicate the supplier intends to make a supply for no Consideration, independent of any other goods or services shown on that invoice.

The independent supply of goods or services by a Taxable Person for no Consideration is a Nominal Supply⁽²⁴⁾, provided that:

- The Taxable Person does not receive any (monetary or non-monetary) Consideration from the recipient or any third person;
- The Taxable Person deducted Input tax relating to those goods and services, and
- The goods or services do not fall below the threshold in law for low Value goods and services⁽²⁵⁾.

If a Nominal Supply is made, VAT is calculated on that Nominal Supply based on the purchase Value or cost to the supplier, and included in the supplier's VAT return as Output VAT. The VAT amount is not charged to the Customer, and a Tax Invoice must not be provided to the Customer.

Example (26): A KSA telecommunications company provides an extensive range of wholesale telecommunications services to a large business client during 2022, and bills more than SAR 100,000 for his services during the year. As a token of thanks, the telecommunications company provides a gift of a pen valued at SAR 2,100 (including VAT).

(24) Article 8, Nominal Supply, Unified VAT Agreement

(25) Article 15, Nominal Supplies, Implementing Regulations

This is an independent gift that is clearly not linked to any goods or services provided by the telecommunications provider. If the telecommunications provider has claimed Input tax on the purchase of the pen, he must account for Output Tax based on the purchase cost of the pen (SAR 100, being 5/105 of SAR 2,100) in his VAT return.

Alternatively, if the telecommunications company has not deducted any Input tax on the purchase of the pen, it is not required to report a Nominal Supply.

9.4. Loyalty programs

A loyalty programme aims to incentivise Customers to make further purchases in future. This may be achieved by way of discounts, free goods and services, other rewards or exclusive benefits. There are many different types of loyalty programmes operated in practice by suppliers of goods and services or by dedicated loyal programme operators.

The VAT treatment of any loyalty programme depends on the individual facts. Comment on the VAT implications of common single party and multiple party loyalty schemes is provided in the guideline on business promotions.

10. Date of supply

The date of supply rules determine the date on which the VAT reporting obligations arise in respect of a particular supply of goods or services.

10.1. Default rule

In most cases, VAT becomes due on the earlier of the following dates:

- The date of the supply of Goods or services,
- The date of issuance of the tax invoice, or
- The date of partial or full receipt of the consideration, to the extent of the amount paid⁽²⁶⁾.

These rules apply to most supplies of goods or services which are “one-off”, and not provided on a continuous basis. GAZT considers that a “one-off” supply of goods or services generally involves the supplier making the goods or services available on a non-continuous basis at one time, and the Customer immediately obtaining the rights to use those goods or services. Further detail on this concept is provided in the guideline on transitional provisions.

The date of Supply of Goods and services for one-off supplies is generally as follows:

- Where there is a Supply of Goods without transportation or shipment: the date on which the goods are placed at the disposal of the Customer;
- Where there is a Supply of Goods with transportation or shipment: the date of commencement of transportation or shipment of the goods;
- Where there is an installation or assembly of Goods: the date of completion of installation or assembly;
- Where there is a supply of services: the date on which the performance of the service is completed⁽²⁷⁾.

Consequently, VAT must be reported by the supplier during the Tax Period in which that date of supply falls. Likewise, the Input VAT is also claimed by the Customer (where appropriate) in the Tax Period where the date of supply falls. Exceptions may exist in case of the use of the cash accounting system⁽²⁸⁾.

10.2. Continuous supplies

A **continuous supply** of goods or services involves the provision of goods or performance of services continuously across a defined period. Examples of continuous supplies include the rental of equipment, the provision of mobile phone subscription or colocation services.

Continuous supplies of goods or services take place on the earlier of the date a Tax Invoice is issued or payment is made in respect of those Goods or services, to the extent of the amount invoiced or paid⁽²⁹⁾. Note that different date of supply rules apply for Continuous supplies of goods or services involving the payment of consideration by instalments⁽³⁰⁾.

(26) Article 23(1), Date of Tax Due on Supplies of Goods and Services, Unified VAT Agreement

(27) Article 23(2), Date of Tax Due on Supplies of Goods and Services, Unified VAT Agreement

(28) A simplified accounting basis for small traders to account for VAT based on payment. See Article 46, Cash Accounting Basis, Implementing Regulations or the General VAT guideline for details.

(29) Article 20(2) and 20(3), Date of Supply in specific circumstances, Implementing Regulations; subject to specific rules applying in the event that no payment has been received or invoice issued within twelve months.

