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Foreword by

Mr. Anurag Singh Thakur

Hon'ble Union Minister of Information & Broadcasting and Youth Affairs & Sports

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- Developments in GST Law – Update
- GST on Healthcare Services
- Goods Transport Agency Services under GST

International

- GCC Taxation Framework
- VAT in UAE
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GOVERNMENT OF INDIA

Foreword from Mr Anurag Thakur, Hon'ble Union Minister of Information & Broadcasting and Youth Affairs & Sports

I am pleased to learn about the launch of the inaugural issue of the prestigious OMNIVAT magazine a joint initiative of AstraZure and OakBridge Publishing that is being launched under the aegis of CA Atul Gupta immediate Past President Institute of Chartered Accountants of India (ICAI) and current Board member of International Federation of Accountants (IFAC).

The OMNI-VAT magazine is a much-needed and timely initiative as India approaches completion of nearly four years of GST implementation - a path-breaking initiative in streamlining the indirect tax regime for expanding and strengthening the formal organised economy and plugging loopholes and leakages.

The magazine attempts to bring together the growing knowledge and experiences about the history, genesis, implementation and evolution of VAT/GST from across the globe captured in the form of scholarly articles and analytical opinions from eminent experts, organisations, and professional associations and bodies.

I congratulate CA Atul Gupta, AstraZure and OakBridge Publishing for this inaugural issue and wish this new OMNI-VAT magazine and its readers great success ahead.

(Anurag Singh Thakur)

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From the Editor's Desk

GST, globally known as VAT (Value Added Tax), was first introduced in France. Looking at the benefit of VAT as a consumption tax that minimizes avoidance and generates revenue that will be constant, compared to other indirect tax, more than 150 countries globally adopted the VAT including India. As per estimates, by 2007, more than 4 billion of the population was under coverage of VAT. Globally, the jurisdictions always look for new sources of resource mobilisation with ease of collection and since VAT(GST) is a consumption-based tax which is easy to administer, it became the first choice for adoption. Value-added tax (VAT) is a type of indirect tax levied on goods and services for value added at every point of production or distribution cycle, starting from raw materials and going all the way to the final retail purchase.

As the introduction of any tax in a jurisdiction impacts the different sections of the society and brings behavioural change, it is very important to adopt best practices for its positive adoption. VAT being a consumption-based tax, impacts businesses, consumer behaviour (promotes the habit of saving), and authorities on the way of collection of tax and handling of related issues. At times, it is also criticised for being a "regressive tax" as poor sections of the society also pay the same rate & amount of tax on purchase as the affluent sections and therefore efforts were initiated to adopt features of a "progressive tax".

Given that globally, including India, GST(VAT) has been implemented in the recent past, there is scope for adoption of best practices to ensure "ease of doing business" and compliance. There are different practices and events in a business cycle, which at times require interpretation and analytical review to understand the taxability and its quantum. To illustrate, consideration received for "obligation to refrain from an act or to tolerate an act" is a particular phenomenon which requires global jurisprudential inputs to assist the new jurisdictions. Similarly, the taxability and quantum of "disposal of goods by way of gift or real estate services provided" is a contentious issue among various jurisdictions.

At the global level research scholars are putting their best efforts along with practitioners to see how the best practices can be adopted by a particular jurisdiction which not only offers ease of doing business for the assessee by providing more clarity on processes and provisions but also guides the Regulators to set a seamless process for compliance, refunds and related procedures. As rightly said "More you learn, more you grow". The efforts put-in here by the authors, researchers and fellow professional colleagues who are serving the society as practitioners or in the industry will be useful not only for readers but different jurisdictions to learn and adopt better practices. Since various research papers present experiences of jurisdictions like Singapore, India, Indonesia, UAE and others, the content in the inaugural issue will incite a deeper study into the area by fellow colleagues.

Best Wishes

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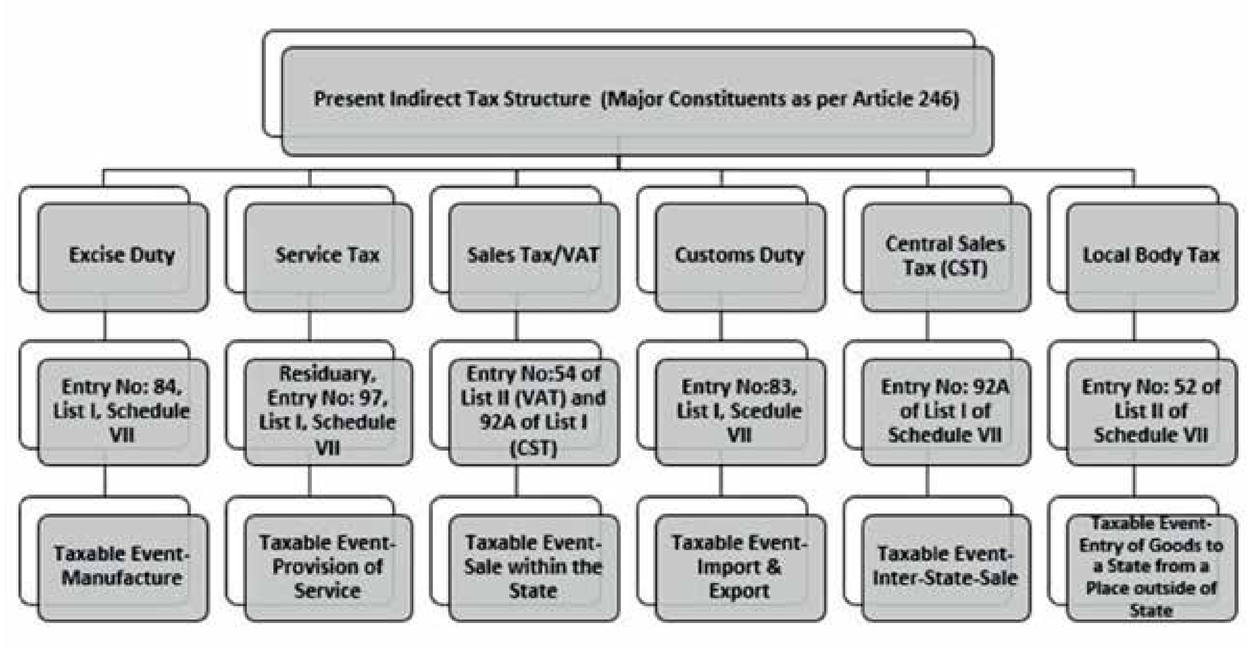
For over seven decades, since Independence till June 2017, India has had multiple indirect taxes levied and administered in a value chain by various Centre and State tax authorities.



Indirect Tax Structure in India

In the pre-GST era, there was Central Excise Duty on manufacturing of goods levied by the Centre, Value Added Tax on sale of goods levied by State and Service Tax on provisioning of services levied by the Centre. Other than these key taxes, there were multiple sector and State specific taxes, surcharge and cess such as purchase tax, entertainment tax, luxury tax, duties under Medicinal and Toilet Preparations Act, taxes on lottery, betting and gambling and surcharges and cess. Therefore, there was a multiplicity of taxes being levied on same supply system, and it had a cascading effect as there was not limited provision to set-off. Besides, there were non-tariff barriers like octroi, entry tax, check-posts etc.

The Goods and Services Tax (GST), implemented on July 1, 2017, is regarded as one of the significant major taxation reforms implemented till date in India. The primary objective behind implementation of GST is to subsume various indirect taxes in India like Central Excise Tax, VAT/Sales Tax, Service tax, etc. and implement one harmonised taxation system in India. This is in line with the government's vision to have "One Nation One Tax".

GST is a tax levied on supply of goods and services, at each stage of supply chain ranging from manufacture or import to the retail level.

By virtue of its design, GST is expected to broaden the tax base and improve the tax compliance.

It took the Government(s) around a decade, to get the tax reform (GST) onboard. In its making, we witnessed the lengthiest debate on its coverage and rates, followed by an amendment to the Constitution of India.

While a majority of indirect taxes are subsumed under GST, the one that are left out are Customs Duty, taxes on electricity, real estate, alcohol for human consumption, local body entertainment tax and some others.

Whereas crude oil, diesel, petrol, natural gas and aviation turbine fuel are within the GST but the levy will be effective from a future date, to be decided by the GST council, a nodal body responsible for advising the Government on GST matters.

The GST based taxation system is poised to bring in greater transparency in the overall tax administration, accelerating the growth rate in the country by checking corruption and tax evasion.

Under GST, there is a seamless transfer of input tax credit from one stage to another in the chain of value addition, which incentivizes tax compliance by the taxpayers.

GST has formally introduced the concept of 'mixed' and 'composite supply', applicable only on domestic transactions which is particularly relevant for sectors, including healthcare, providing a bundle of services.

GST is expected to harmonize and simplify the indirect tax regime. It is also projected to reduce the cost of production and inflation in the economy.

GST seeks to transform the Indian economy with its 'One Nation, One Market, One Tax' principle by subsuming a host of indirect taxes charged at varied rates by the Centre and states, thereby bringing uniformity in taxation across the country.

India's GST has a multi-tier structure, with rates of tax varying from nil, 5%, 12%, 18% to 28% added by a compensation cess of up to 15% on certain goods.

With the implementation of GST, there is a paradigm shift in determination of tax liability, as there is a change in 'tax incidence'.

Under the extant laws, each of the legislations had its own determination of tax incidence ranging from 'manufacture', to 'sale', to 'provision' of services. In GST, there is a uniform tax incidence of 'supply'. The term supply encompasses all its forms such as sale, transfer, barter, exchange, license, rental, lease or disposal etc. of goods and services.

The consolidation of indirect tax laws is a major relief to taxpayers in India, as one is no longer required to see multiple and respective tax incidences and compliances.

The businesses can now expect standard operating procedures across locations, as GST extends to the whole of India uniformly, including and as applicable to Jammu and Kashmir from July 6, 2017.

Healthcare as a sector, comprises supply of both goods and services. And, as we know, trading of goods was subjected to state-specific VAT and given the discriminatory rate of taxes and classification, the industry was struggling with these state levies.

The vista of uniformity, emanating from the amalgamation of indirect tax laws, is likely to develop a sense of certainty among the taxpayers.

Beside goods, there is a substantial component of service delivery especially in hospitals and diagnostic centres. Perhaps, these two are known for their services only. Previously, a majority of services provided by hospitals and diagnostic centres were exempted from service tax. Objectively there is a continuance of exemption, less than expected, but a few remaining, which were subject to service tax, are witnessing a 3% tax inflation in this space due to increase in rate of tax from 15% (service tax) to 18% GST. This is more specific to procurements made by hospitals and diagnostic centres.

Globally, GST or VAT is conceived as a tax scheme with minimum exemptions. Contrary to this, India has relatively more exemptions, which were to be carried forward in GST on the principal of equivalence.

Let us remember, the objective of GST was not to bring a new taxation system, but the consolidation of existing laws to improve the administration, ease of doing business, and remove the cascading effect, among other things. Therefore, objectively one can fairly expect that the overall rate of tax and benefits must not fluctuate with GST implementation.

The Government, in the interest of economy, had incorporated one of its kind provision under GST legislation to safeguard against profiteering by the business and abuse of market forces on account of implementation of GST. Businesses are mandatorily required to pass the tax benefits to the recipient of supply, owing to a reduced tax rate and availability of input tax credit.

A National Anti-profiteering Authority (NAA) has been established by the Government to ensure that the benefits of increased input tax credit and reduced GST rates on goods and services are passed on to the recipient of supply.

It is no less taxing, to ever have a tax on healthcare and related services.

The price of any goods and services essentially contains:

- Cost of manufacturing or providing that goods and services.
- Profit(s) of the supplier and.
- Component of indirect tax charged on the supply of those goods and services.

To an extent the cost of manufacturing goods and/ or providing services inherently has an indirect tax component, which is unknown to the customer (patient). Similar is the case with the profits that the supplier makes in the transaction is not known.

Whereas the last component i.e., indirect taxes is certainly known to the consumer and patients. Furthermore, there is always an assessment of the quality of goods and services provided with the tax component charged on the invoice. At the time, the consumer recognizes the indirect tax to be a burden, specifically in case of education and health, where it leads to a rise in price that the consumer pays for essential services.

GST provides for tax on 'all' supplies of goods and services, unless exempted.

The term 'healthcare' may assume different meaning in different domains, and thus it is important to define 'healthcare' in the different contexts it may be used. This mandate under GST, has been fulfilled by a Notification issued on exemption where under 'health care services' are defined.

What are Health Care Services, for GST?

The supply of health care services by following, is exempt from GST:

- Clinical establishment;
- Authorized medical practitioner and
- Para-medics

Health care services, as defined under the Notification 1, means:

'any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, development abnormalities, injury or trauma.'

The definition is predominantly founded on three pillars of Diagnosis, Treatment and Care, followed by coverage of transportation of patients. One would also observe the exclusion of ordinary cases of hair transplant or cosmetic or plastic surgery.

Key Exemption under GST

Healthcare services by a clinical establishment, an authorized medical practitioner or para-medics, are exempt from GST. The patients are also saved from GST on services provided by way of transportation of a patient in an ambulance.

The benefits extend indiscriminately to diagnosis, treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India.

'COMPOSITE SUPPLY' IN HEALTHCARE

A composite supply, under GST, means supply (of goods and services) 'made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.'

It is a prevalent practice amongst healthcare providers to offer goods and or services together or in a package.

There has been a longstanding debate around the taxability of goods and services supplied together, and the jurisprudence as it evolved offers divergent opinion on taxability, on a case-to-case basis, as to whether the transaction involves principal supply of goods or services.

Apart from the main healthcare services, the hospitals and diagnostic centres have to provide certain ancillary services such as room accommodation provided to in-patients, food supplied to in-patients as advised by the doctor or nutritionists, supply of medicines, stents or implants during in-patient diagnostics, diagnostic and pathological tests etc.

The Government has clarified that the room rent of hospitals is exempt from GST, and treated different from that of rooms provided by hotels, inns and guest houses.

The Tax Research Unit at the Central Board of Indirect Taxes and Customs has clarified the transaction in its Circular that ancillary services i.e., supply of meal to in-patients during diagnostics forms part of composite supply of healthcare and the supply of meal will not be separately taxable. It also clarified that supplies of food by a hospital to OPD patients (not admitted) or their attendants or visitors are taxable.

Accordingly, there could be numerous combinations and possibilities, to be examined on a case specific basis, for determination of principal supply in the transaction, followed by taxability or exemptions as the case may be.

A rise in healthcare cost hinders its access. The growing incidences of catastrophic expenditure due to health care costs, are presently estimated to be one of the major contributors to distressed conditions of economically weaker sections.

India's National Health Policy 2017, aims to attain the highest possible level of health and well-being for at all ages, through a preventive and promotive heath care orientation.

The National Policy further acknowledges that this goal would be achieved though increasing access, improving quality and lowering the cost of healthcare delivery.

One of the components in healthcare delivery is indirect taxes, and therefore it is pertinent to have a pro-healthcare tax structure to support the objectives.

An illustrative list of areas (injuries), which GST brings along is as under:

- Proportionate credit reversal – healthcare providers are required to reverse their input tax credit, if a part of their output goods or services is taxable and part exempt. The facility of input tax credit is not available in real sense.
- On import of devices by hospitals, there is a basic customs duty (BCD) followed by integrated tax

  (IGST). BCD is always non-creditable, however there are cases where there is a high IGST cost involved. This IGST paid appears as cost in the books of the accounts for a healthcare provider.
- Presently, the tax concessions are largely post operationalization, however given the focus on development of healthcare and wellness centres, the transactions involving their setting up, construction etc. should also be considered for tax benefits, so that there is less cost of establishment.

