Treaty and legislation

Is the Agreement published?
The GCC VAT Agreement has been signed by all six GCC member states and has been published in Arabic by the Kingdom of Saudi Arabia’s (KSA) Ministry of Finance website. Deloitte’s English translation is available on its website.

What is happened in KSA?
The KSA has now finalized and published its domestic VAT law and VAT regulations. This follows earlier consultations run on draft versions over the summer. Together with the finalized GCC Agreement, the law and regulations form the formal legal framework for the introduction of VAT across all sectors from 1 January 2018.

Taxpayers have now been provided with the full complement of rules to understand their obligations and the impact of VAT for their businesses. The VAT registration portal for all businesses eligible to register is now available through the ERAD system.

Do you think that there will be much variance in application of the rules between member states?
There will be a level of variance in application of the rules across the GCC member states. Similar to the EU, there are some provisions which are compulsory, and others which are optional, and others where there is a choice to be made on treatment at a local level. How each member state approaches the implementation of these provisions is likely to depend on their individual policy settings, economy, etc.

Which countries will implement VAT on 1 January?
The issue of local laws in the KSA and United Arab Emirates (UAE) confirms earlier announcements by these countries that VAT will be introduced domestically in January 2018. It is unclear when the rest of the countries will implement currently but this is expected to progressively happen through 2018.

What is happened in the UAE?
The UAE published its VAT law on 27 August, confirming many of the details of the domestic VAT rules which had been signaled in an earlier Frequently Asked Questions document issued by the Federal Tax Authority, such as the sectors eligible for exemptions and zero-rating.

The publication of the law is the first step in the establishment of the complete VAT framework in the UAE. The VAT Executive Regulations are currently still in the process of being prepared and approved, and it is expected that they will be enacted and made public before the end of summer.
Registration

What are the VAT registration requirements?
An established business in the GCC performing economic activities must register for VAT if it performs taxable supplies or imports that exceed the mandatory registration threshold of SAR375,000 (or the local equivalent) and may choose to register for VAT voluntarily if its supplies and imports are less than the mandatory registration threshold but exceed the voluntary registration threshold of SAR187,500.

When to use your VAT number
A customer VAT number will be needed to enable a supplier of goods and services to a recipient in another GCC country to invoice without VAT. In the long run, a portal to enable the checking of VAT numbers is expected to be made available.

Method of registration
VAT registration is expected to be largely online. Additional documentation may be requested offline (likely to vary by GCC member state).

Language used for registration
The expectation is that the registration platform will be available in English. This is confirmed to be the case for KSA and the UAE.

Establishment VAT registration requirement
If an entity has a Permanent Establishment (PE) for corporate tax purposes in a member state, then it is very likely to also have an establishment for VAT purposes in that country. The bar for a PE is arguably higher than that for having an establishment for VAT purposes. Where it is unclear which establishment of a legal entity (i.e. the head office or the PE) has made the supply then an analysis would be required as to the establishment most closely connected with the supply. Where such a PE is considered to be making taxable supplies, a VAT registration would be required.

Will zero-rated supplies count for the registration threshold?
Yes, the taxable supplies including zero-rated supplies count for the registration threshold. However, note that it might be possible that some GCC member states will allow; under certain conditions, a company which only makes zero-rated supplies to be excluded from the mandatory registration on request. The UAE and KSA have indicated that they may allow such exclusions in certain cases.

If only residents can be VAT registered, does this mean that offshore companies cannot be VAT registered?
There is a requirement for non-residents to register for VAT in the GCC, in the event that they need to pay VAT on supplies made by them in a GCC member state (e.g. the place of supply is in the GCC and the customer is not able to self-account for the VAT due under the reverse charge mechanism).

Will associations of persons (e.g. open consortium) be considered as a taxable person?
Whilst the GCC Agreement does make reference to companies being able to form VAT groups, it does not specifically confirm the legal form required to be VAT registered.

Will there be a common system of VAT registration so you can check whether you are dealing with a taxable person?
The GCC Agreement envisages an electronic matching system for intra-GCC systems. In practice we do not think this system will be available for a while and so it is likely a VAT number checking system will be made available country by country.