(30) Article 20(1), Date of Supply in specific circumstances, Implementing Regulations

Unless an advance payment is received, the date of issue of the Tax Invoice for continuous supplies will be the date of supply. If an advance payment is received, the earlier date of supply should be shown on the Tax Invoice.

Example (27): Al Nakheel Telecoms charges a Customer a monthly fee for ongoing broadband services. It issues an invoice to its Customer at the completion of every month to reflect the services received in the previous month. The broadband services provided by the telecommunications supplier are a continuous supply.

During the month of October, the total value of services provided was SAR 200 (plus SAR 10 of VAT). The Tax Invoice is issued by Al Nakheel on 4 November, and requires Customer payment by 10 November. The date of supply for VAT reporting purposes is 4 November and it will be included as part of Al Nakheel's November VAT return.

In the event that no payment is received and that no invoice is issued in respect of a continuous supply, the supply is deemed to take place on the date falling twelve months after:

- the date the supply commenced; or
- the date the last invoice was issued or payment received;

Whichever of those dates is later.

Example (28): Al Nakheel Telecoms provides access to its network to other companies within its group. It enters into an agreement on 1 January 2019 to charge a fee to one of its group companies, Wahid Communications, for the provision of network services. Wahid Communications agrees to pay a fee amounting to SAR 2,000 per month, but without any set instalment dates for payment. This agreement is for a continuous supply of services.

Al Nakheel Telecoms issues an invoice on 31 December 2019, for the fee covering the twelve months to December 2019. Wahid Communications is not part of a VAT group with Al Nakheel Telecoms, so the fee amounts to SAR 24,000 plus VAT of SAR 1,200. Wahid Communications pays this in January 2020. The date of supply for VAT purposes is on 31 December 2019, due to the fact the invoice was issued first.

Al Nakheel Telecoms neglects to issue an invoice to Wahid Communications during the 2020 calendar year. As twelve months have passed since the previous date of supply was created (from the issue of the previous tax invoice), a subsequent date of supply is created on 31 December 2020, for the continuous supplies provided during 2020 (since the previous invoice).

Al Nakheel Telecoms must:

- report Output Tax in its VAT return for December 2020, and
- issue a tax invoice showing the deemed date of supply of 31 December 2020. This tax invoice must be raised by 15 January 2021 (being 15 days since the end of the month containing the date of supply).

11.1 Import of Goods

VAT is chargeable on the import of goods into the KSA from a country outside of the GCC. The import of goods is a separate event to any supply of those goods. Import VAT is payable on the import and clearance of goods into the KSA. This is not a supply for VAT purposes.

A supply of goods made before the formal import clearance into the KSA is not subject to KSA VAT. VAT will be charged to the importer by Saudi Customs upon the customs declaration.

The supply of goods made after the formal import clearance into the KSA, when goods are situated in the KSA, is generally a supply which takes place in the KSA and is subject to VAT.

VAT is chargeable at the rate of 5% on all imports of goods into the KSA, regardless of the classification of the goods, of what duty rate applies, or in the case the goods are exempt from customs duty. There are some limited exemptions from VAT on specific types of imports which are discussed in the Import and Export Guideline.

11.1. Collection of VAT on import

The VAT payable on the import of goods must be paid to the Saudi Customs Authority, together with the duty and other charges indicated on the customs declaration, to facilitate the release of goods to free circulation.

The importer can access the summary of VAT paid on imports through the Customs portal. This information is the definitive record of all amounts of VAT paid to Saudi Customs on imports.

The Implementing Regulations provide that a Taxable Person may apply to GAZT for approval to pay VAT on imports of goods through the VAT return, instead of paying this to the Customs Authority at the time of entry of the goods. If a taxable person has approval to do so, this VAT will be reported in Box 9 of the VAT return, rather than in Box 8 as for VAT paid to Saudi Customs.

This is a relief which GAZT is able to allow to specific taxable persons at its exclusive discretion. All taxable persons who are not authorized to pay the VAT on import through the VAT return, are obligated to pay the VAT that is automatically calculated by the Customs Authority on the customs declaration.

11.2. Customs duty suspension and temporary admission

The payment of VAT on import is suspended, in line with the suspension of other duties, when goods are placed in a customs warehouse or other suspension situations (goods in transit, or duty-free shops) and are not released to free circulation:

“Tax shall be suspended on imports of Goods that are placed under a customs duty suspension situation in accordance with the conditions and provisions provided for in the Common Customs Law.”⁽³¹⁾

The Customs Authority administers the goods held in customs duty suspension. It may require cash security or a bank guarantee for the amount of VAT which would be payable on the release of goods to free circulation (in addition to any security held on the duty amount). VAT is payable on the release of goods to free circulation.