INTERNATIONAL EXPERIENCE AND BEST PRACTICES

Some advanced countries provide state-sponsored health protection and generally incur all the expenses to ensure the well-being of its citizens. In this context, it may be useful to learn from the international experience on taxation of healthcare services.

United Kingdom

India's GST, from a healthcare sector perspective, seems to have a close tryst with United Kingdom's VAT. The prevailing VAT rates in UK are 0%, 5% and 20%.

Under UK's VAT, the healthcare services are defined as 'the supply of services consisting in the provision of medical care'. Supply of healthcare services is exempt from VAT. Nursing, ambulance services and online healthcare services are also VAT free.

Likewise, hospital room rent, supply of medicines, implants etc. is exempt from VAT when supplied as part of a packaged supply of care or treatment.

The diagnostic centres also enjoy similar benefits as that in India, their supplies are VAT free. The doorstep sample collection and delivery of report does not make a difference to taxability.

Plastic and cosmetic surgery when carried out for a cosmetic reason rather than to treat a medical or psychological condition, is taxable at the standard rate of 20%.

The complications under India's GST and UK's VAT are also comparable and the businesses providing both taxable and exempt goods and services, can avail only the proportionate input tax credit.

Singapore

Singapore implemented its GST in 1994, when India attempted to tax service sector for the first time. There is a standard 7% GST on healthcare services (including the medicines and products). There is no relief from GST. The taxability applies uniformly to a Singapore resident or a foreign person.

Singapore's GST system is possibly the simplest indirect tax regime, and without concessions, operating in a relatively small jurisdiction.

Philippines

Under the Tax Code, performance of medical, dental, hospital services are considered exempt from VAT, except if rendered by professionals. Further, the tax on room rent is considered as part of hospital services and is exempt from VAT.

The term 'healthcare services' unlike India, is not defined in the Philippines Tax Code, but was defined by the Philippines Court of Tax Appeals in Perpetual Hospital v. CIR, stating that hospital service "includes not only the services of the doctors, nurses and allied medical personnel, but also the necessary laboratory services, and making available the medicines, drugs and pharmaceutical items that are necessary in the diagnosis, treatment and care of patients".

Presently the sale of drugs to hospital in-patients is VAT exempt because the sale forms part of the term "hospital services". And the new tax code implemented from January 2019 provides for VAT Exemption on the sales and importation of drugs and medicines prescribed for diabetes, high cholesterol, and hypertension, without distinction if whether the sale is IPD or not.

On the contrary, online-consultancy and doorstep diagnostic services (sample collection), which are treated as healthcare services in India, and thus exempt, are not treated as part of healthcare services and therefore taxable in Philippines.

GST Rates Applicable in Various Countries

Name of Country	GST Rates (in %)
Netherlands	21%
United Kingdom	20%
France	20%
Germany	19%
India	0%, 5%, 12%, 18% and 28%
Russia	18%
China	17%
Pakistan	17%
Mexico	16%
New Zealand	15%
Australia, Brazil, Indonesia, Korea	10%
Japan, Switzerland	8%
Thailand, Singapore	7%
Malaysia	6%
Canada, Jersey	5%

GCC Taxation Framework
A Primer

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Introduction

When we think about taxation, we think of the Gulf Co-operative Council (GCC) countries with one of the least complicated and demanding taxation regimes in the world. The structure and compliance of tax laws in the 6 member countries (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and United Arab Emirates (UAE) of the (GCC)) is not very complex in comparison with the rest of the world. As a result, it has been an attractive jurisdiction for foreign investors.

Historically, the GCC countries are heavily dependent on oil-revenues. With changing times and increase volatility in oil prices, GCC countries are moving towards an effective taxation system in order to boost their revenue from sources other than oil. Taxation like corporate tax, Zakat, excise duty, Value Added Tax (VAT), custom duties, etc. are already in place in many GCC nations.

History of VAT in the GCC

With the oil and petroleum prices hitting an all-time low in 2015, the GCC countries signed the Value Added Tax Treaty in the year 2016 as one of the instruments to finance their future growth and expansion. Many countries in the world are resorting to renewable green energy which again puts more pressure on countries with their main source of income through export of oil. In the treaty, it was decided that VAT will be implemented at the rate of 5% on goods and services. Saudi Arabia and UAE were the only countries to meet the deadline and successfully implement VAT laws in 2018.

In this article we will discuss about VAT laws in different GCC nations along with the status of other tax laws.

Discussion on the status of Country wise VAT laws is as under: -

Saudi Arabia

Saudi Arabia implemented the VAT at the start of the year 2018 with the expectation of it becoming one of the major sources of non-oil revenue. In the beginning, the companies with a turnover of more than SAR 1 million were supposed to register under VAT law. In December 2018, the limit was changed to SAR 375,000 which is also in compliance with the GCC Unified VAT Agreement. The step was taken in order to achieve non-oil based revenue stability and sustainability.

VAT revenues for the first year was SAR 45.6 billion exceeding the budget by almost 100% whereas the VAT revenue for 2019 was SAR 47 billion. The expected revenue for 2020 will be less than what is earned in 2019 due to the impact of COVID on world economy. As a measure to deal with this unexpected situation, Saudi revised its VAT rate from 5% to 15% from July 1, 2020. This step is taken with the aim to reduce dependency on oil revenues and increase the sustainability of non-oil sector revenues. Due to sudden increase in VAT in the third quarter, the inflation shot up to 6% which is now expected to reach around 3.70% for the FY 2020.

At present, VAT is applicable on most of the goods and services with some exceptions. Examples of such exceptions are given below: -

- Life Insurance – Exempt
- Public Healthcare - Zero Rated
- International Transport – Zero rated

Other Tax Laws and Regulations

a) **Taxes on Corporate Income** – Corporate tax rate in Saudi Arabia depends on the status of citizenship. For non-Saudi nationals the tax rate is 20% of the net adjusted profits whereas for Saudi nationals and GCC citizens, it is 2.50% of the net worth of the entity or net adjusted profit of a Saudi or GCC national whichever is higher. If in a company, both Saudi/GCC national and non-Saudi national are partners then the respective tax rates will be applicable on their respective share of profits.

It should be noted that Income tax rate is 20% but

income from oil and hydrocarbon production is subject to tax rate ranging from 50-85% (depending on the capital investment done by the companies).

b) **Custom Duty** – In 2020, Saudi has increased the custom duty on its various products. Few examples are as under:-

- Food and beverages – From 5% to a range between 5.5% - 15%.
- Chemicals – From 5% - 12% range to a range between 5.5% - 15%.
- Leather products – From 12% to 15%.
- Straw, paper products - From 5% to a range between 8% - 10%.
- Carpets, clothes, and shoes - From 5% - 12% range to 15%.
- The duty on other products can range from 7% - 25%.

c) **Excise Tax** – Excise tax is applicable on three categories; tobacco products – 100%, energy drinks – 100% and soft drinks – 50%. Businesses subject to Excise Tax should register themselves with General Authority of Zakat and Tax (GAZT).

d) **Real Estate Transaction Tax** – 5% of the total real estate disposal value regardless of its condition, shape or use at the time of disposal.

e) **Social Security Contribution** – Social security contribution for non-Saudi national is 2% paid by the employer and 22% for Saudi national and it is paid by both the employer (12%) and employee (10%).

f) **Withholding Tax** – Payments made to non-resident parties are subject to Withholding tax in Saudi. The rate of withholding tax is 5% on dividends, 5% on interest, 15% on royalties, 20% on management fees and 5%-15% for other technical services.

g) **Transfer Pricing** – Saudi has transfer pricing guidelines which apply to all the taxpayers and cover transactions between related persons or persons under the same control.

h) **Country-by-Country Reporting** – It is applicable to Group companies with consolidated revenue exceeding SAR 3.2 billion. The first filing obligation applies to companies with reporting fiscal year starting on or after January 1, 2018.

United Arab Emirates (UAE)

VAT came into force in UAE on January 1, 2018. The country's Federal Tax Authority was charged with coordinating tax revenue collection across seven emirates. The rate of VAT is 5% and threshold limit to register under VAT is AED 375,000 and it has remained the same since VAT implementation. In the beginning of 2020, the total of 312,000 businesses were registered as an individual or as tax groups.

Since 2018, UAE has seen a rise in the collection of VAT revenue. In 2018, the UAE reported the total revenue of AED 27 billion which is 125% more than the budgeted figure. It even exceeded the budgeted figure of AED 20 billion for the year 2019. The total VAT collected was divided between Federal Government and 7 emirates in 30-70 proportion. Dubai's total share in the revenue was 42% i.e., AED 11.34 billion where as Abu Dhabi and Sharjah received 18% (AED 4.85 billion) and 6% (AED 1.61 billion), respectively. Other emirates received remaining 4% (AED 1.1 billion) of the VAT revenue.

In comparison to last year, the total revenue in 2019 increased by 15% to AED 31 billion. Whereas in 2020, the revenue has decreased in comparison to last two years due to COVID-19 and slowdown in world economy. As of August 2020, the VAT revenue amounted to AED 11.6 billion.

Similar to Saudi Arabia, UAE also has a standard 5% VAT on most of the items. However, healthcare services which are preventive or necessary for the treatment of humans, education services and international transport comes under 0% VAT category. Moreover, in UAE, tourists are eligible for VAT refund subject to certain conditions.

Other Tax Laws and Regulations

a) **Corporate Tax** – UAE does not have a federal corporate tax regime. The decision to implement corporate tax depends on the government of individual emirates.

   Currently, the oil and gas companies are taxable based on the specific terms mentioned in the concession agreement or fiscal letter with the government. The terms of concession agreement or fiscal letter is specific and determine the tax base, tax rate, due dates and filing of returns. Tax rates for oil and gas companies can range upto 55% and royalty rates can be between 12%-20% depending on the levels of production. Branches of foreign banks are also subject to corporate income tax at a flat rate of 20%.

   In addition to this, each Free Zone has its own rule

and generally companies operating in Free Zones are not liable to Corporate tax. Companies are given 'Tax Holidays' or exemptions which ranges between 15-50 years and mostly renewable upon expiry.

b) **Customs Duty** – In UAE, the customs duties are fixed at 5% of the CIF value of most products. Other rates may apply to certain goods, such as alcohol and tobacco, and certain exemptions and reliefs may also be available.

c) **Excise Tax** – In 2017, the United Arab Emirates introduced an excise tax on tobacco and tobacco products, carbonated drinks, and energy drinks. On December 1, 2019, the United Arab Emirates expanded the scope of excise tax to include sweetened drinks, electronic smoking devices and tools, as well as liquids used in electronic smoking devices and tools.

   The applicable tax rates are as follows:

   - 100% on tobacco and tobacco products, electronic smoking devices and tools, liquids used in electronic smoking devices and tools, and energy drinks.
   - 50% on carbonated drinks and sweetened drinks.

d) **Municipality Tax / Municipality Fee** – The rate of Municipality tax in Dubai is 5% and Abu Dhabi is 3% of the annual rent value.

e) **Social Security Contribution** – It is only applicable to UAE and GCC nationals. Non-GCC nationals are not a part of this contribution. Most emirates in Dubai have a contribution rate of 17.5% (12.5% payable by employer and 5% payable by employee). Abu Dhabi has a higher rate of 20% (15% payable by employer and 5% payable by employee). For other GCC nationals, the contribution depends on the social security regulation of their home country.

f) **Country-by-Country Reporting** – UAE recently introduced country-by-country reporting effective on financial years commencing on or after January 1, 2019. It will apply to companies with consolidated revenue of AED 3.15 billion.

g) **Economic Substance Regulations (ESR)** – In 2020, UAE issued regulations pertaining to ESR. UAE onshore and Free Zone entities that carry on the specific activities mentioned in the regulation have to meet the ESR requirements. Failure to do so could trigger penalties.

h) **Ultimate Beneficial Ownership (UBO)** – It requires the entity to prepare and file a UBO register, Nominee Director register and Partners or Shareholder register with the relevant authority. All UAE companies (onshore and offshore- but excluding those registered in the Abu Dhabi Global Market and the Dubai International Financial Centre or directly or indirectly wholly owned by the federal or local government) must comply with their reporting obligations under the UBO Regulations.

Bahrain

VAT in Bahrain was implemented on January 1, 2019. Like Saudi Arabia and UAE, the general rate of VAT in Bahrain is also 5%. The mandatory registration threshold is 37,500 Bahraini dinar (BHD) for businesses resident in Bahrain. The National Bureau for Revenue (NBR) is the regulatory body that is responsible for overseeing and upholding the provisions of the Bahrain VAT Law and Regulations.

In Bahrain, basic food items, healthcare, education, and local transport are under the 0% VAT category. For the year 2019, revenue from VAT was BHD 250 million which is 67% higher than the budgeted figure of BHD 100 million.

In 2020, to ease the compliance and filing process of filing VAT returns, Bahrain introduced new guidelines of annual returns for Micro Business. Businesses which meet the following conditions can apply:

(i) resident of Bahrain, revenue less than BHD 100,000 and

(ii) not a part of VAT group.

The NBR has the discretion to accept or reject the application for annual filing.

Other Tax Laws and Regulations

a) **Corporate Tax** – There are no corporate taxes in Bahrain except on the companies which are in the oil and gas sector or derive profits from the extraction or refinement of fossil fuels (defined as hydrocarbons). Such companies are taxed at 46% on their net profits.

b) **Customs Duty** – The general rate of customs duty is 5% on CIF value with the following exceptions:-

- Alcoholic beverages – 225%
- Cigarettes – 200%
- Certain categories of goods, such as paper and aluminum products, are subject to a 20% duty rate.

c) **Excise Duty** – 100% excise duty on tobacco products and energy drinks and 50% on soft drinks.

d) **Social Security Contribution** – 12% for Bahraini nationals and 3% for non-Bahraini nationals paid by the employer.

e) **Municipality Taxes** – 10% tax on the rental of residential and commercial property to expatriates.

f) **Economic Substance Regulation (ESR)** - The Economic Substance regulations were issued by the Ministry of Industry, Commerce and Tourism (MOICT) on December 23, 2018. Entities falling within ESR's scope should satisfy certain economic substance requirements and to report within three months from the end of their financial year.

g) **Ultimate Beneficiary Ownership (UBO)** – In 2020, Bahrain passed the conditions and rules governing the disclosure of UBO. The requirements apply to all natural and legal persons (including branches of foreign companies) holding a Commercial Registration except for entities which are licensed by the Central Bank of Bahrain.

h) **Country-by-Country Reporting** – The rules and regulations pertaining to country-by-country reporting is expected to come in 2021.

Oman

Oman announced the implementation of Value Added Tax ('VAT') in October 2020 and the date of implementation of VAT in Oman is **April 16, 2021**. The Oman VAT Law is based on the principles laid down in the Unified GCC Agreement for VAT. The standard rate of VAT in Oman is 5% which is consistent with the GCC Unified Agreement, and there are provisions for zero rating and exemptions in the Oman VAT Law. Certain items like food products, healthcare services, education services, transport services, etc. will be under either 0% VAT rate or exempt from VAT. The mandatory registration limit is OMR 38,500.

Budgeted VAT revenue for the FY 2021 is expected to be OMR 300 million.