Will a business selling across the GCC be liable to register in each member state if only established in one?
A business selling across the GCC will only be required/entitled to register for VAT in another member state if the nature of its supplies of goods and services requires it to be (e.g. the place of supply is in another GCC member state and the reverse charge mechanism cannot be used).

Will businesses established in one GCC member state and providing services to individuals (i.e. non-taxable persons) in another member state be required to register for VAT in that second member state?
It is unlikely that a second registration would be required. The place of supply for services supplied to individuals is normally...
the country of the supplier, which would require the supplier to charge VAT from the country in which the supply is made.

**Will there be group registration for companies in the GCC?**
Based on the GCC Agreement, member states do have the discretion to implement VAT groups. The UAE and KSA laws indicate that grouping will be available for groups of legal persons established in these respective countries, depending on control requirements being met.

**Can we ‘VAT group’ establishments in different GCC states?**
We do not expect that it will be possible to ‘VAT group’ entities across GCC member states (e.g. grouping a KSA and a UAE entity), however we do expect the majority of member states to adopt local VAT grouping provisions as best practice.
Taxable transactions

Which supplies will be subject to standard rate?
The standard rate of 5% VAT will be applied across all six of the countries. This is expected to apply to substantially all of the domestic supplies made in the normal course of business.

Applicable exemptions and zero rates
Various exemptions and zero rates will apply but individual GCC members have a degree of flexibility as to whether to standard rate, exempt or zero rate. These areas broadly include education, real estate, healthcare, financial services, and transport. The rules released for the UAE and KSA show that member states will take differing views on exemptions and zero-rates; so it is important that businesses confirm the final rules in each member state.

GCC international services to a taxable customer
The place of supply of intra-GCC international services (excluding exceptions for services closely connected to the country of performance or to land and buildings) to a taxable (business) customer will be the location of the recipient of the service, with the recipient in another GCC member state required to reverse-charge local VAT. The customer’s VAT number in their member state of establishment must be shown on the VAT invoice to evidence the taxable status of the customer in their member state.

Export of services outside of the GCC (taxable customer)
This is an area where the GCC Agreement is light on detail. The supply of services to recipients not established in the GCC will be zero-rated in principle, but the interpretation of which services qualify under this rule may differ from country to country. It is hoped that countries will broadly follow the EU model, but they may in practice consider other factors, such as where the services are carried out or the location of a beneficiary.

Use and enjoyment for ESS
Use and enjoyment provisions exist for the supply of electronically supplied services (ESS) and telecoms. It is hoped in most instances VAT on B2B ESS will be reverse chargeable by the recipient.

Purchase of international services
The purchase of international services (both intra GCC and from outside the GCC) are to be treated as reverse-chargeable. This is broadly expected to operate in the same manner as the EU system with a fully taxable customer charging output VAT and taking an (equal and offsetting) input VAT credit in its VAT return.

Branch to head office (or branch to branch) transactions
Branches of the same legal entity would not be viewed for VAT purposes as distinct legal entities. Consequently, supplies of services between a head office and branch, or between different branches of the same legal entity should (in principle) be disregarded for VAT purposes (i.e. no supply).

Intra-GCC cross-border sale of goods (taxable customers)
The sale of goods transported from one GCC member state to another is expected to operate along the lines of the EU, with no VAT being charged on a cross-border sale.

The customer’s VAT number in the destination is required, along with suitable evidence that the goods have been shipped to that location - and the customer self-accounts for local VAT in the country of receipt.

Export of goods (outside of the GCC)
Again this is expected to operate along the lines of goods being exported outside of the EU, with the sale of exported goods being zero-rated (with the right to input VAT recovery). Suitable evidence that the goods have been exported/shipped would need to be retained.

Intra-GCC cross-border purchase of goods
Where there is an intra-GCC cross-border sale of goods, VAT will be accounted for under the reverse-charge in the GCC member state of destination (again, akin to the EU rules).