(31) Article 39, Suspension of Tax, Unified VAT Agreement

Goods may also be temporarily released to free circulation under temporary admission without payment of duties, provided that certain criteria are met. This is a regime administered by the Customs Authority, and also qualifies as a customs duty suspension situation. Provided that the goods are under a valid temporary admission arrangement, VAT does not become due on their temporary release to free circulation.

11.3. Imports of goods for installation

In some cases, goods may be imported into the KSA in order for the supplier to install at the Customer's premises. This section deals with the particular case where the supplier is a non-Resident or is otherwise not able to perform the import on its own account.

In other cases where goods are supplied, and a separate charge is made for installation services in the KSA, both the supply of goods and the installation may be subject to VAT in the KSA (depending on the contractual arrangements for the supply of the goods), in addition to the VAT paid on the import of the goods.

In the case of a non-resident supplier, the VAT charged on the goods and services provided to a taxable customer in the KSA is self-accounted by the taxable Customer under the Reverse Charge Mechanism.

In all cases, VAT is paid by the importer of goods, and the right to deduction of that VAT is with the importer.

If the goods are imported by the Customer in respect of an onwards supply of construction or installed goods, the Customer remains obliged to pay the VAT on import and to seek deduction as Input VAT if the goods are used in the course of an Economic Activity which constitutes making taxable supplies.

Example (29): A KSA telecommunications company purchases network equipment from a supplier established in China for SAR 4,000,000 for its data centre. The agreement provides that the Chinese company will send personnel to carry out the installation, and will bear the risk for any damage to the goods until the installation is complete and title finally passes to the telecommunications company. The Chinese company does not have a local branch or establishment in the KSA.

The KSA telecommunications company uses its import licence to act as importer. The import value is SAR 3,200,000 – as the cost of post-import installation is excluded from the declared customs value.

The import of the network equipment by the KSA telecommunications company is subject to VAT of SAR 160,000 (5% x SAR 3,200,000). The supply of goods, together with installation, is also subject to VAT.

As the Chinese Company is a non-Resident, the telecommunications company self-accounts for VAT on the supply under the Reverse Charge Mechanism of SAR 200,000 (5% x SAR 4,000,000). Both amounts are considered Input Tax borne by the telecommunications company and are in principle eligible for deduction as they are used for the purposes of the telecommunications company's Economic Activity.

12. Deduction of Input VAT

12.1 Resident suppliers

A VAT registered person may deduct Input VAT charged on goods and services it purchases or receives in the course of carrying on its Economic Activity. Input VAT may be deducted on:

- VAT charged by a VAT-registered supplier in the KSA;
- VAT self-accounted by the VAT-registered person under the Reverse Charge Mechanism; or
- Import VAT paid to Saudi Customs on imports of goods into the Kingdom.

As a general rule, Input VAT which is related to the Taxpayer's VAT exempted activities is not deductible as Input VAT.

In addition, Input VAT may not be deducted on any costs incurred that do not relate to the Economic Activity of the Taxable Person (including some blocked expenditure types such as entertainment, sporting or cultural services, catering service, and restricted motor vehicles),⁽³²⁾ or on any costs which relate to making exempt supplies. This Input VAT is a credit entered on the VAT return which is offset against the VAT charged on supplies (Output VAT) made during that period.

Input VAT may only be deducted where the Taxable Person holds a tax invoice, or customs documents showing the amount of tax due, or any other document showing the amount of input tax paid or due, subject to the approval of the Authority⁽³³⁾.

12.2. Proportional deduction relating to Input VAT

VAT incurred which relates to a Taxpayer's VAT exempt activities, such as exempt financial services or residential rental, is not deductible as Input VAT. A person making both taxable and exempted supplies, can only deduct the Input VAT related to the taxable supplies. If a taxable person incurs general costs or expenses (overheads) in the making of taxable supplies, and others that are exempt from VAT, he must in that event split the costs and expenses precisely so as to specify those costs that relate to the taxable supplies. The input tax will be determined in accordance with the following rules⁽³⁴⁾:

Input VAT directly attributed to Taxpayer's taxable sales	Deduct in full
Input VAT directly attributed to Taxpayer's exempt sales	No deduction
Overheads and all other Input VAT that cannot be directly attributed	Partial deduction based on apportionment

The overhead costs/expenses incurred by the Taxable Person for making both taxable and exempted supplies must be apportioned to most accurately reflect the use of those costs in the **taxable portion** of the Taxpayer's activities.