Other Tax Laws and Regulations

a) **Corporate Tax** – The tax rate is 15% for all the taxpayers other than Omani proprietorships ('establishments') and limited liability companies (LLCs) that fulfil the conditions of small and medium enterprises (SMEs). They are taxed at 3%. Special provision applies to petroleum companies in Oman and they are taxed at 55%.

b) **Withholding Tax** – Foreign companies who do not have Permanent Establishment in Oman are subject to 10% withholding tax of the gross income on the following categories; royalties, management fees, consideration for research and development and consideration for the use of or right to use computer software. Dividends and Interest are temporarily suspended for three years with effect from May 6, 2019.

c) **Customs Duty** – 5% customs duty is applicable on CIF value with some exemptions on food items, medical supplies, etc.

d) **Excise Duty** – 100% on tobacco (including tobacco derivatives), pork products, alcoholic beverages, and energy drinks and 50% on sugar sweetened beverages.

e) **Social Security Contribution** – 17.5% social security contribution applicable to Omani nationals. Out of the 17.5%, employer contributes 10.5% and employee contributes 7%. Moreover, the employer is also required to contribute 1% towards insurance of work-related injuries.

   In addition to the above contribution, employer and employee are required to contribute OMR 1 per OMR 100 of monthly salary towards job security.

f) **Municipality Tax** – 3% on property rents, 5% on hotel occupancy and 10% on leisure and cinema houses.

g) **Transfer Pricing** – At present, it is partially covered under the provisions of Income Tax law in which companies are required to disclose the transactions with related party. The pricing of related party transaction can be avoided for income tax purpose instead tax will be applicable on the basis of independent pricing.

h) **Country-by-Country Reporting** – It is applicable on all businesses that have a legal entity or branch in Oman and are members of a multinational enterprise (MNE) group with annual turnover above OMR 300 million. The rules are applicable for fiscal year beginning on or before January 1, 2020.

Kuwait

VAT law is not yet implemented in Kuwait. In Kuwait, the GCC framework agreement is currently under discussion in the Parliament while the draft Law is under preparation by the government.

Other Tax Laws and Regulations

a) **Corporate Tax** – There is no corporate tax on companies wholly owned by Kuwait or GCC nationals. However, GCC companies with foreign ownership are subject to taxation to the extent of the foreign ownership share. The tax rate is 15%.

   Zakat is imposed on all publicly traded and closed Kuwaiti shareholding companies at a rate of 1% of the companies' net profits.

   In addition to above, all Kuwait companies are required to pay 1% of their net profit after necessary adjustments to Kuwait Foundation for the Advancement of Sciences. Listed Kuwaiti companies are required to pay 2.5% of company's net profit as employment tax.

b) **Withholding Tax** – There is no withholding tax in Kuwait but the companies in Kuwait have to retain 5% amount from the invoices while making the payment. This amount is retained unless the beneficiary of the amount provides with Tax Clearance Certificate (TCC) and/or Non Objection Certificate issued by the Kuwait Tax Authority (KTA) authorizing the Kuwait company to release 5% retention amount.

c) **Customs Duty** – 5% customs duty is applicable on CIF value with some exemptions. Higher tariff is imposed on import of tobacco or related products.

d) **Social Security Contribution** – A total of 19.5% of monthly salary goes towards the social security contribution. 11.5% is contributed by the employer and 8% by the employee upto the maximum ceiling of Kuwaiti Dinar (KWD) 2,750. In addition to this, employee must also contribute 2.5% of their monthly salary with an upward ceiling of KWD 1,500 under the Social Security Law.

Qatar

Currently, Qatar has not Value Added Tax (Tax) but it is expected to be introduced in the near future. The expected rate for VAT is 5% as per the common GCC framework.

Other Tax Laws and Regulations

a) **Corporate Tax** – Tax is applicable on entities which are either wholly or partly owned by non-GCC nationals. If the entity is partly owned by Qatari/GCC national and partly by foreign national then tax will be applied on foreign investor's share. The tax rate is flat 10% with the following exceptions:-
   - Oil and petroleum industry – 35%.
   - Contracts to which State is party to (prior to January 1, 2010) – rate specified in the contract or 35%.

b) **Withholding Tax (WHT)** – Qatar implemented Withholding Tax with effect from January 1, 2020. It is applicable to all payments related to services carried out, utilized or benefited by the State of Qatar. WHT applies to payment made to non-residents or companies who do not have permanent establishment in Qatar. WHT applies to all services including interest, royalties commission, etc. Dividend payments are outside the scope of WHT.

   Moreover, in some cases 3% of the contract value or final payment, whichever is higher, is retained if the beneficiary is a temporary branch established in Qatar (Tax Card is not there). The amount can be released after presenting the Non-Objection certificate issued by the General Tax Authority (GTA).

c) **Transfer Pricing** – In 2021, GTA verbally confirmed that Transfer Pricing forms will be required starting from January 1, 2020 for all the taxpayers with total value of assets or revenue in excess of Qatari Riyal (QAR) 10 million. It should be filed along with Income Tax returns on the Qatar Online Tax Portal, Dhareeba.

d) **Customs Duty** – 5% customs duty is applicable on CIF value of the goods. There are certain goods which are taxed at a higher rate and certain goods are exempt from customs duty.

e) **Excise Duty** – 100% for tobacco products, energy drinks, alcohol & pork items and 50% on carbonated drinks.

f) **Country-by-Country Reporting (CbCR)** – CbCR reporting obligation and notification requirement is applicable to ultimate parent entities that are tax resident in Qatar and are part of multinational group of enterprises (MNE) with the consolidated revenue of at least QAR 3 billion in the preceding year. However, the Qatari Tax Authorities suspended the CbCR notification and filing obligations, until further notice.

Conclusion

The GCC region is one of the most preferred investment regions by the foreign investors due to favorable tax rules. However, due to changes in world economy, globalization, and urgent need to diversify their revenue sources due to decrease in oil demand, GCC countries are trying hard to find the revenue sources other than oil sector. As a result, individual GCC countries are coming up with their own tax reforms in order to support their economy and reduce the dependency of revenue from oil sector. One of the challenges which the governments face in GCC while implementing tax reforms is the expectations and mindset of it being a tax-free region by the investors. Little changes in taxes can create uneasiness among the foreign investors. But at the same time due to international forces and challenging economic conditions, the tax can no longer be avoided in GCC.

The taxation is still new and it will take time to have a mature tax regime in GCC. Only half of the countries have implemented VAT and others will be implementing it soon. Governments require sustainable and fixed source of revenue in order to develop their countries and secure the future of its citizens and residents. It will also be interesting to see the impact of coming EXPO in Dubai and GCC economy. With increase in taxation governance and compliance, the scope of professionals in this region will increase and they will be able to contribute a lot in the development of the tax regime in the GCC region. Even though, the GCC countries are moving towards taxation, we have to wait and see what will be the future of taxation in GCC.

Analysis of Taxation System in UAE

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The UAE's dynamic economy, openness to international business and strategic location is definitely a gateway to the region. The United Arab Emirates is a federation of seven Emirates, with autonomous emirates and local governments. The tax system and structure become the next important thing to know about UAE.

Background of Taxes in UAE

The thought of taxes begins with Corporate and Income taxes. The Income tax decrees have been issued in five of the seven Emirates in UAE, being - Abu Dhabi, Dubai, Sharjah, Ajman, Umm Al Quwain, Ras Al Khaimah and Fujairah, but they are not currently enforced on most businesses. Hence resulting in no corporate taxation in most industries. However, the UAE levies corporate tax on oil and gas exploration and production companies. Also, the branches of foreign banks are subject to income tax under separate banking tax decrees in certain Emirates (e.g., Dubai, Abu Dhabi).

At present, there are no tax laws that apply to individuals in the UAE. However, the Federal Tax Authority (FTA) does issue Tax Residence Certificates to individuals who satisfy the requirements specified by the Authority to take advantage of DTAA. The UAE concluded 115 DTAAs to with most of its trade partners.

UAE being a hub for international trade, Customs Duty needs its share of discussion. It takes generally, a customs duty of 5% - imposed on the cost, insurance, and freight (CIF) of value of imports. Other rates may apply to certain goods, such as alcohol and tobacco, and certain exemptions and reliefs may also be available. The United Arab Emirates is part of the GCC Customs Union, which was established in 2003 to remove customs and trade barriers among the GCC member states.

Certain industries such as hotel accommodation, leisure services etc. are subject to Municipal Taxes are imposed in UAE. On property rentals, certain Emirates in UAE charge a municipality fee on the annual rental value of the property, based on the Emirate in which the property is situated.

In 2017, the European Union Commission published a black list of 17 countries that have been failing to meet the agreed good tax governance standards which included UAE. UAE has committed to meet the minimum standards to walk shoulder to shoulder with G20 countries, and not get contaminated with any allegations of being a tax haven or contributing to base erosion and profit shifting. Of the 15 Action Plans, UAE being the member of BEPS inclusive framework has to comply with 4 of those actions. Henceforth UAE was removed from the non-cooperative list and placed on watch list with effect from October 10, 2019. This has led the Economic Substance Regulations to make its way to UAE, to come in line with UAE's commitment to the international tax cooperation and transparency. UAE has also issued Cabinet of Ministers Resolution No. 32 of 2019, setting forth the country-by-country reporting rules that are broadly in line with the guidance issued by the OECD.

Excise tax was also introduced across the UAE in 2017. The Federal Tax Authority in UAE pointed out that the application of Excise Tax laws achieved remarkable success since their implementation, reflecting positive results primarily in the accelerated pace of building a safe and healthy society by reducing the consumption of harmful goods.

Year 2018 had been major for UAE. It saw the entry of Value Added Tax, impacting the country in a whole new way! United Arab Emirates's (UAE) most significant tax reform!

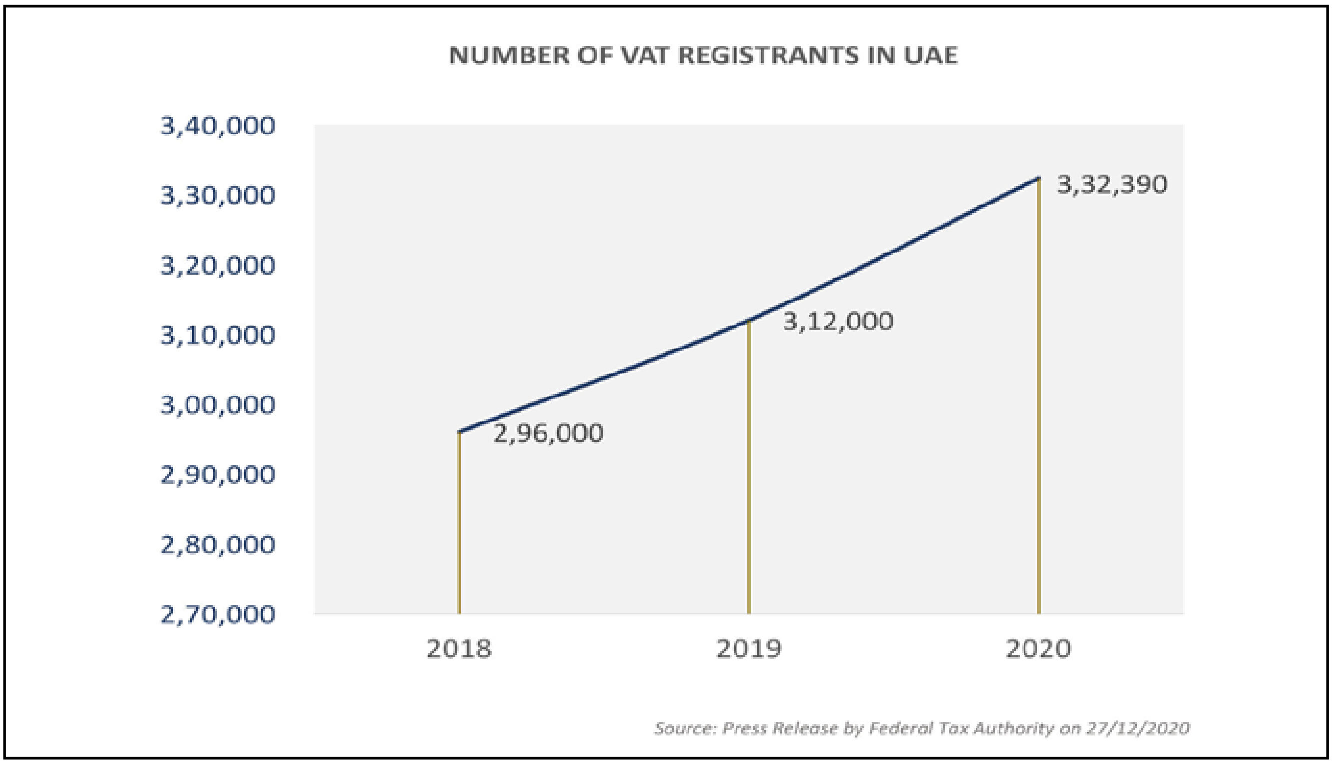
Value Added Tax (VAT)

The UAE government implemented value added tax (VAT) in the country from January 1, 2018 at a standard rate of 5%.

VAT has begun to provide the UAE with a new source of income. It has also aided government to move towards its vision of reducing dependence on oil and other hydrocarbons as a source of revenue.

VAT applies equally on tax-registered businesses managed on the UAE mainland and in the free zones. However, if the UAE Cabinet defines a certain free zone as a 'designated zone', it must be treated as outside the UAE for tax purposes. The transfer of goods between designated zones are tax-free for certain transactions.

If a person is resident in the UAE, he would be required



to get registered for VAT mandatorily if the total value of their taxable supplies and imports made within the UAE exceeds the Mandatory Registration Threshold of AED 375,000 over the previous 12-month period or if the person anticipates that the total value of their taxable supplies or imports will exceed AED 375,000 in the next 30 days.

There is also an option to businesses to get registered for UAE VAT Voluntarily, if at the end of any month, the total value of the person's taxable supplies and imports or their expenses which were subject to VAT, in the previous 12 months exceeds the Voluntary Registration Threshold of AED 187,500, or the total value of the person's taxable supplies and imports or their expenses which are subject to VAT, in the next 30 days is expected to exceed the Voluntary Registration Threshold of AED 187,500.

Taxable businesses must file VAT returns with FTA on a regular basis and usually within 28 days of the end of the 'tax period' as defined for each type of business. The standard tax period in UAE is quarterly for businesses with an annual turnover below AED150 million and monthly for businesses with an annual turnover of AED150 million or more. The FTA may, at its choice, assign a different tax period for certain type of businesses.

Implication of VAT

VAT, as a general consumption tax, applies to the majority of transactions in goods and services.

With 5% of VAT, UAE was anticipating a major increase in cost of living and thereby influencing the purchasing power of consumers in UAE.

In the year 2018, the UAE collected Dh27 billion through VAT revenues, surpassing its target of Dh12 billion. When on one hand VAT implementation has benefited the UAE government in overcoming the budget deficits caused due to declining oil prices which resulted in low revenues in UAE, on the other hand the impact on consumers is varying.

There are basically three categories of VAT Rates in UAE - When the tax treatment of financial services, residential buildings (subject to conditions), bare land and local passenger transport services are exempt; there is another big list under zero rated category. The export of goods, export of services, export of telecommunication services, certain means of transport, international transportation of services for passengers and goods, residential buildings (subject to conditions), education services and healthcare services. All other supplies which are not exempt or zero rates are subject to VAT Standard Rate of 5%.