Where the customer is not a taxable person there will be distance selling rules that apply once the local VAT registration threshold is exceeded requiring the supplier to account for VAT in the destination country, before that, the place of supply will be the destination country. For suppliers not exceeding that threshold of distance sales, the place of supply will be in the supplier’s country.
Is there a specific form for the tax invoice?
Based on the GCC Agreement, each member state must determine the form of the tax invoice, the period of time for its issuance and the invoice’s contents. Each of them may allow the issuance of simplified invoices under specific terms and limitations. To be valid, a tax invoice issued by a taxable person should include specific information as requested by each member state. For example, based on international practices this may include:
• Date of issuance;
• Name, address of the supplier and customer and their tax identification number references;
• A description of the goods delivered or services rendered and the corresponding quantity;
• The VAT rate applicable and the VAT amount payable in the currency of the member state where the place of supply is located.

Is VAT to be charged in local currency only? What about GBP or US$ billing?
Even if the suppliers issue their invoices in different currencies, it is expected that a tax invoice will contain the VAT amount in the local currency. Filing will have to be done in the local currency.

What will be the VAT return filing requirement? Will it be monthly/quarterly?
Each GCC member state will specify this under the local VAT regulations but our expectation is that it will be on a monthly or on a quarterly basis. Monthly submission of VAT returns could be applicable to large taxpayers and quarterly submission of VAT returns to small and medium taxpayers. An additional annual return is not expected to be required (although this is ultimately for each individual GCC member state to determine).

Does the VAT framework specify any other additional reports? For instance, intra-GCC sales/purchases listing?
Not explicitly, but given the desire to share information between member states, it is likely that businesses performing transactions within the GCC will have to report and complete additional form(s). Further guidance may be provided by each member state in this respect.

Filing of returns
Returns are expected to be filed online via populating the various data through an online filing platform. It is not expected that an XML upload, or SAF-T type file will be required, although such a requirement may be introduced in due course (but in any case not for go-live on 1 January 2018).

Information required in VAT returns
This information is not expected to be published until later in the year and may vary by GCC member state. The UAE is expected to have boxes for sales to each of the seven Emirates.

VAT repayment
Where a taxpayer’s input tax exceeds output tax, a VAT refund is, in principle, payable. Conditions for actually receiving a cash refund (versus a carry-forward credit) may vary by GCC member state. For the UAE that may be in the form of ticking a box on the return asking for a VAT refund (although the exact position is still to be finalized).
Financial services

Will the exemption be only for interest-based products? Or will certain fee-based services be exempt?
The GCC Agreement foresees that financial services performed by banks and certain financial institutions shall be VAT exempt. It is expected in both the UAE and KSA that fee-based financial services will be taxed but margin-based products are likely to be exempt. However, the rules could be different in other GCC countries and further guidance will need to be provided at a later stage in that respect, indicating the products and services that could potentially benefit from a VAT exemption.

Will Islamic banking transactions be treated on par with conventional financial transactions for VAT - e.g. the buy and sell of underlying commodities will be taxable supplies and input tax creditable?
To ensure that there are no inconsistencies between the VAT treatment of standard financial services and Islamic Finance products, the VAT treatment of Islamic Finance should be aligned with the treatment of similar standard financial services. Each member state may provide further guidance in due time.

What input recovery mechanisms will be available for financial services?
Businesses will be expected to apportion partially recoverable input tax between the taxable and non-taxable supplies. Member states are entitled to direct the apportionment method. For example, the UAE has stated that the standard apportionment method should be the ratio of recoverable input tax to total input tax incurred.

Further guidance should be provided by each member state at a later stage regarding the above and also in respect of the use of other apportionment methods if they are fair and agreed with the tax authority.

Can input VAT be recovered on ‘specified financial services’?
The GCC VAT Agreement does not explicitly state that input VAT can be recovered on “specified financial supplies” (i.e. certain financial services provided to non-GCC resident customers). However, it is conceivable that some member states will permit input VAT recovery on specified financial supplies especially when one considers that the GCC VAT Agreement envisages exported services will be zero-rated.