(32) A detailed list of the blocked expenditures is listed under Article 50 of the Implementing Regulations.

(33) Article 49(7), Input Tax Deduction, Implementing Regulations.

(34) Article 51, Proportional deduction of Input Tax, Implementing Regulations

A prescribed default method of proportional deduction is calculated on the Values of supplies made in the year, using of the following fraction:

The Value of **Taxable Supplies** made by the Taxable Person in the last calendar year

The total Value of **Taxable Supplies** and **Exempt Supplies** made by the Taxable Person during the last calendar year

The fraction for the default method does not include supplies of Capital Assets made by the Taxpayer, as these distort the use of Input VAT.

Alternative attribution methods, using other calculation approaches than the Value of supplies, may be approved with the Authority in cases where these better reflect the actual use of VAT incurred. Further information about deduction of VAT and proportional VAT recovery is provided in the Input Tax deduction and Partial Exemption guideline.

12.3. Non-resident suppliers

Non-Residents are not able to deduct Input VAT as described above, unless they are VAT registered in the KSA. A non-Resident who is registered for VAT (e.g. in order to supply online services to consumers in the KSA) is entitled to deduct, through its VAT return, Input VAT charged in KSA on its purchases.

If the non-Resident supplier is not registered for VAT in the KSA, it is not able to deduct Input VAT on purchases or imports into the KSA through the VAT return.

Example (30): An Italian Telecommunications Company has no KSA establishment, but stores some spare parts in a third-party warehouse in Riyadh (these parts are sourced locally in KSA). All sales to KSA Customers are placed with the Italian sales team and are dispatched directly from Italy. The Customers act as importer and pay import VAT to Saudi Customs. Therefore, the Italian supplier is not able to register for VAT in the KSA. The third-party warehouse charges SAR 3,000 per month, plus VAT of SAR 150, for storage costs. The Italian supplier cannot deduct this VAT as Input VAT in a KSA VAT return.

13. VAT obligations of the Taxable Person

A Taxable Person is responsible for evaluating its tax obligations and complying with the conditions and obligations relating to VAT. This includes registering for VAT as necessary, calculating exactly the net amount of VAT payable, paying the tax at the time due, keeping all necessary records and cooperating with officials of the Authority on demand.

If a Taxable Person is not sure of its obligations, it should contact the Authority through its website at vat.gov.sa or by other means of communication. The Taxable person may also seek external consultation through a qualified consultant. There follows below a review of the most important tax obligations provided for in the Law and the Implementing Regulations.

13.1. Issuing tax invoices

A supplier must issue a tax invoice for each taxable supply made to any VAT-registered person or to any other legal person, or issue a simplified invoice in the event that the Value of the supply is less than SAR 1,000, or for supplies made to the end consumer, by no later than fifteen days following the end of the month in which the supply is made.

The tax invoice must clearly detail information such as the invoice date, supplier's tax identification number, taxable amount, tax rate applied, and the amount of VAT charged⁽³⁵⁾. If different rates have been applied to supplies, the Value of each supply at each rate must be separately specified, as well as the VAT applicable to each rate. A tax invoice may be issued in the form of a commercial document, provided that document contains all of the requirements for the issuing of tax invoices as set out in the Implementing Regulations to the Law⁽³⁶⁾.

Note that a Tax Invoice for a Nominal Supply (for example, resulting from the provision of goods or services for no Consideration) must be kept with the person's business records, but must not be issued to the recipient of the goods or services.

Further information on the requirements for tax invoicing can be found in the Taxpayer guideline on Invoicing and Records.

13.2. Filing VAT Returns

Each VAT registered person, or the person authorised to act on his behalf, must file a VAT return with the Authority for each monthly or quarterly tax period. The VAT return is considered the Taxable Person's self-assessment of tax due for that period.

Monthly VAT periods are mandatory for Taxable Persons with annual revenues exceeding SAR 40 million. For all other VAT registered persons, the standard tax period is three months.

The VAT return must be filed, and the corresponding payment of net tax due made, no later than the last day of the month following the end of the tax period to which the VAT return relates.

More information on filing of VAT returns is provided in a separate guideline.