Generally, a 5% VAT may be hardly noticed by consumers in the UAE, especially as certain food items, essential medical healthcare and education are exempted but there are many households and lower income workers who will feel the need to rethink on the spending. See it from the right angle, you see that the VAT implementation has promoted Tax compliance and also helped in promotion of savings and investment by consumers.

The direct impact on it will vary depending on an individual's lifestyle and spending behavior. If an individual spends mainly on those things which are relieved from VAT, he is unlikely to see any significant increase.

Evolution of VAT in UAE

The introduction of VAT has been under discussion in the GCC since 2004. However, with depleting oil revenues over recent years, these discussions gathered pace in 2015.

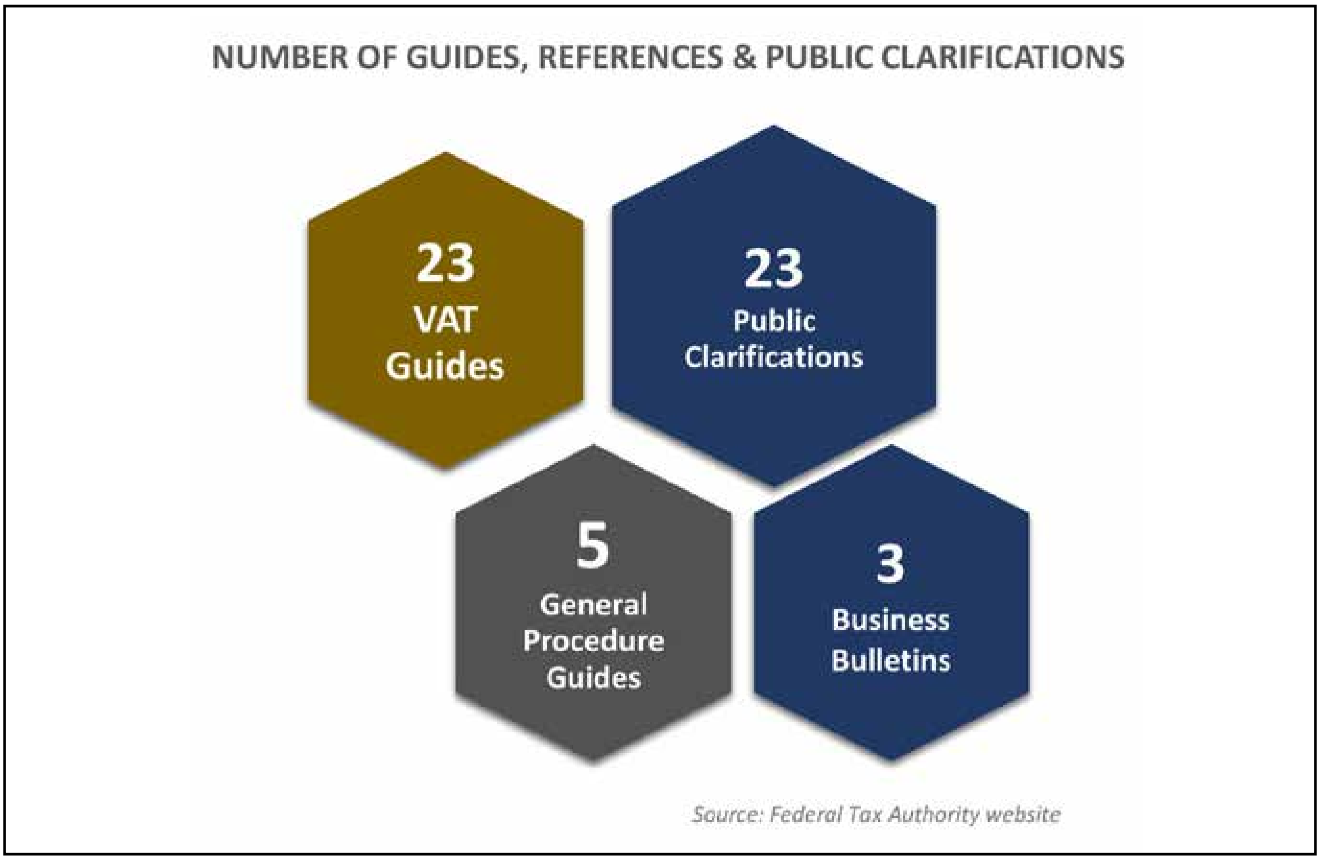
In 2017, the Gulf Cooperation Council (GCC) countries agreed and announced the first ever Value Added Tax (VAT) framework to allow member nations to develop legislation to start a 5% VAT rate in their respective countries.

It is worth noting that the GCC VAT system is a hybrid based on a combination of both the EU VAT system and the more recent Goods and Services Tax (GST) systems implemented in some Southeast Asian countries.

The UAE ratified the GCC VAT Agreement in May 2017 and became the second country to submit its ratification documents to the GCC after the KSA, bringing into force the GCC VAT Agreement.

The Country issued the Tax Procedures Law in July 2017 and the Executive Regulations on tax procedures in September 2017 establishing a procedural framework for the introduction of Federal taxes in the UAE. The UAE issued its VAT Law and Executive Regulations in late August 2017 and November 2017, respectively. The effective date of both the UAE VAT Law and Executive Regulations was January 1, 2018.

The UAE VAT legislation contains transitional rules under which a GCC country would only be recognized as an implementing state if that GCC country treats the UAE as an implementing state and has fully complied with the provisions of the GCC VAT Agreement. Therefore, a GCC country that does not



meet these conditions will not be regarded as an implementing state for UAE VAT purposes even if it has introduced VAT under its domestic legislation. A consequence of being a non-implementing state is that the country is treated in the same way as a country outside the GCC.

The UAE's Federal Tax Authority (FTA) published a number of new and updated guidance documents towards the end of 2019 which clarified the application of some of the existing rules. The FTA intended to further develop its electronic systems for the monitoring, collection and payment of VAT throughout 2020.

The Federal Tax Authority adheres to international best practices to ensure that all tax legislations and procedures are implemented thoroughly. All mutual obligations between the Authority and Taxable Persons have been clearly outlined in regulations, which seek, first and foremost, to protect consumers and tighten controls on UAE markets to ensure governance and transparency.

FTA has held numerous training courses for inspectors at Department of Economic Development, as well as customs employees in all seven Emirates, to ensure that the tax system is implemented smoothly and in a manner that achieves the system's objectives. FTA has conducted various campaigns which were carried out within the framework of the Authority's extensive efforts to contribute towards strengthening market performance and ensuring compliance with all tax legislation and procedures to protect legitimate trade and prevent the sale of contraband within the UAE and tax evasion.

Within 500 days of successful implementation of VAT in UAE, UAE's tax system has earned praise from experts and official entities in the UAE. During 2020, the Authority maintained increased results, with preliminary statistics showing that the number of registrants for VAT increased to 332,390 registrants, growth of 6.54% of business and Tax Groups and its members, compared to about 312,000 registrants at the end of 2019 and 296,000 registrants at the end of 2018 (the first year of VAT). The Authority successfully processed AED 336.44 million refunded to UAE nationals based on 4,835 Homebuilder Tax Refund Requests.

Statistics also show that the base of customer and partners benefiting from the tax systems has been steadily expanding, the number of FTA Accredited Tax Agents in the tax system saw steady expansion with the number increasing to 393 compared to 355 at the end of 2019 and 176 at the end of 2018. In addition, the number of FTA approved clearing companies increased to 868 from 122 at the end of 2018, while the number of certified tax accounting system providers jumped to 76 from 12 at the end of 2018.

During 2020, the Authority provided various facilities to support registrants in the tax system to fulfill their tax obligations and ensure business continuity under the precautionary measures put in place by the UAE to prevent the spread of Covid-19. These facilities included the temporary extension of the tax period commencing on the 1st of March for Excise Tax Registrants to cover both March and April 2020. VAT was temporarily applied at the zero-rate on some personal protective medical equipment, such as masks and other items.

VAT in GCC

With VAT in UAE getting big and better with each passing day, let us also see where is UAE and other GCC countries standing. Kingdom of Saudi Arabia has seen a leap in the VAT Rate from 5% to 15%. The increase came as a part of additional measures taken by the country in response to the economic impact of the Covid-19 crisis. Bahrain having implemented VAT with effect from January 1, 2019, is continuing to issue new sector and topic-specific VAT guidance, to provide support and clarity to businesses operating in the state. Qatar imposes no VAT or sales tax on operations in Qatar. However, the introduction of VAT in Qatar under a common GCC framework is expected to be introduced in the near future with an anticipated tax rate of 5%. The tax authorities in Kuwait recently announced that it will finally introduce Value Added Tax (VAT) at 5% from April 1, 2021. Oman is set to be the fourth GCC state to implement VAT since the signing of the GCC VAT Agreement at the end of 2016, with an effective date of April 16, 2021. The Oman VAT Law was published in the official gazette on October 18, 2020. This triggered a 180-day countdown to the effective date of April 16, 2021.

Some Key Features of UAE VAT

1. VAT Refund for Tourists

VAT refund for tourists are carried out through a fully integrated electronic system which connects retailers registered in the 'Tax Refund for Tourists Scheme' with all ports of entry and exit from the UAE.

"Planet" is the exclusive operator of the tax refund system for tourists which the Federal Tax Authority executes in the UAE. The tourist, however, should have met certain conditions laid by the authority specifically to claim the VAT Refund.

Tourists will receive their refunds through a special device placed at the departure port - airport, seaport, or border port - by submitting the tax invoices for their purchases from the outlets registered in the Scheme, along with copies of their passport and credit card.

Once these documents are submitted, tourists can either recover the VAT in cash in UAE dirhams, or have it transferred to their credit card.

2. Foreign Business Refunds

The Federal Tax Authority (FTA) allows the foreign companies to claim refund of Value Added Tax (VAT) incurred while doing business in the UAE.

To be eligible for the VAT refund, the first condition is that foreign businesses must not have a place of establishment or fixed establishment in the UAE or in any of the VAT\implementing GCC States that fully comply with the provisions of the Common VAT Agreement of the Cooperation Council for the Arab States of the Gulf. Such foreign businesses must not be a taxable person in the UAE. They must also be registered as an establishment with a competent authority in the jurisdiction in which they are established. And finally, they must be from a country that implements VAT and that equally provides VAT refunds to UAE businesses in similar circumstances.

3. UAE Designated Free Zones

UAE has specified areas termed as "Free Zones", which are considered different from the UAE Main Land.

Historically, Free Zones have been excluded from the territorial scope of the UAE. However, for VAT purposes, this is not automatically the case. Only those Free Zones listed in a Cabinet Decision qualify for special VAT treatment and that special VAT treatment has certain limitations. These nominated Free Zones are known as Designated Zones for VAT purposes.

The effect for businesses operating in Designated Zones will be that many supplies of goods will be outside the scope of UAE VAT, subject to strict criteria and detailed record keeping. However, supplies of services are subject to the normal UAE VAT rules.

Anticipation, Expectations and Developments

As COVID-19 hit, there was an anticipation that UAE would declare an increased rate of VAT. The panic was put down with an announcement by the Ministry during May 2020. The Ministry of Finance (MoF) denied any plans to raise the Value Added Tax (VAT) in the United Arab Emirates. VAT is currently levied at 5%, and the announcement reaffirmed the ministry's commitment to achieve the country's development goals and plans.

In the context of keenness to continuously develop the FTA's official payment channels and encourage the use of electronic payment methods, the year 2020 saw the FTA's accession to the third generation of the e-Dirham system with its diverse channels launched by the UAE Ministry of Finance to allow the efficient collection of fees and revenues of the UAE, and provide more options for the payment of such government fees by using the latest technologies underpinned by the best safety standards

The Federal Tax Authority, through its innovation strategy, is seeking to be a global leader by applying innovative mechanisms to implement tax-related procedures and collect taxes. The FTA's three initiatives includes the 'Tax Innovation Lab' initiative, which involves holding remote brainstorming meetings on various critical topics that promote innovative ideas, the second initiative, 'Monitoring Tax Innovations', highlighted the most remarkable innovative achievements in the tax field, and the third initiative was a series of online comprehensive talks, comprised of virtual dialogue sessions on innovation management, research and development and future trends in the field.

Conclusion

VAT in UAE brought with it the transparency and accountability, which has contributed to increasing the global competitiveness, and it has benefited the business among the regional market. Introduction of VAT required businesses to maintain proper books and this discipline has helped businesses to understand, analyze, and control their business performance better, and ensure ongoing VAT compliance.

The high compliance ratio and awareness campaigns by the Federal Tax Authority has been remarkable. Along with that, the new regulations have made its appearance - such as economic substance, country-by-country reporting and BEPS (base erosion and profit shifting). Having all of these collectively, compliance is definitely going to be sorted basis the objective of the country. We have also seen recently, how the Federal Supreme Court in the United Arab Emirates (UAE) has released a long-awaited decision in favour of Federal Tax Authority's policy with regard to penalty applied. This has definitely put light on the commitment that is demanded in tax compliance.

The taxation system has been and will be unfolding broad and wide with time!

Curbing the Scam of Input Tax Credit

A Review of Rule 36(4) of CGST Rules, 2017

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Input tax Credit (ITC) Scheme under Goods and Services Tax Act (GST Act) enables every registered taxable person to take credit of the taxes paid on inputs, input services and capital goods which are received with the specified tax paying documents and are used in the manufacture/sale of taxable final products or rendering of taxable output services. The Goods and Services Tax Act permits the utilization of the credit so earned towards payment of outward tax liability.

However, since the introduction of GST coupled with the Government's inability to implement GSTR-2/ GSTR-3 or the new return system, the assessee at large have been taking undue advantage of the loopholes under the GST Act due to non-implementation of the matching concept wherein details uploaded by the suppliers in GSTR-1 were supposed to be reconciled with the GSTR-2A of the recipient on the basis of which, Input tax Credit was to be availed.

In order to put a stop to the malpractices of the registered taxpayers and to curb the practice of misutilisation of ITC and issue of fake invoices, the Government has introduced Rule 36(4) w.e.f. 09th October 2019 providing restrictions on availment of ITC based on uploading of invoices by Supplier.

WHAT IS RULE 36(4) OF CGST RULES, 2017?

Rule 36(4) of CGST Rules has been inserted vide notification No. 49/2019, Central Tax dated 09-10-2019.

The bare text of Rule 36(4) as inserted in CGST Rules, 2017 states that, "Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub section (1) of section 37, shall not exceed 5 percent of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37."

The said notification has imposed restrictions on the availment of ITC from time to time in a phased manner as follows:

Notification No.	Additional % of ITC appearing in GSTR-2A	Effective Date
49/2019 dated 09/10/2019	20%	09/10/2019
75/2019 dated 26/12/2019	10%	01/01/2020
94/2020 dated 22/12/2020	5%	01/01/2021

In simplified form, it could be said that the net eligible ITC that could be availed by a registered person shall be for the invoices appearing in its GSTR-2A and additional 5% (of ITC as per GSTR-2A) for the invoices not appearing in GSTR-2A.

Earlier if GSTR-2A reflected an amount that was less than the amount mentioned in the books of accounts, taxpayer could still claim the ITC as per input tax credit register in GSTR-3B.

Since, the insertion of this rule, the ITC is restricted to the extent of 5% of eligible ITC. That is a registered person can now avail the eligible input tax credit with respect to the invoices or debit notes that are uploaded by its vendor/supplier as reflecting in its GSTR-2A for a particular month. Also, additional 5% of the eligible input tax credit reflecting in its GSTR-2A can be availed with respect to the invoices or debit notes that are not uploaded by its vendor/supplier for a particular month.