Will insurance be taxable?
It is expected that insurance may well be taxable, with the possible exception of life insurance (which is likely to be exempt in the UAE and KSA, for example).
Electronically supplied services

Does the GCC VAT Agreement clarify as to whether electronically supplied services (ESS) by offshore providers are subject to VAT in the GCC?
Based on the GCC Agreement, use and enjoyment provisions should apply to electronically supplied services. It will be up to each GCC member state to define those services in more detail. The place of supply will be the GCC member state where the ESS is used and enjoyed. If the customer is a VAT registered taxable person, it may be able to self-account for the VAT due under the reverse-charge mechanism. However, if the customer is not VAT registered (e.g., an individual consumer), then the offshore provider will likely have to register for VAT in the GCC member state where the service is used and enjoyed, so it can charge VAT.

Is there any risk of use and enjoyment (UE) beyond electronic services?
Based on the GCC VAT Treaty the use and enjoyment provisions only apply to the supply of wired and wireless telecommunication services and electronically supplied services. It will be up to each GCC member state to define those services in more detail and draft appropriate VAT legislation to implement the GCC Agreement correctly.

Saying that, although unlikely at the beginning of the VAT implementation, it is possible that member states could attempt to expand the scope of the use and enjoyment provisions when they implement their own domestic VAT legislation. This is something that will need to be checked once the domestic VAT legislation for each GCC member state has been released.

Furthermore the zero-rating for exported services may be limited to those services not effectively used and enjoyed locally, for example.
Imports and exports

**Are imports subject to VAT?**
Import VAT will be payable in addition to any customs duty due on movements of goods into the GCC. However, if the importer of record is VAT registered, it is likely that there will be a reverse-charge mechanism available in the UAE to allow the importer to ‘pay’ and ‘recover’ the import VAT at the same time, mitigating any cash flow impact. KSA has indicated it may also allow payment of import VAT through the VAT return in some cases, and other GCC countries may have similar mechanisms in their domestic laws to reduce the cash flow burden for importers.

**What about goods in transit between GCC member states?**
If goods are imported by a taxable person from outside the GCC and then goods are then moved to another GCC member state, VAT will be payable at the first point of import. This VAT will be recoverable only in the destination country, however.

**If you have a customs duty exemption, will there be VAT on import?**
We understand that certain customs duty exemptions (e.g. diplomatic exemption) may apply to VAT on import. However there may be some which may not be included; we would recommend local law be examined once available.

**Will there be any deferral of import VAT?**
It is our expectation that, in line with international practice, there will be a possibility to defer import VAT in several of the GCC member states.

**Are indirect exports (i.e. exports by customer) zero-rated?**
Based on the GCC Agreement, exports should be subject to the zero rate. However, it is up to each member state to determine what qualifies as an export and the conditions that need to be met. KSA and UAE have indicated that indirect exports may qualify for the zero-rate, but the exact conditions - and indeed the rules in other countries will need to be confirmed in due course.

**Exports are subject to the zero rate; does it mean that I can refund what I have paid previously as VAT?**
Where a VAT-registered business performs zero-rated activities (e.g. export of goods), the VAT charged on any corresponding expenses should be recoverable in full, provided these relate to those zero-rated supplies. Further guidance can be provided by each member state in this respect.

**Is there any provision planned for simplified triangulation?**
The GCC Agreement does not foresee any provision for the simplification of triangular transactions. Further guidance may be provided by the Executive Regulations at a later stage in this respect.
Free trade zones

Are there any special economic/export zones?
Yes, the UAE has a number of free trade zones (FTZs). These FTZs confer a number of benefits to those that operate within them. It has yet to be confirmed how VAT will interact with these FTZs. There may be a difference in the application of VAT in the FTZs depending on the type of FTZs and the type of supply being provided. It has been the subject of considerable lobbying. The rules for free zones are expected to be finalized within a two- to three-month timescale.