(35) For more details on the requirements for issuing tax invoices, refer to the published Invoicing & Records guideline and Article 53, Tax Invoices, Implementing Regulations

(36) Article 53, Tax Invoices, Implementing Regulations

If the VAT return results in VAT due to the Taxpayer, or if the Taxpayer has a credit balance for any reason a request for a refund of this VAT may be made after the filing of the VAT return, or at any later time during the next five years by filing a request for a refund to the Authority. GAZT will review these requests and will pay the amount due on refund requests that have been approved, directly to the Taxpayer⁽³⁷⁾.

13.3. Keeping records

All Taxpayers are required by law to keep appropriate VAT records relating to their calculation of VAT for audit purposes. This includes any documents used to determine the VAT payable on a transaction and in a VAT return. This will generally include:

- tax invoices issued and received;
- books and accounting documents;
- contracts or agreements for large sales and purchases;
- bank statements and other financial records;
- import, export and shipment documents; and
- other records relating to the calculation of VAT

Records may be kept in physical copy, or electronically provided the relevant criteria are met – but in all cases must be made available to the Authority on request.

All records must be kept for at least the standard retention period of 6 years. That minimum period for retention is extended to 11 years in connection with invoices and records relating to movable capital assets, and 15 years in connection with invoices and records relating to non-movable capital assets⁽³⁸⁾.

13.4. Certificate of registration within the VAT system

A resident person who is subject to VAT and registered with the Authority in the VAT system must display a certificate to the effect that he has been registered in the VAT system in a place visible to the public at his main place of business and at all his branches.

In the event of a contravention, the person in breach will be liable to the penalties provided for in the Law.

13.5. Correcting past errors

If a Taxable Person becomes aware of an error or an incorrect amount in a filed VAT Return, or of any other non-compliance with the VAT obligation, he should notify the Authority and correct the error by amending VAT the tax return. Errors resulting in a net understatement of VAT (exceeding SAR 5,000) must be made known to the Authority within twenty (20) days of detecting the error or incorrect amount, and the previous return must be amended. In connection with minor errors resulting in a difference of less than SAR 5,000, the error may be corrected by amending the net tax in the subsequent tax return⁽³⁹⁾. Further information on correcting errors can be found through vat.gov.sa

(37) Article 69, Refund of overpaid Tax, Implementing Regulations

(38) Article 66, Records, Implementing Regulations, and Article 52, Capital Assets, Implementing Regulations

(39) Article 63 [Correction of Returns], Implementing Regulations.

14. Penalties

The Authority may impose penalties or fines on Taxpayers for violations of VAT requirements set out by the Law or Implementing Regulations.⁽⁴⁰⁾

Description of offence	Associated fine
Submitting false documents with the intent of evading the payment of the VAT due or to reducing its value	<ul style="list-style-type: none"> • At least the amount of the VAT due • Up to three times the value of the goods or services
Moving goods in or out of the Kingdom without paying the VAT due	<ul style="list-style-type: none"> • At least the amount of the VAT due • Up to three times the value of the goods or service
Failure to register for the VAT in the allotted timeframe	SAR 10,000
Filing incorrect tax return, amend a tax return after submission or filing any VAT document with the Authority resulting in a lower amount due	Equal to 50% of the value of the difference between the calculated Tax and Tax due
Failure to file VAT return in time	5-25% of the VAT in respect of which the return should have been filed
Failure to pay the VAT in time	5% of the VAT due for each month or part thereof
Collecting VAT without being registered	Up to SAR 100,000
Failure to maintain books and records as stipulated in the regulations	Up to SAR 50,000
Preventing GAZT employees from performing their duties	Up to SAR 50,000
Violating of any other provision of the VAT regulations or the VAT law	Up to SAR 50,000

In all cases, if a violation is repeated within three years from the date of issuing the final decision of the penalty, the Authority may double fine for the second offense.

The level of the penalty or fine imposed is set by the Authority with regard to the Taxpayer's behaviour and compliance record (including Taxpayers meeting their requirements to notify the Authority of any errors, and to provide co-operation to rectify mistakes).

(40) Chapter Sixteen: Articles (39), (40), (41), (42), (43), (44), (45), and (47), [Tax Evasion and Penalties], VAT Law.

15. Applying for the issue of rulings (interpretative decisions)

In the event that you are not sure about the manner of application of VAT to a particular activity or particular transaction that you are doing or intend to do, after referring to the relevant provisions and the relevant guideline, you may submit an application to the Authority to obtain a ruling. The application should set out the full facts relating to the particular activity or particular transaction on which you are asking the Authority to express its view.