What is the significance of 5% of the eligible ITC that can be availed over and above the input tax charged on the invoices uploaded by the supplier?

The additional ITC i.e., the percentage specified (5%) is just a cushion given by the Government assuming that if the businesses were conducted as per the GST Provisions, complying with the requirements as specified under the GST Act, that is, all the invoices were being uploaded in GSTR-1 by the suppliers and the availment of ITC was done by the recipient on the basis of invoices being reflected in his GSTR-2A, then there would have been only a few cases where such discrepancy would have prevailed. For such discrepancy, where certain invoices were not being uploaded and wherein the recipient have made bonafide purchases, a limit of 5% of the eligible ITC was given.

After understanding the basis for introduction of Rule 36(4), let us now move on to the implementation of the Rule.

What is the meaning of eligible ITC which has to be availed by the recipient and for which the cushion of 5% is given?

In order to calculate the limit of 5%, only those invoices which are eligible for ITC and are reflecting in GSTR-2A have to be considered. In order to maintain uniformity in the calculation of 5%, the basis of invoices as reflected in GSTR-2A which determines eligibility of ITC has been considered.

The clarification states that 'calculation would be based on only those invoices which are otherwise eligible for ITC', that is any reversals done post availment of ITC in GSTR-3B i.e., reversal as per Rule 42 & 43 of CGST Rules shall not be deducted from the value of eligible ITC for determining the additional availability of 5% of ITC.

In simplified terms, Eligible Credit would mean:

Total	**Input Tax Credit**	**XXX**
Less	Input and input services intended to be used "exclusively" for non-business purposes (T1)	XXX
Less	Input and input services intended to be used "exclusively" for making exempted supplies (T2)	XXX
Less	Block credit (Section 17(5)) (T3)	XXX

So basically, Rule 36(4) provides that if any invoice or debit note is not uploaded by supplier in his GSTR-1 i.e., not in GSTR-2A of recipient of supply, then the ITC for the same invoices or debit note can be claimed to the extent of 5 percent of total eligible credit of taxpayer.

Further, it has to be noted here that the net eligible input tax credit availed for a month shall be restricted to the eligible input tax credit as appearing in the ITC register in the books of accounts of registered person irrespective of the month in which it is availed.

Let us consider the following example:

XYZ is a manufacturing company. For the month of January 2020, it has 50 invoices (for inward supplies) of ITC amounting to Rs. 10 lakhs from various suppliers.

But invoices of ITC amounting to Rs. 6 lakhs have been uploaded by suppliers.

Particulars	Before	After
ITC as per invoices of XYZ	10,00,000	10,00,000
ITC as per suppliers (uploaded in GSTR-2A)	6,00,000	6,00,000
Input tax credit not in GSTR-2A	4,00,000	4,00,000
ITC that can be claimed	4,00,000	30,000
(600000*5%)		
Total ITC that can be claimed in the GSTR-3B	10,00,000	6,30,000
ITC not allowed in the GSTR-3B for the month of January 2020	Nil	3,70,000

Certain additional points to be considered while mapping ITC register with GSTR-2A as per Rule 36(4):

1. The restriction imposed under the said rule has to be self-assessed cumulatively (not supplier wise) by the registered person and shall be applicable only on invoices or debit notes on which credit has been availed on or after 9th October 2019.
2. GSTR-2A as available on the due date of filing of return for outward supply in form GSTR-1 shall be considered for the purpose of mapping of GSTR-2A and ITC register (Books of accounts).

   For Example, where GSTR-2A for the month of January 2020 reflected ITC amounting to Rs. 15 lakhs as on 11th February 2020 and a particular supplier filed his GSTR-1 on a later date, say on 15th February 2020 wherein an additional ITC of Rs. 3 lakhs was reported by him thus ITC as per GSTR-2A extracted on 15th February 2020 being Rs. 18 lakhs, the GSTR-2A as on due date of GSTR-1 i.e. 11th February 2020 with ITC of Rs. 15 lakhs have to be considered for mapping with the ITC register for the month of January 2020.

Non-applicability of Rule 36(4) in certain cases:

It is pertinent to note here that, ITC on the following shall be taken completely as eligible credits as the same does not come under the purview of Section 37(1) of CGST Act, 2017: -

- IGST paid on imports;
- Tax paid under reverse charge mechanism (RCM) and;
- Credit received from input service distributor (ISD)

It may be noted here that, as per Circular No. 123/42/2019-GST the phrase 'documents issued under RCM' has been used. It is pertinent to note that recipient is required to issue self-invoice under Section 31(3)(f) only when RCM supplies are received from unregistered supplier. Therefore, in cases where RCM supplies is from registered person, supplies are uploaded by the supplier itself in GSTR-1 as per Section 37 and hence, it appears that such supplies are covered under Rule 36(4).

A contradictory view that may be taken here is that the intention of the Government to introduce Rule 36(4) is to ensure that the payment of tax should have been done in relation to which ITC has been availed. Therefore, if the payment of tax is made by the recipient on RCM supplies then such RCM supplies are outside the purview of Rule 36(4) as in the case of RCM invoices, ITC is taken only after making the payment of taxes to the Government.

Example on practical application of Rule 36(4):

Total ITC for the month of January 2021 - Rs. 110 (90 Eligible + 20 Ineligible)

GSTR-2A month	ITC appearing in GSTR-2A	Eligible ITC in GSTR-2A	Ineligible ITC in GSTR-2A
January 2021	60	45	15
February 2021	30	30	0
March 2021	20	15	5
Total	110	90	20

GSTR-2A month	Eligible ITC in 2A + 5% of Eligible	Eligibility as per Rule 36(4)	Cumulative ITC availed
January 2021	47.25 [45+(45*5%)]	47.25	47.2
February 2021	31.5 [30+(30*5%)]	31.5	78.75
March 2021	15.75 [15+(15*5%)]	11.25*	11.25
Total	94.50	90	90

* Maximum ITC of Rs. 90 can be availed i.e., eligible credit as per ITC register (Books of accounts) can be availed in GSTR-3B

FAQs in relation to applicability of Rule 36(4):

Q.	Is it mandatory for the supplier to file GSTR-1 for applicability of Rule 36(4)?
A.	As per the provisions of Rule 36(4) it appears that availability of the invoice in GSTR-2A of the taxpayer will be sufficient compliance of the Rule. Therefore, it seems that compliance is not dependent on the supplier filing GSTR-1.
Q.	Is the additional ITC (5%) required to be availed head wise i.e., IGST/CGST/SGST?
A.	The calculations of restriction and additional ITC availment must be done head wise.
Q.	Is it mandatory to have an invoice-wise breakup to avail the additional ITC of 5% under Rule 36(4)?
A.	Rule 36(4) provides for adhoc availment of additional 5% of eligible matched credit, hence a proper invoice wise break-up is not necessary.
Q.	What would be the amount of input tax credit admissible to the taxpayers for a particular tax period in respect of invoices/debit notes which are not uploaded by the suppliers?
A.	Input tax credit to be availed by a taxpayer in respect of invoices or debit notes, the details of which have not been furnished in Form GSTR-1 by the supplier or using the invoice furnishing facility, shall not exceed 5% of the eligible credit available in respect of invoices or debit notes the details of which have been furnished in Form GSTR-1 or using the invoice furnishing facility.
Q.	When can the taxpayer avail credit on invoices received from supplier's filing of GSTR-1?
A.	The credit for the invoices uploaded in GSTR-1 of supplier can be availed belatedly in the last month of quarter only if not availed within the limit of additional 5% credit.
Q.	Does Form GSTR-2B help in calculation of credit under Rule 36(4)?
A.	GSTR-2B is an auto-generated document and may not be very useful in calculation of credit. More importantly it will not reflect the invoices not uploaded by the supplier.
Q.	What is the consequence of not following the procedure under Rule 36(4)?
A.	For non-compliance of procedure a penalty is imposable.

FINANCE ACT, 2021:

The Finance Act, 2021, has notified certain changes in CGST Act, 2017 & IGST Act, 2017 in order to curb input credit frauds and safeguard Government revenues.

Section 16 of the CGST Act has been amended via Clause 109 of the Finance Act, 2021, which states the eligibility condition to avail ITC –

As per clause 109, a new clause (aa) to sub-section (2) of the section 16 of the CGST Act has been inserted to provide that input tax credit on invoice or debit note may be availed only when the details of such invoice or debit note have been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note.

The relevant extract of Finance Act' 2021 is produced below:

> "109. In section 16 of the Central Goods and Services Tax Act, in sub-section (2), after clause (a), the following clause shall be inserted, namely: —
>
> "(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;"."

Analysis:

Through this amendment one more additional condition has been added for determining the eligibility of ITC. ITC would not be available to the recipient if the detail of such invoice or debit note has been not furnished by the supplier in GSTR-1 and hence not being reflected in recipient's GSTR-2A/GSTR-2B. Hence, this amendment gives statutory backing to much disputed and deliberated upon Rule 36(4) of the CGST Rules, 2017.

Goods and Services Tax in Singapore

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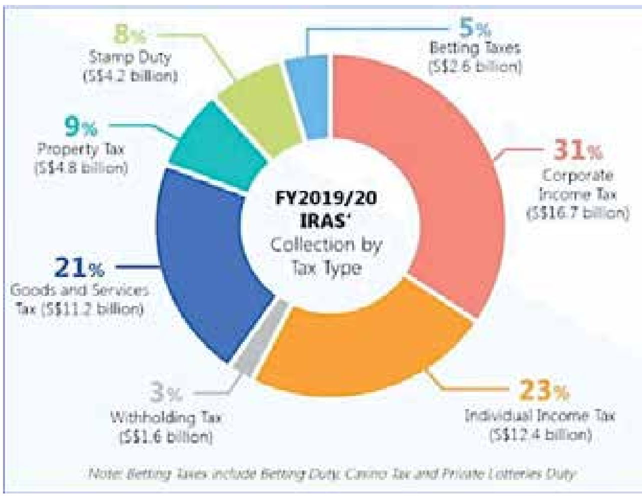
This article deliberates on Goods and Services Tax or GST, a broad-based consumption tax levied on import of goods (collected by Singapore Customs), and also on supplies of goods and services in Singapore. GST is also known as Value-Added Tax or VAT In many other countries. Inland Revenue Authority of Singapore (IRAS) is the tax administrator and acts as the agent of the Government of Singapore. Singapore's GST system is referred to and applauded by experts around the world.

Before we commence to discuss about the concept, applicability, and procedure of GST in Singapore, lets first understand different kind of taxes which contributes to revenue generation for Singapore Government. In Singapore, Direct and Indirect tax revenue in total contributed to approximately 72% of the Government's operating revenue (FY 2019/20). Taxes that fall within the ambit of Direct and Indirect taxes through which government revenue is generated include Income tax, GST, Property Tax, Stamp Duty, Betting Tax etc.

From the chart, we can see that in the Financial Year 2019-20 approximately 21% (SGD 11.2 billion) of the Inland Revenue Authority of Singapore (IRAS) revenue collection is from GST and it is one of the top 3 contributors in Singapore Government's revenue collection from direct and indirect taxes.

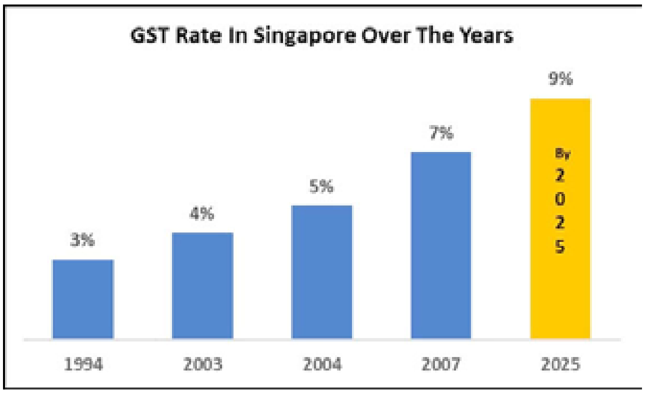
GST is a multi-stage tax levied on supplies of goods and services. It is charged by a business each time the business sells a product or service to another business or an individual within the territory of Singapore. Singapore has only one tax rate under GST at one point in time.



Source: IRAS

GST was introduced in Singapore in the year 1994 @ 3% which was gradually increased to 4% in 2003, 5% in

2004 and 7% in 2007. The Government had announced in the Budget of 2018 that the standard rate will be raised from 7% to 9%, between 2021 to 2025. However, after reviewing national revenue and expenditure projections, and considering the current state of the economy, the Government has decided that the GST rate increase will not take effect in 2021 but the same will be implemented by 2025.



Deputy Prime Minister Heng Swee Keat in a speech to round up the debate on the Government's Covid-19 strategy said that "We will continue to study the timing of increasing the GST rate carefully, taking into account the pace of our economic recovery, our revenue outlook and how much spending we can defer to later years without jeopardising our long-term needs".

Covid-19 has impacted economies the world over and Singapore is no exception. Because of travel restrictions and Circuit Breaker measures in the country, GST collections this year is significantly lower (from SGD 11.2 billion in FY2019 to SGD 9.9 billion in FY2020 - Source: https://www.channelnewsasia.com/news - Feb 21) due to the pandemic's dampening effect on consumption. The Government is also of the view that in case GST is not raised over the next 2-3 years, it will be on a "tight leash" when it comes to fiscal spending. It may lead to deferment of infrastructure projects and stretching of fiscal resources.

As per Goods and Services Act: "A tax to be known as Goods and Services Tax shall be charged in accordance with the provisions of this Act on the supply of goods and services (including anything treated as such a supply) and on the importation of goods".

All supply of goods and services in Singapore are taxable transactions unless they are exempted.

The following points need to be considered for GST:

- ✓ Taxable supply is either a Good or a Service. Goods are usually tangible products and services are simply defined as any action done for a consideration.
- ✓ Supply should be in Singapore. Goods will be regarded as supplied in Singapore if the goods are in Singapore at the time of supply. Services are considered supplied in Singapore if the person who is serving belongs to Singapore.
- ✓ Time of supply for both goods and services will be earlier of issue of invoice vs receipt of payment.
- ✓ Value of the supply is amount on which GST is charged. Value of supply if is not for consideration in money then it will be open market value.

GST at a Glance	
Act Name	Goods and Services tax
Year of Introduction	1994
GST Standard Rate	7%
Other Rates	0% and exempt
Registration threshold	SGD 1 million
Administered by	IRAS www.iras.gov.sg. Singapore Customs www.customs.gov.sg.

GST application and procedures are conceptually quite similar to other countries; however, the specifics relating to Singapore GST are highlighted below:

1. **Registration**: The first step is to evaluate whether the business entity needs to get itself registered as a GST registered undertaking. GST is a self-assessed tax and businesses are required to continually assess whether there is a need to be registered, based on the provisions of the law. GST registration falls into two categories: Compulsory and Voluntary. A business must compulsorily register for GST if:

   - ✓ Taxable turnover at the end of any calendar year on or after 1 Jan 2019 is more than SGD1 million#.
   - ✓ If at any time, it is reasonably expected that the taxable turnover in the next 12 months to be more than SGD1 million. To substantiate the expected number to reach taxable turnover, businesses should have proper supporting documents in place.

If the business is not supposed to go for compulsory GST registration, it may still choose to do so voluntarily after careful consideration. The benefit of doing so is that it can get input tax credit that it has paid to its GST registered suppliers. However, there will definitely be an increase of cost due to reporting and the compliance requirements. So, it is prudent for companies opting for voluntary GST registration to do a cost-benefit analysis.