Will a company in the free trade zone be required to register for VAT?
It is widely believed that a distinction will be made between fenced free zones and non-fenced zones. If that is the case then, the non-fenced zones would not benefit from any rules deviating from the normal regime. Supplies in the fenced zones would presumably be treated as outside of the UAE for VAT purposes. The UAE Ministry of Finance is expected to provide more detail in this respect. As a consequence, whether a company in a free trade zone is required to register for VAT or not may depend also on other transactions made.
Transitional issues

What about advance payments received prior to services performed or invoices issued if payments were made in 2017 for services performed in 2018?
When receiving advance payments in 2017 prior to services being performed or when issuing invoices for services performed in 2018, the advanced payment or issuance of a tax invoice may create a tax point in 2017 (i.e. prior to the implementation of VAT) depending on the time between the receipt of payment and the services being performed/invoice issued. We recommend the legislation with regards to tax point and any transitional provisions are reviewed in due course by affected taxpayers, as there may be transitional provision in place to ensure that businesses do not ‘artificially’ shift the tax point to avoid a VAT liability.

How about VAT on contracts which are effective from the pre VAT period to the post VAT period?
Where there is no VAT clause (or other tax clause dealing with VAT) in existing long-term contracts, the basic principle is that the price specified in the contract is inclusive of VAT and the supplier will have to bear the VAT. There may be transitional provisions in each country’s domestic VAT law to deal with long-term contracts entered into after a particular date (indeed, the UAE and KSA Regulations are expected to include such provisions), but these should be confirmed in each country in due course.

How will VAT apply on transactions involving any GCC states which have not yet introduced VAT?
In cases where GCC states have not yet introduced VAT locally, it is expected that these states will be treated as third countries - for the purpose of the rules on intra-GCC trade - until they have implemented a domestic VAT system. Transitional rules applying in each country should be confirmed in due course.
Reverse charge and special rules

What is the difference between reverse charge and a normal import?
In principle, when any registered person imports, acquires or buys goods or services from abroad, that person must pay any VAT that is due. The mechanism for this depends on whether the goods or services are received from the GCC and the specific rules in each member state.

Reverse charge is a mechanism under which VAT is required to be paid for the goods or services by the recipient instead of the supplier when the supplier is not a resident in the member state where the supply takes place. When the reverse charge is applied, the recipient of the goods or services makes the declaration of both their purchase (input VAT) and the supplier’s sale (output VAT) in their VAT return. In this way the two entries cancel each other from a cash payment perspective in the same return.

Imports are goods brought into the state from outside the GCC. As a general rule, imported goods are liable to VAT at the point of entry into the state. In most cases, a registered taxpayer can reclaim the VAT paid on the goods they have imported as input tax. The taxpayer will need the import VAT document to show that import VAT has been paid.

Individuals and non-registered persons must also pay VAT on imported goods, but will not be able to recover this as input tax.

Is a reverse charge only applicable for B2B transactions or is a B2C transaction also within the scope?
The reverse charge can only be performed by a VAT-registered person. Therefore, cross-border B2C supplies cannot be subject to the reverse charge.

Do branch offices in the GCC need to account for reverse charge where they receive a service from a branch outside the GCC?
In principle, supplies made within the same legal entity (e.g. between a branch and head office) will be outside the scope of VAT – but individual countries may have special rules to require VAT to be charged in some cases.

Are supplies to government subject to VAT?
Under the GCC Agreement, member states have the discretion to exclude certain categories from paying VAT or create a special VAT refund scheme for them. These are referred to as special cases and include:
- Government bodies designated by each member state;
- Charities and public service establishments designated by each member state;
- Companies exempted as per the international event hosting agreements;
- Citizens of member states when constructing homes for private use;
- Farmers and fishermen who are not required to register for VAT.

It is important to note that these special cases are not compulsory for member states to implement into local VAT law. Therefore, there could be differences in treatment between each member state. For example, the Ministry of Finance in the UAE has confirmed it is going to implement specific VAT refund schemes (except for farmers and fishermen, where there will be no special arrangement).

Who defines the status as a charity?
Will a UK charity automatically qualify as a charity in the GCC?
It is unclear what the domestic definition of ‘charity’ will include in each country. Based on our general understanding, we expect any entity defined as a charity under the relevant local rules and regulations to be considered as a charity for VAT purposes.

Is gas, water etc. considered as supply of goods?
We confirm that, in conformity with international practice, our expectation is that gas and water will be treated as a supply of goods for VAT purposes.