A reply to a request for a ruling may be either:

- Public, in which event the Authority will publish details of the ruling, but without referring to any private particulars relating to the individual Taxpayer, or
- Private, in which case the Authority will not publish the ruling.

Neither a public nor a private ruling issued by the Authority will be treated as binding on it or upon the Taxpayer in connection with any transaction that he performs, and it shall not be possible to rely on it in any manner.

The Authority is not obliged to respond to all requests for rulings, and it may review all requests and specify priorities on the basis of certain elements, including:

- The level of information submitted by the Taxpayer in the request,
- The potential benefit to Taxpayers as a whole on the issuing of a general ruling concerning some transaction or activity,
- Whether there is an existing law or guide dealing with this request.

16. Contacting us

For more information about VAT treatment, kindly visit our website: vat.gov.sa; or contact us on the following number: **19993**

Common Questions and Answers

1. How is VAT applied to roaming charges made for use of mobile devices outside of the KSA?

Roaming charges are consideration for telecommunications services, which do not require the presence of the Customer in a specific location. Therefore, VAT applies in the country of the Customer's residence. If a KSA Customer uses his mobile outside of the KSA, any charges for roaming by his KSA mobile provider should be subject to VAT at 5%.

2. What are the rules used to determine the country where VAT applies for wholesale telecommunications transactions between traders in different countries?

If the supply is a wholesale supply of telecommunications, such as minutes, data allowance, network access or related fees (such as interconnect or transfer fees), the supply will fall under the Special Cases for telecommunications and electronic services. These operate in the same way for retail trade to consumers and to wholesale trade to taxable businesses.

For a wholesale transaction, it is unlikely that the Customer will be physically situated in a precise location to receive the services. Therefore, VAT will be applied – under the place of supply rules - in the country of the Customer's residence. If the Customer does not have residence in the KSA then VAT should not apply.

3. How should a telecommunications provider determine the residence of a Customer for the purpose of applying VAT?

The supplier may refer to standard customer information which is deemed highly indicative of a Customer's usual place of residence.

Such Customer information includes:

- The invoicing address of the Customer
- The bank account details of the Customer
- The internet protocol (IP) address used by the Customer to receive the wired and wireless telecommunications services and electronic services
- The country code of the SIM card used by the Customer to receive the wired and wireless telecommunications services and Electronic Services.

If there is any indication that the Customer information collected does not represent the Customer's residence, the supplier should carry out further checks, based on other available information, to verify the place of residence and corresponding VAT treatment.

4. At what time is VAT charged on the sale of a prepaid card?

A prepaid mobile card is a voucher that can generally be transferred for use by the person who enters a unique code and activates the credit.

VAT is not charged on the supply of the voucher, but is chargeable at the time the person activates the card and assigns the credit to his account for use against telecommunications services.

5. When is VAT applied for post-pay contracts?

The provision of telecommunications services in a post-pay or billed contract is a continuous supply of services. VAT applies at the earlier of when an invoice is issued by the supplier, or the date the Customer makes payment.

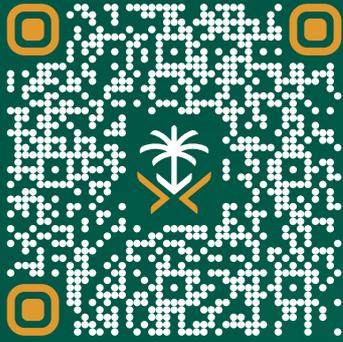
6. How does VAT apply in cases where telecommunications equipment is provided for no charge?

This depends on the specific facts and circumstances. If a Taxable Person makes a supply of goods or services for no consideration, independently of any other supply, then this gives rise to an obligation to report VAT on a nominal supply of those goods or services.

However, if goods or services are provided as part of a package for a combined price, an element which is described as "free" for promotional purposes does not result in a nominal supply. The consideration payable by the Customer should be ascribed to the relevant components in the package of goods and services.

7. A telecommunications provider offers a discount to Customers who pay before a date specified on the tax invoice. How does the telecommunications provider report VAT?

If the Customer pays before the specified date, and the supplier agrees to reduce the price after the tax invoice is issued, the supplier must issue a credit note to reflect the change to agreed consideration. VAT should be reported based on the discounted amount.



SCAN THIS CODE TO CHECK THE LATEST UPDATE FOR THIS DOCUMENT AND ALL PUBLISHED DOCUMENTS.

OR PLEASE VISIT OUR WEBSITE:

gazt.gov.sa