With effect from 1st January 2020, in case of non-registered businesses that are not entitled to full input tax credit will also have to register for GST to account for the reverse charge if the value of the imported services exceeds SGD1 million in a 12-month period.

Companies will be required to apply for GST within 30 days from the date the company falls under the above conditions. In case of late registration, IRAS may impose a fine up to SGD10,000 & a penalty of 10% of the GST due. Prosecution action may apply too.

Business can be exempted from compulsory registration if it only makes zero-rated supplies, even though the total taxable turnover exceeds the SGD 1 million.

Before Jan 2019, a business was liable to be registered if at the end of any quarter the last day of which is a day before 1st January 2019, if the total value of the taxable supplies made in Singapore in that quarter and the 3 quarters immediately preceding that quarter has exceeded SGD1 million.

Above registration procedure covers in general for all entities. However, law provides guidance with respect to some specific entities which are as under:

- ✓ Overseas Entities: A non-resident entity that does not have a fixed business establishment in Singapore can also register for GST as per the above procedure. However, it has to appoint a local agent in Singapore to fulfill its GST obligations.
- ✓ Overseas Suppliers and Overseas Electronic Marketplaces: Overseas Suppliers and Overseas Electronic Marketplaces registering for GST under Overseas Vendor Registration Regime (OVR) can register directly with IRAS and they are not required to appoint a local agent. However, in case of voluntarily registration they are required to provide a security deposit.
- ✓ Joint Ventures (JV): In case the JV is an ACRA registered legal entity, it can be registered for GST as above. In case it is not, it can only be registered for GST if it is a distinct, organised entity with documentary evidence governing the constitution, objects, rules, and activities.
- ✓ Partnerships: Above JV rules apply to partnerships too.

2. **Applicability:** GST is levied on the supply of goods and services within the country including import of goods. It is not applicable to all kinds of supplies. Taxable supplies are Standard Rated Supplies and Zero- Rated Supplies. Non-taxable supplies are Exempt supplies and Out of Scope Supplies. The table below lists the categories and types of taxable and non-taxable supplies.

Taxable and Non-Taxable Goods and Services

Categories	Taxable Supplies		Non-Taxable Supplies	
	Standard-Rated Supplies (GST is charged at 7%)	Zero-Rated Supplies (GST is charged at 0%)	Exempt Supplies (GST is not applicable)	Out-of-Scope Supplies (GST is not applicable)
Goods	Most local sales fall under this category. E.g. sale of Electronics	Export of goods. E.g. Laptop shipped to an overseas address	Sale and rental of unfurnished residential property.	Sale where goods are delivered from overseas to another place
			Importation and local supply of investment precious metals.	Private Transactions
Services	Most local provision of services fall under this category. E.g. Provision of food & Beverages services to customer in Singapore	Services that are classified as international services. E.g. Air ticket from Singapore to India	Financial services. E.g. Issueof Debt security	
			Digital payment tokens from 1st Jan 2020	

Source: IRAS

Before 1st January 2020, the services procured from local suppliers were subject to GST but services procured from overseas suppliers were not subjected to GST. To make it at par, with effect from 1st Jan 2020, IRAS introduced the concept of Reverse GST which are:

- o Reverse Charge (RC) mechanism
- o Overseas Vendor Registration (OVR) regime to tax digital services imported by non-GST registered persons (including private individuals)

Under the Reverse Charge regime:

- ✓ The recipient of the services will account for GST on the services he imports as if he was the supplier.
- ✓ He may claim GST as his input tax, subject to normal input tax recovery rules.

If a GST registered business procures services from overseas suppliers, then it will be subject to RC if:

- ✓ The business is not entitled to claim input tax credit in full (i.e., engaged in taxable supplies and exempt supplies as well or carrying out non-business activities)
- ✓ Belongs to a GST group that is not entitled to claim input tax credit in full.

If a non-GST registered business procures services from overseas suppliers, then it would be liable for GST registration by virtue of RC if the business satisfies the below conditions:

- ✓ The value of imported services which are within the scope of reverse charge exceed SGD 1 million in 12 months period.
- ✓ The business is not entitled to claim GST credit in full.

All imported services are covered under RC mechanism except the supplies which are specifically exempted under GST Act.

Under Overseas Vendor Registration regime, an overseas company is liable for GST registration in Singapore if:

- ✓ Annual global turnover exceeding SGD1 million and
- ✓ Their B2C suppliers of digital services to customers in Singapore exceeds SGD 100,000.

Under the OVR regime, supplies of digital services to consumers (i.e., individuals and non-GST registered businesses) are subject to GST. A GST-registered overseas service provider will thus have to determine if a customer is GST-registered to charge GST correctly.

3. **Responsibilities of GST Registered Business:** In case a business is GST registered it needs to fulfil the following responsibilities:

    - ✓ Once a business is GST registered, it must charge GST on all taxable supplies which is Output Tax. Any GST which the business incurs on purchases and expenses (including import of goods) is known as Input Tax. The net tax is either paid or received from the authorities.
    - ✓ It should file GST returns either on a monthly or quarterly basis as it has opted at the time of registration. Nil return should be filed in case of nil transaction. Failure to e-File is an offence, punishable with a fine up to SGD5,000 and in default of payment, an imprisonment term up to six months.
    - ✓ Within one month after filing the GST return, it must pay GST to IRAS. For non/late payment, a 5% penalty will be levied on the amount of tax unpaid by the due date. An additional penalty may also be imposed.
    - ✓ It must keep proper business and accounting records for at least five years to support GST declarations.

- ✓ It must display and quote prices inclusive of GST.
- ✓ It must always issue Tax Invoices with GST registration number.
- ✓ It must notify IRAS of any changes in the business name, address, financial year-end, principal activity, etc.

4. **Various Schemes Under GST:** Some of the schemes introduced by the Government of Singapore to ease cash flow for businesses and to create a pro-business environment are listed below:
   - ✓ Discounted Sale Price Scheme allows to charge 50% GST of the selling price on a second-hand / used vehicle. No prior permission is needed from IRAS for this treatment.
   - ✓ Gross Margin Scheme in which GST is chargeable only on the gross margin of the goods.
   - ✓ Hand-Carried Exports Scheme is applicable when a business wish to zero-rate the supply made to an overseas customer and the goods are hand-carried out of Singapore via Changi International Airport.
   - ✓ Import GST Deferment Scheme wherein GST can be paid on imports when the monthly GST returns are due instead of at the point of importation.
   - ✓ Major Exporter Scheme is designed to ease the cash flow of major exporters who have significant imports.
   - ✓ Tourist refund scheme allows tourists who buy goods in Singapore from participating GST registered retailers to claim a refund of the GST paid if the goods are brought out of Singapore.
   - ✓ Cash Accounting Scheme is for small businesses whose annual sales do not exceed SGD 1 million.
   - ✓ Zero GST Warehouse Scheme is administered by Singapore Customs. Under this scheme, import GST on non-dutiable overseas goods is suspended when the goods are moved into a Zero GST G warehouse. GST is payable only when the imported goods leave the warehouse and enter the local market.

5. **Cancellation of GST Registration**: GST registration must be cancelled within 30 days when:
   - ✓ Business stops making taxable supplies and do not intend to make taxable supplies in future;
   - ✓ Business has been ceased;
   - ✓ Business is transferred as a whole to another person.
   - ✓ Business constitution has changed (e.g., sole-proprietorship business converted to a partnership etc.).
   - ✓ However, if a business was previously registered under a voluntary basis, it is required to remain registered for at least 2 years before cancellation.

GST in Singapore is considered to be one of the best practices in the world. Singapore has only one tax rate under GST while many other countries have multiple slabs including India. The GST rate in Singapore is one of the lowest in the world even if the rate is increased to the proposed 9% from the current rate of 7% (see comparative chart on the right).

Comparing GST regime in India with Singapore several experts were quoted citing examples of Singapore and how India should also do away with multiple tax slabs under the Goods and Services Tax for greater ease of compliance (The Economic Times in 2019). Similar statements have also been made by other experts (Business Standard in 2019), wherein it was suggested Singapore GST model should be implemented to ensure proper compliances in India. Singapore also topped in the research conducted by UNSW Sydney and KPMG, that considered the compliance requirements and administrative burden associated with adhering to Value Added Tax (VAT) and Goods and Services Tax (GST) rules. Although it is early days for the new provisions introduced viz. Reverse Charge and Overseas Vendor Registration, in my opinion it has added some complexity to the applicability of the law. Nevertheless, Singapore GST compliance requirements are still one of the best in the world.

Implementation of VAT in UAE

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Value Added Tax

Value Added Tax (or VAT) is an indirect tax and is one of the most common types of consumption tax found around the world. VAT is charged at each step of the "supply chain". Ultimate consumers generally bear the VAT cost while businesses collect and account for the tax, in a way acting as a tax collector on behalf of the government.

A business pays the government the tax that it collects from the customers while it may also receive a refund from the government on tax that it has paid to its suppliers. The net result is that tax receipts to the government reflect the "value addition" throughout the supply chain.

VAT Implementation in the UAE

VAT implementation in UAE is intended to provide a new source of revenue, contributing to the continued provision of high quality public services to the people. It also helps the government move towards its vision of reducing dependence on income derived from oil and other hydrocarbons. VAT was introduced across the UAE on January 1, 2018.

The UAE VAT Law is part of the GCC VAT framework. VAT in UAE is governed by VAT Decree Law No 8 of 2017 and Cabinet Decision 52 of 2017 .

Federal Tax Authority

The Federal Tax Authority (FTA) is a government entity and was established in 2016 by the President of the UAE for the administration, collection and enforcement of federal taxes via Federal Decree-Law 13 of 2016.

VAT on Supplies made by Government Entities

Supplies made by government entities are typically subject to VAT. This ensures that government entities are not unfairly advantaged as compared to private businesses.

Certain supplies made by government entities will, however, be excluded from the scope of VAT if they are not in competition with the private sector or where the entity is the sole provider of such supplies. Certain government entities are entitled to VAT refunds – this is designed to avoid budgeting issues and provide a level playing field between outsourced and insourced activities.

For the supplies provided for government entities, the treatment of such supplies depends on the same supply and not on the recipient of the supply. Therefore, if the supply is subject to the standard tax rate, the treatment will remain the same even if it is provided to a government entity.

Scope of VAT

Under the UAE VAT, supplies can be classified as:

- **Standard rated supply**: The standard VAT rate of 5% will be applied to almost all goods and services in the UAE. The standard rate will apply to the sale and lease of commercial property, hotel and restaurant service, repairs, and maintenance services and more.
- **Zero rated supply**: Zero rated supplies are taxed at 0%. The invoice for a zero rated product should include a tax column showing a zero rate and zero value. The reason for showing the zero value in the invoice is to ensure that this transaction is not used to claim tax offsets later.

  Exports, healthcare, medicines, and medical equipment are examples of zero rated supplies.
- **Exempt supply**: Supplies which are unaffected by the VAT implementation are known as exempted supplies. No tax will be charged for such supplies, and any tax which was previously paid on their purchase will not be available for credit.

  Educational institutions and financial services are examples of VAT-exempt supplies.
- Out-of-scope supply: If an overseas supplier or a non-registered entity supplies goods or services to an overseas person, these supplies will be considered out-of-scope for VAT in the UAE.
- **Deemed supply**: A deemed supply will occur when a business purchases something, claims input VAT for it, and later puts the item to a non-business or private use. Examples include gifts and motor fuel for personal use.

  When a VAT-registered business deregisters, any goods held by the business for which the input tax has already been recovered are treated as deemed supplies.
- **Supply of goods or services before and after the date of VAT implementation**: There are a few factors to keep in mind before deciding whether VAT is applicable on the supply or not. VAT is applicable if supply is made after the date of VAT implementation irrespective of the date of payment.

Supply of Goods

Though the VAT is applicable at 5% on the supply of both goods and services, each of them are defined separately and governed by separate provisions of UAE VAT Law and Executive Regulation. This is because, the characteristics of supply of goods are different from services. The UAE Executive Regulation has in detail provided clarity for determining it.

In UAE VAT, Goods are defined as a physical property that can be supplied including real estate, water, and all forms of energy as specified in UAE VAT Executive Regulations. In other words, any tangible property that can be touched or felt are considered as Goods. Anything which meets the above requirements, will be considered as a supply of goods in UAE VAT.

The following are the different forms of supply which are considered to be a supply of goods as detailed in the UAE VAT regulations:

Transfer of Ownership of Goods or the Right to use them

The transfer of ownership of goods or the rights to use them amounts to the supply of Goods. This includes transfer of ownership of goods under a written or verbal agreement for any kind of sale and ownership for a consideration in a compulsory manner in accordance with the provisions of applicable legislation.

Comprehensive View of Services

Supply of Services

In UAE VAT, services are defined as 'anything that can be supplied other than goods'. In other words, any Supply that does not constitute a Supply of Goods under VAT shall be considered a Supply of Services including the provision of services. Comprehensive View of Services

It is a broader definition to consider anything other than goods as a supply of services, the UAE Executive Regulation has detailed few specific forms of supply which should be treated as a supply of services.

Services in UAE VAT are defined in a broader way. The businesses who are in the services sector need to take extra care in determining whether a supply is a service or goods. This is because, services are defined to include 'non-physical' property along with 'anything' else that can be supplied other than goods. Thus, it is capable of encompassing all transactions that escape the definition of goods into services.

Deemed Supply

There are various components which should exist as defined in UAE VAT law to consider an activity as a supply. The term 'Supply' includes all forms of supply of goods or services by a registered taxable person in the State of UAE for a consideration and in the course of conducting a business.

However, in certain exceptional scenarios, an activity may take place which does not meet the conditions of a supply. For example, a taxable person may do something with the goods which does not involve making them available to another party, or goods or services may be provided to another person without any consideration.

Registration for VAT

Only VAT registered businesses will be allowed to do the following:

- Charge VAT on taxable supply of goods and services.
- Claim Input Tax Credit on VAT paid on their purchases, which will be deducted from VAT liability on sales.
- Payment of VAT to the government.
- Periodic filing of VAT return.

Only those businesses crossing the defined annual aggregate turnover threshold are liable to register under VAT. Based on the registration threshold, VAT registration in UAE can be classified into the following:

- Mandatory VAT Registration
- Voluntary VAT Registration
- Exemption from VAT Registration

Businesses with the annual turnover exceeding the mandatory registration threshold of AED 375,000 and the voluntary registration threshold of AED 187,500 are allowed to apply for VAT registration. The businesses engaged in making only zero rated supplies can request for exemption from VAT registration.

Any person conducting business is not allowed to have more than one Tax Registration Number (TRN), unless otherwise prescribed in the UAE Executive Regulation. Thus, even if you are operating via branches in more than one Emirate, only one VAT registration is required. With a similar objective, if two or more persons are related or associated parties in the businesses, they are allowed to apply for VAT group registration.

Tax Group

Two or more persons conducting businesses may apply for Tax Registration as a Tax Group. A tax group is a group of two or more persons registered with the FTA as a single taxable person subject to fulfilment of conditions under UAE VAT Law. This group registration is only for the purpose of tax.

Conditions for Applying VAT Group Registration

Each person shall have a place of establishment or fixed establishment in the State.

The relevant persons shall be Related Parties. Related Parties refer to two or more persons who are not separated on the economic, financial or regulatory level, where one can control others either by Law, or through the acquisition of shares or voting rights.