Will there be a second-hand margin scheme?
The GCC Agreement envisages that there will be a margin scheme system available to member states. We expect the UAE and KSA to implement such a system and it seems likely the other GCC countries will, but this is currently unclear.
VAT reliefs

Are textbooks (education) zero-rated?
Under the GCC Agreement, there is no specific zero-rating provision for printed matter. However, the member states have the discretion to implement a zero rate or a VAT exemption for the education sector. The GCC Agreement does not define what supplies fall within the education sector and it will be up to each member state to do this. For example, the UAE has already confirmed that education will be zero-rated. Therefore, it is certainly possible that the supply of student textbooks could fall within the scope of a VAT relief for education in some member states. However, the VAT law of each member state will need to be reviewed to confirm whether the supply of textbooks is subject to a zero rate or not. The UAE has not yet confirmed whether the zero rate for education will extend to textbooks.

Is there a zero rate for the oil & gas sector?
Under the GCC Agreement, the member states have the discretion to subject their oil, oil derivatives and gas sector to the zero rate according to the terms and limitations set by each member state. Therefore, it is up to each member state to define the scope of any zero rate that could apply to the oil sector. The UAE law includes a zero-rate for unrefined oil and gas and a broader reverse charge for B2B transactions in the sector, whilst KSA has not included any zero-rate for the sector in its laws.

In our view, it is more likely that any zero-rate in other countries will be restricted to the production and supply of oil and gas itself, in line with the UAE approach, rather than being applicable to other suppliers, such as engineering consultants. However, it is possible that some member states could widen the scope of the zero rate to include broader services in the oil sector.

What is the VAT treatment of gold?
The GCC Agreement requires silver, gold and platinum to be zero-rated where it is bullion standard. Jewellery would still be subject to the standard rate of VAT.
Will there be an overriding GCC court/arbiter to deal with complexities and disputes?
Under the GCC Agreement, the member states agree to share information regarding the application of VAT and each member state should establish domestic appeal courts. Appeals will ultimately be handled through the general court system (as opposed to a specialist tax court). For the UAE the process of appeal is expected to work along the following lines:
1) Request reconsideration of a position adopted by the tax authority;
2) Appeal committee;
3) Court system.

The member states also agree to work together to settle any disputes amongst themselves, or enter into arbitration if agreement cannot be reached on any aspect of the VAT implementation.

However, there does not appear to be an intention to establish a GCC-wide VAT Court or overarching GCC arbiter for disputes with the tax authorities (such as the CJEU in the EU). This would mean that neither domestic tax authorities nor taxpayers will have recourse to refer domestic appeals to a GCC regional court for clarification on the application of VAT law.

In the future, such a GCC court, or a mechanism for referring VAT questions at a GCC level, may be introduced, particularly if member states interpret the GCC VAT Treaty differently and it creates a distortion of competition across the GCC. However, there is currently no legal basis for this under the GCC VAT Treaty.
Input tax

Input VAT
The documentation required to support an input VAT claim will be a valid VAT invoice or customs documentation (for imported goods). VAT on employee incurred expenses should, in principle, be recoverable (subject to having appropriate documentation, such as invoices, etc.), but this is unlikely to be specifically covered in individual member states’ VAT law. This may be an area that just plays out over time.

Can non-resident enterprises recover input VAT?
Non-residents of the GCC territory may be allowed to apply for refund of VAT incurred in the UAE and KSA if the following conditions are met:
• They do not supply goods or services for which they are liable to pay VAT in the refunding country;
• They are registered for VAT/GST in their country of residence or they would be if such a system were in place;
• The VAT has been paid by those persons in the course of carrying out their economic activities.

It is not clear whether refunds will also be allowed to such persons for VAT incurred in other member states.

Will input tax be offset against output tax on the VAT return?
Input tax is usually recovered through the tax return itself by offsetting it against the output tax declared, and if the amount of input tax being recovered exceeds the amount of output tax being declared, the taxable person shall, in principle, be entitled to a refund. The conditions and timeframes for payment of refunds to taxpayers will be determined by member states as a matter of administrative practice.