Registration of Non Resident

Non-residents that make taxable supplies in the UAE will be required to register for VAT unless there is any other UAE resident person who is responsible for accounting for VAT on their behalf. This exclusion may apply, for example, where a UAE business is required to account for VAT under a reverse charge mechanism in respect of a purchase from a non-resident.

Date of Supply

Time of supply refers to the time when output VAT is required to be paid. This is a mechanism which is used to determine the point in time when the tax liability will arise on a taxable transaction which a business is liable to pay.

Place of Supply

The default rule for determining the place of supply of services in VAT is that the place of supply will be the place of residence of the supplier.

Note that where the supplier has multiple potential places of residence (e.g., the business is incorporated in one country and has branches in other countries), the place of residence will be the place that is most closely connected with the supply being made.

Value of Supply

Consideration is defined as 'All that is received or expected to be received for the supply of Goods or Services, whether in money or other acceptable forms of payment'. This implies that consideration can be in the form of money and non-monetary as well.

In case of non-monetary consideration, the value of supply shall be the market value of goods or services.

Zero rated Supplies

Zero-rated supplies in UAE VAT refers to the taxable supply on which VAT is charged at zero rate. Here, tax is charged at zero-rate based on the nature of supply.

Generally, all exports of goods and services in UAE will be considered as zero-rated supplies. However, to qualify a supply as zero-rated, there are a set of conditions laid out in UAE Executive Regulations which needs to be met for charging zero rate tax.

Exempt supplies:

There are certain exempted goods or services notified in UAE Executive Regulations, on which VAT is not levied. This means, on supplying these goods or services, VAT is not charged.

On the other hand, businesses supplying these exempted goods or services will not be allowed to claim the input tax paid on their purchases.

Exempted goods and services in UAE are,

- Financial Services
- Residential Buildings
- Bare Land
- Local Passenger Transport Services

Is there any difference between Zero-rate supplies and Exempt supplies in UAE VAT?

The above question becomes obvious, because, the end result of zero-rated supplies and exempt supplies are same, i.e., VAT is not charged on the supply.

Though VAT is at zero per cent they have differential treatment in claiming input tax credit (ITC). On the purchase of goods or services which are supplied as zero-rated supplies, you are allowed to avail the VAT paid as ITC and set-off against your output liabilities. In the case of exempt supplies, you will not be allowed to claim ITC on VAT amount paid on your purchases.

Also, you may expect the details of zero-rated supplies and exempt supplies to be reported separately in VAT Return.

Reverse Charge Mechanism

Under reverse charge mechanism, on certain notified supplies, the recipient or the buyer of goods or services is responsible to pay the tax to the government, unlike in the forward charge, where the supplier is liable to pay the tax. The key change is the shift in the responsibility of paying tax, which is moved from the supplier to the buyer.

In order to ensure that the VAT is collected on the supply of goods or services where the supplier is not a taxable person and the supply has been made in the state of UAE, the government has introduced the concept of reverse charge mechanism. Due to this, the recipient or the buyer is treated as a person making taxable supplies to himself.

Designated Zones

A Designated Zone is an area which is specified by the cabinet decision and that meets the conditions prescribed in the UAE Executive Regulations. Refer to Cabinet decision 59 of 2017 for list of designated zones.

For the purpose of VAT the Designated Zones are treated to be outside the State of UAE, meaning VAT will not be levied. Though it is treated as outside the State, not all supplies will enjoy this benefit, some supplies still attract VAT at 5%. The reason being, only the supply of goods will be tax-free subject to certain conditions and depending upon the place of supply, certain types of supplies made from or to the Designated Zone will be taxable. The table below details the VAT applicability on supplies made from/to the Designated Zones.

VAT treatment on Supply of Services related to Designated Zones

There is differential treatment for supply of goods and as well as for the supply of services between Designated Zones. While the supply of goods between the Designated Zones are not subject to tax, it is not true in case of supply of services. The reason being, the place of supply of services is considered to be inside the State of UAE if the place of supply is in the Designated Zone. This implies that any services whether supplied from the mainland to Designated Zone or within the Designated Zone, the standard rate of VAT at 5% will be levied.

Recoverable Input Tax

A taxable person can reduce the value of input tax eligible for recovery from the tax payable and only pay the balance amount as tax. This ensures that tax is paid only on the value-added at each stage in the supply chain.

Conditions for input tax recovery

A registered business can recover the VAT paid on purchase of goods and services used for business purposes and subject to certain conditions. The conditions to be satisfied are:

1. **Should be used to make taxable supplies**: The supplies on which tax is liable to be paid are called taxable supplies (i.e., supplies made at 5% or zero-rated supplies). Input VAT recovery is allowed to be claimed only on inputs used to make taxable supplies, not exempt supplies.
2. **Recipient receives and keeps the tax Invoice**: The recipient claiming input tax recovery on a supply should ensure that the Tax invoice pertaining to the supply is received and kept in the records. The Tax Invoice should show the details of the supply related to the input tax recovery being claimed.
3. **Recipient pays the consideration for the supply**: The recipient claiming input tax recovery should pay or intend to make the payment of consideration for the supply within 6 months after the agreed date of payment for the supply.

Tax Invoice and Tax Credit Note

Tax invoice is the essential document to be issued by a registrant when a taxable supply of goods or services is made. Under VAT in UAE, a tax invoice is to be issued by all registrants for taxable supplies to all customers.

Articles 59 and 60 of cabinet decision 52 of 2017 can be referred to know all the particulars that a tax invoice/tax credit note shall contain.

A Tax Credit Note is issued to record the following occurrences:

- Supplies are returned or found to be deficient by the recipient
- Decrease in value of supply
- Decrease in value of tax

Carry Forward of Excess Recoverable Tax

Where recoverable input tax exceeds the output tax payable for the same period or if the tax paid to the authority exceeds the tax payable according to the provisions of decree law the same can be treated in the following manner

- Carry forward and adjust any excess recoverable tax to the subsequent tax periods and offset such excess against the payable tax until such excess is fully utilized.
- Carry forward and adjust any excess recoverable tax to the subsequent tax periods and offset such excess against any administrative penalties imposed until such excess is fully utilized.
- If there remains any excess for any tax period after being carried forward for a time, the taxable person may apply to the authority reclaim the remaining excess.

Guides & Public Clarifications from FTA

The Federal Tax Authority provides with a set of guides, clarifications and references that will help understand tax obligations better.

Goods Transport Agency Services under GST

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Taxation of services provided by Goods Transport Agency ('GTA') operators has always been an ambiguous issue under indirect tax statutes. Under the GST regime, services of transportation of goods by road supplied by a GTA are taxable, similar to the erstwhile service tax regime.

Goods Transport Agency (GTA)

As per Section 65B(26) of the Finance Act, 1994, "Goods Transport Agency means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called". Therefore, in the service tax regime, issuance of Consignment Note (C/N) was an integral and a mandatory requirement before any road transporter could be brought within the ambit of GTA.

Although the GST Act does not provide the definition of GTA, Notification No. 12/2017 dated 28-07-2017 CT(Rate) under para 2(ze) states GTA as follows:

> "goods transport agency" means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called"

Hence based on the above definition, there are two conditions which need to be satisfied to classify any person as GTA:

- Any service provider rendering transportation of goods services through road, and
- Issue of Consignment Note.

Issuance of consignment note or similar documents (contract of carriage, goods receipt note etc.) by the supplier, therefore seems to be the critical factor for the transported to be brought within the ambit of GTA services. Where the supplier does not issue a consignment note or similar document, the services do not qualify as GTA services, and hence would not be taxable.

This point has also been clarified by the CBIC in the FAQs issued for the transport sector. The extract of which is given as follows:

> *"Thus, it can be seen that issuance of a consignment note is the sine-qua-non for a supplier of service to be considered as a Goods Transport Agency. If such a consignment note is not issued by the transporter, the service provider will not come within the ambit of goods transport agency ('GTA'). It is only the services of such GTA, who assumes agency functions, that is being brought into the GST net. Individual truck/tempo operators who do not issue any consignment note are not covered within the meaning of the term GTA. As a corollary, the services provided by such individual transporters who do not issue a consignment note will be covered by the entry at s.no.18 of notification no.12/2017-Central Tax (Rate), which is exempt from GST."*

Consignment Note:

Consignment Note is neither defined in the GST Act nor in the Notification No. 12/2017-Central Tax (Rate). Guidance can be taken from the definition provided in the Explanation to Rule 4B of the Service Tax Rules, 1994, noted below:

> *'a document, issued by a goods transport agency against the receipt of goods for the purpose of transport of goods by road in a goods carriage, which is serially numbered, and contains the name of the consignor and consignee, registration number of the goods carriage in which the goods are transported, details of the goods transported, details of the place of origin and destination, person liable for paying service tax whether consignor, consignee or the goods transport agency.'*

Therefore, individual tempo operator / truck operator, who do not issue consignment note are not covered within the meaning of GTA and since they are not covered within definition of GTA, such services will be exempted as per Entry 18 of Notification No. 12/2017-CT(Rate).

Significance of the term "in relation to" in the definition of GTA

The use of the phrase 'in relation to' has extended the scope of the definition of GTA. This actually means that GTA includes not only the actual transportation of goods but any intermediate/ancillary service provided in relation to such transportation like:

- Loading/unloading,
- Packing/unpacking,
- Trans-shipment,
- Temporary warehousing, etc.

If these services are not provided as independent activities but are the means for successful provision of GTA service, then they are also covered under GTA.

Person Liable to Pay GST on GTA Services

The liability to pay GST devolves on the recipients for supply of services by a goods transport agency (GTA) who has not paid central tax at the rate of 6%, in respect of transportation of goods by road (in terms of Notification No. 13/2017-Central Tax (Rate) dated 28-06-2017 (sr.no.1) as amended by Notification No. 22/2017-Central Tax (Rate) dated 22-08-2017, if the recipients (located in the taxable territory) belong to the following categories:

(a) any factory registered under or governed by the Factories Act, 1948

(b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or

(c) any co-operative society established by or under any law; or

(d) any person registered under CGST Act, IGST Act, SGST Act or UTGST Act; or

(e) any body corporate established, by or under any law; or

(f) any partnership firm whether registered or not under any law including association of persons; or

(g) any casual taxable person; located in the taxable territory.

Therefore, based on the above it can be concluded that if the GTA services are provided to the persons mentioned above (a-g), the recipient of such GTA services would be liable to pay GST on Reverse Charge basis. It is to be noted that Individuals and HUF recipients are left out from the applicability of Reverse Charge Mechanism (RCM) unless they are registered under GST Act and the rate of tax on such GTA services would be 5% and the supplier of GTA service is not eligible to avail any Input Tax Credit (ITC) in relation to the provision of such services.

Further, if services provided by GTA does not fall under RCM, then GTA can opt for any of the two options provided through Notification No. 20/2017-CT(R) which are as follows:

- Pay taxes at 5% without claiming ITC on inward supplies
- Pay taxes at 12% and can claim ITC on inward supplies

***Example** : Mr X, who is an individual tempo operator provides transportation of goods and services without issue of consignment note to M/s. XYZ Ltd, such transporter would be covered by the entry at Entry 18 of Notification No. 12/2017-CT (Rate), which is exempt from GST.*

In the above example, if Mr X would have issued consignment note, then he would have fallen under the category of GTA and GST would have been paid either by Mr X or M/s. XYZ Ltd under Reverse Charge mechanism (in case if Mr X decides not to pay CGST @ 6% & SGST @ 6% or IGST @ 12%).

Place of Supply in case of GTA Service:

As per Section 12(8) of the IGST Act, 2017, the place of supply of services by way of transportation of goods, including by mail or courier to-

(a) a registered person, shall be location of such person;

(b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.

GTA Services Specifically Exempt

In terms of Notification No. 12/2017 CT(R) dated 28-06-2017 the following services provided by GTA is exempt from payment of GST:

(i) The entry number 21 of this notification states that freight charges in India would be exempt from GST for the following:

   (a) Transport of agricultural produce

   (b) Transport of any goods, where the gross amount charged for transportation for a consignment transported in a single carriage does not exceed Rs. 1500

   (c) Transport of any goods, where consideration charged for transportation of all such goods for a single consignee does not exceed Rs. 750

   (d) Transport of milk, salt, food grains including rice, flour, pulses

   (e) Transport of organic manure

   (f) Transport of newspapers or magazines registered with the Registrar of Newspapers

   (g) Transport of relief materials for victims of natural or man-made disasters, calamities, accidents or mishaps

   (h) Transport of defence or military equipment.

(ii) Services provided by a GTA to an unregistered person, including an unregistered casual taxable person, other than the following recipients, namely-

   (a) any factory registered under or governed by the Factories Act, 1948 (63 of 1948); or

   (b) any Society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or

   (c) any Co-operative Society established by or under any law for the time being in force; or

   (d) any body corporate established, by or under any law for the time being in force; or

   (e) any partnership firm whether registered or not under any law including association of persons;

   (f) any casual taxable person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.

One more exemption was allowed vide Notification No. 28/2018- Central Tax (Rate) (a) dated 31-12-2018 which states that freight charges in India would be exempt from GST for the following:

1. Department or Establishment of the Central Government or State Government or Union territory; or
2. local authority; or
3. Governmental agencies;

   which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under Section 51 and not for making a taxable supply of goods or services.

Additionally, entry no. 22 of Notification No. 12/2017-CT(R) exempts service by way of hire to a GTA, a means of transportation of goods.

Conclusion:

As per the above provisions it can be concluded that not all transport of goods by road is by a GTA. To qualify as services of GTA, the GTA should be necessarily issuing a consignment note. Only services provided by a GTA are taxable under GST. Services of transportation of goods by a person other than GTA are exempt.

Moreover, in cases where the service of GTA is availed by the specified categories of persons in the taxable territory, the recipients who avail such services are liable to pay GST and not the supplier of services unless the GTA opts for collecting and paying taxes @ 12% (6% CGST + 6% SGST). In all other cases where GTA service is availed by persons other than those specified, the GTA service provider will be liable to pay GST. The GTA service provider is not entitled to take ITC on input services availed by him if tax is being charged @ 5% (2.5% CGST + 2.5% SGST).

In case the GTA service supplier hires any means of transport to provide his output service, no GST is payable on such inputs.

In a nutshell, the GST law continues the provisions prevailing under the service tax regime. The law recognizes that pure transportation of goods and services are mostly provided by persons in the unorganized sector and hence has specifically excluded such operators from the tax net. In respect of those who provide agency services in transport, the liability is cast on the recipients in most of the cases unless the option to pay under forward charge has been exercised by the GTA.

Bahrain VAT Regime
New but Uncomplicated

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For years, the Kingdom of Bahrain had been among very few countries to have no significant form of taxation – both personal or corporate whether direct or indirect. All this changed on February 1, 2017 when Bahrain signed the Gulf Cooperation Council's (GCC) unified agreement to implement Value Added Tax (VAT). Accordingly, Bahrain issued the VAT Law in October 2018 through Decree No. (48) of 2018 Promulgating The Value Added Tax and thereafter the Executive Regulations were issued in December 2018.

Regulator

Since there were no taxes in the past, a new regulatory authority, the National Bureau for Revenue (NBR) was set up through Decree No. (45) of 2018. Although, it is a new regulator, the NBR has been very approachable and pragmatic in the implementation of the VAT regime. They have been proactive in providing necessary clarifications on open-ended issues under VAT in the form of guides, FAQs and public clarifications. Further, taxpayers can also seek private clarifications by way of an email or lodging a formal tax ruling on the NBR portal. The NBR has also assigned dedicated relationship managers to assist taxpayers on matters relating to VAT including compliance and advisory among other things.

Regulation

- Decree No. (48) of 2018 Promulgating The Value Added Tax
- Resolution 12 of 2018 with Executive Regulation of Decree Law (48) of 2018 on Value Added Tax

Rate of Tax

The rate of VAT was fixed at 5% and Bahrain has maintained this rate despite the neighboring Saudi Arabia increasing their VAT rates from 5% to 15% effective July 1, 2020.

Date of Implementation

The VAT registration and implementation was carried out in 3 phases:

Phase 1: January 1, 2019 [businesses with turnover over Bahraini Dinars (BD) 5 million]

Phase 2: July 1, 2019 (businesses with turnover over BD 500,000)

Phase 3: January 1, 2020 (businesses with turnover over BD 37,500)

Voluntary registration is permitted for businesses with turnover of BD 18,750 or above.

Registration Process

Application for registration must be made to the NBR within 30 days after end of the month when the annual supplies cross the mandatory threshold or within 30 days before the month when the value of supplies is expected to exceed the mandatory threshold.

Registration can be done online using the registration form available on the NBR portal along with copies of the relevant documents mentioned therein. Once NBR approves the registration, a unique VAT registration number is generated along with a VAT registration certificate. This has to be included on all VAT invoices, credit notes, and debit notes issued. VAT registration certificate should also be placed in a visible place at the place of business.

Basics Of Operation

The basic operation of VAT is similar to the standard process of VAT applied globally.

The place of Supply (where tax is ultimately levied) is the jurisdiction where the final consumption occurs and does not necessarily have to be the country where value is created.

VAT becomes due at the earliest of the following:

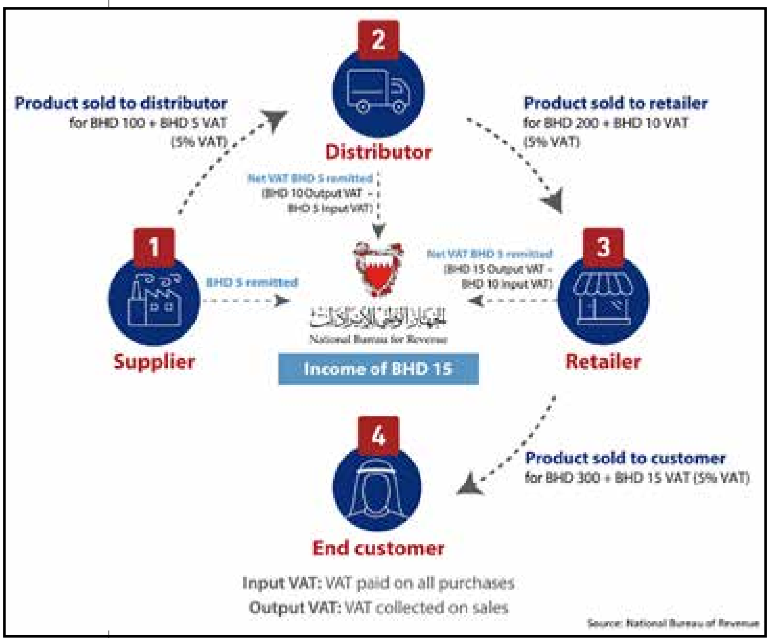
- The date when goods are delivered or made available or performance of service is completed.
- The date when any tax invoice is issued in respect of the Supply.
- Partial or full receipt of consideration, to the extent of the amount received.

For VAT purposes, the value of the Supply includes all other taxes or expenses in respect of that Supply (such as excise tax and customs duties). Where there is a non-monetary consideration involved, the value of Supply shall be the total of cash portion and the Fair Market Value of the non-monetary portion of the consideration.

Prices for goods and services supplied to consumers or in retail transactions must be stated as the VAT inclusive amounts.

The different categories applied as per the VAT Law are as below:

Standard rated items: In case of Bahrain, a standard rate of 5% VAT is applied. The VAT incurred on costs related to standard rated goods or services can be



recovered in full, from the NBR and will not be a cost to the supplier. Some common examples of goods or services that will be subject to VAT at the standard rate of 5% include stationery, office supplies, legal services, meals at restaurants, hotels, clothes and cars. VAT is imposed at various phases of the supply chain, which starts from the production to the last phase of final sale of the good or service, as illustrated below:

Zero-rated items: Supplies are subject to VAT, but the VAT rate charged is 0%, which allows for associated Input VAT to be deducted. Some of the zero rated items are as below:

- Food items listed in the GCC list of basic food items including their imports.
- Export of services.
- Educational services provided by kindergartens, pre-primary, primary, secondary and higher education institutions.
- A number of healthcare services where it is provided by a qualified medical professional or institution.
- Petrol, Diesel, Cooking Gas.

- Construction services.
- Local transport of goods and passengers in Bahrain such as buses and taxis.
- Airplane tickets from one place in Bahrain to a place outside of Bahrain.

Exempt items: Goods and services on which no VAT is charged , however in this case, associated Input VAT will not be allowed to be deducted. Examples of exempt items are:

- Interest payments on loans (e.g., credit card, personal loans, mortgages, auto-loans, etc.).
- Currencies trading.
- Investment fund services (e.g., issuance of, stocks, bonds and derivatives).
- The issue or transfer of ownership of securities (equities or debt).
- Life insurance and reinsurance contracts.
- Interest earnings received on bank deposits.
- Sale and rental of real estate.
- Import of equipment used by persons with special needs.
- Import of personal baggage and used household items.
- Import of gifts carried by passengers.

Out of scope items: Supplies which are kept out of the ambit of VAT. Some of the examples of out-of-scope items are:

- Educational services provided free of charge at government schools.
- Healthcare services provided free of charge at government hospitals.

Record Keeping And Reporting

A tax payer must maintain business records that evidence his supplies. These records may be in Arabic or English. The following are examples of records that should be maintained by a tax payer for VAT purposes:

- Accounting books, recording all of transactions in chronological and numerical order.
- Records of all supplies (purchases and sales) and imports/exports of goods and services (invoices and import and export declarations).
- Balance sheet and profit and loss accounts.
- Contracts and fixed asset records.
- Bank statements.

NBR regularly conducts inspections and audits and shall have access to all the above records on demand to examine the VAT due and verify compliance with VAT Law and Regulations.

The taxable person must issue the tax invoice no later than the fifteenth day of the month following the month during which the Supply took place. Unlike in Saudi Arabia, it is not mandatory to have the tax invoice in Arabic.

Taxpayers submit self-assessed return with the NBR for a specific Tax Period - monthly in case of businesses with turnover more than 3 million and quarterly for all other businesses. Due date for payment of tax, claiming refund and for filing tax returns is the end of the month following the end of the tax period i.e., due date for the month or quarter ending March, 31 will be April, 30.

If a taxable person has not submitted his Tax Return within the specified period, NBR may estimate the tax for the tax period in respect of which a Tax Return was not submitted, provided that the basis of the NBR's estimation is determined without prejudice to the criminal responsibility of the taxable person and the administrative fines stipulated in the VAT Law.

Tax Audit

Currently, there is no requirement for a tax audit report from external auditors.

Penalties

Penalties are applied at two levels:

Level one: Articles 60 to 62 of the Executive Regulations provide for administrative fines for violations, which is collected with the amount of tax due along with appeals mechanism. Some of the penalties:

- Late submission of a Tax Return or late payment of tax, within the prescribed period - Minimum of 5% and maximum of 25% of value of tax.
- Failure to apply for registration within stipulated time penalty not exceeding BD 10,000.
- Submission of false data-Minimum of 2.5% and maximum of 5% of unpaid tax amount each month.
- Obstruction of NBR from implementing provisions of the Law; Failure to show the price of Goods or Services inclusive of tax; Not providing information or data requested by NBR; Failure to comply with the conditions and procedures for issuing a tax invoice; Breaching any other provision of the Law or the Regulations – Fine not exceeding BD 5,000.

Level two: Articles 63 and 64 provide what is considered as tax evasion which covers areas such as Registration, Submission, Payment, Deduction, Recovery, False documentation and Non-maintenance of relevant records. The enforcement action which includes imprisonment for a period of not less than three years and not exceeding five years, and by a fine not less than the amount of the tax due and not exceeding three times the amount of tax due. The penalty shall be doubled if the offence is repeated within three years from the date of final conviction. The Minister of Finance or his authorized delegate, upon the written request of the accused, may approve a reconciliatory approach if an amount equivalent to the minimum fine for the crime as well as the value of the tax is paid.

Having seen an overview of the VAT regulations in Bahrain, we can now look into some of the practical issues faced by Assessees since the implementation of the new tax regime.

While the process of complying with VAT is quite smooth and streamlined, following are some of the issues faced by taxpayers in Bahrain:

- Taxpayers cannot report negative amount in the 'adjustments' column of VAT return – which can arise on account of issue of debit notes, recoverable position during annual wash-up, etc.
- Government entities are not agreeing to pay VAT on top of the contract price on the pretext that supplies made to them are not subject to VAT.
- Registration under VAT cannot be obtained in the absence of a Commercial Registration (CR) – given there is no requirement in this regard under VAT Law. Bahrain with a number of unregistered organisations and associations are not able to register for VAT even if they want to.
- The process of VAT grouping and deregistration from VAT has been found to be cumbersome and time-consuming sometimes.
- The time allowed to respond to NBR audit questionnaire is sometimes short compared to the list of questions asked – which leaves the client juggling between the office work and VAT audits.
- There is still no consensus in the market whether the rounding of VAT amount on the tax invoice is mandatory or optional – given the law states 'may' and not 'shall'.
- Functionality to defer the payment of import VAT has not been enabled yet – which leads to blockage of working capital.
- There is no process of appointment of tax agents by resident taxpayers and tax representatives by non-resident taxpayers.

Further the areas where there is lack of clarity in terms of applicability of the provisions of the Law include:

- Whether input tax credit can be claimed on medical insurance for employees given there is no legal obligation on the employer to provide this cover.
- There are no guidelines for determining the fair market value of supplies made by holding company to subsidiaries in Bahrain.
- The international transportation of passengers and goods, and certain goods and services provided in respect of the transportation services are zero rated, but companies are still trying to clarify the specifics.
- The supply of services to non-residents is zero-rated in principle, but the interpretation of which services qualify under this rule may differ from company to company.
- Certain pharmacies and supermarkets are still unsure whether some of the items supplied by them actually fall under the zero-rating list – which may lead to disputes at the time of NBR audits.
- Construction sector has experienced lot of complexities and disputes since implementation – in view of multiple tax treatments assigned for supplies made under the projects.
- There are no clear-cut rules for ascertaining the date of supply for supplies that account for under reverse charge mechanism – and hence disputes with regard to the date adopted for calculation of CBB exchange rate can arise in future.
- Companies are still in dilemma on whether VAT needs to be accounted on staff deductions and recoveries.

Although some of the issues have been pointed out above are just initial teething issues expected to be sorted with some clear instructions, the process of VAT implementation in Bahrain has been quite smooth thanks largely to the single rate of tax in place and small size of the market. Further, since these are still early days, there have not been many litigations or issues of interpretations of various provisions of the Law. To that extent, the implementation of VAT in Bahrain can be considered highly successful.

Introduction to GST in Singapore

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GST was introduced in Singapore on April 1, 1994, to enable the country shift its reliance from direct taxes to indirect taxes. Being a tax on consumption, and not income, it inherently encourages savings and investments. It enabled Singapore to sustain a lower income tax rate.

Rates

The tax is broad based, with few exemptions. The standard rate of GST is 7%. The rate will be raised to 9% sometime between 2021 to 2025.

The annual turnover threshold for GST registration is S$1 million. To be liable to be registered for GST, a person must make taxable supplies in Singapore over the defined threshold. A person can be an individual, a company, a partnership, organisation, association or trust, etc.

Zero rating for goods is only available for supply of goods which are physically exported from Singapore- services connected with international transportation of passengers or goods, services directly connected with land or goods outside Singapore, or services that are supplied to and directly benefit persons outside Singapore or services that directly benefit a GST-registered person in Singapore (From January 1, 2020).

Exemption means that no GST is charged on such supplies. It also means that, in principle, no GST can be recovered on costs related to the making of those exempt supplies, subject to certain de minimis exceptions.

GST is payable on goods at importation, and this is collected by Singapore Customs. The GST is due to be paid before the goods can be cleared into Singapore. Due to Singapore's role as a regional trading hub, a number of special schemes have been introduced. Schemes such as -

- Major Exporter Scheme

- Zero GST Warehouse Scheme
- Import GST Deferment Scheme

are designed to remove or reduce the cash flow costs where a business imports goods for subsequent export. The schemes generally allow the import of the goods, with the GST due suspended. A company will generally need to apply for these schemes and meet stringent criteria before they are allowed to operate them.

Definition of Goods and Services and Applicable Rates (Fig. 1 & Fig. 2)

Definition of Goods and Services	• Any tangible property and as defined in the legislation, excludes money. The sale and lease of properties in Singapore are subject to GST except for residential properties. GST is however, chargeable on the supply of movable furniture and fittings in both residential and non-residential properties. • Services are simply defined as anything which is done for a consideration (including, if so done, the granting, assignment or surrender of any right), which is not a supply of goods. Consideration can be either money or something else that has a monetary value.
Time of Supply rule	For goods is the earlier of: • Issue of invoice • Receipt of payment The issuance of any type of invoice e.g., a debit note, that serves as a bill for payment, not just a tax invoice, will be an event that triggers the time of supply. The same general time of supply rule for supplies of goods applies to supplies of services. There are special rules for retention payments and some other non-standard situations.

Figure 1 Definition of Goods and Services

	Taxable Supplies		Non-Taxable Supplies	
	Standard-Rated Supplies (7% GST)	**Zero-Rated Supplies (0% GST)**	**Exempt Supplies (GST is not applicable)**	**Out-of-Scope Supplies (GST is not applicable)**
Goods	Most local sales fall under this category. E.g., sale of TV set in a Singapore retail shop	Export of goods E.g., sale of laptop to overseas customer where the laptop is shipped to an overseas address	Sale and rental of unfurnished residential property Importation and local supply of investment precious metals	Sale where goods are delivered from overseas to another place overseas Private transactions
Services	Most local provision of services fall under this category. E.g., provision of spa services to a customer in Singapore	Services that are classified as international services E.g., air ticket from Singapore to Thailand (international transportation service)	Financial services E.g., issue of a debt security Digital payment tokens (from Jan 1, 2020) E.g., exchange of Bitcoin for fiat currency	

Figure 2 Applicable Rates

Import of Services

From January 1, 2020, a reverse charge will apply to imported Business-to-Business ("B2B") services. This affects businesses which are not able to claim GST input tax in full. What this means is that the person who receives services (subject to some exceptions) from an overseas supplier for the purposes of his partial exempt business is required to account for GST as if he had supplied the services to himself.

Non-registered businesses that are not entitled to full input tax credit will have to register for GST to account for the reverse charge if the value of the imported services exceeds S$1 million in a 12-month period.

Export of Goods

Exports of goods are zero rated for GST. In order to claim this, the onus to prove that the goods have actually left the country, lies with the person. Generally, documents like bill of lading, airway bill, invoice to overseas customer and other commercial evidence suffices the proof of export. Proof of export should be obtained within 60 days of the export. If proof of export cannot be obtained, GST will be due on the sale whether it has been charged or not.

Recovery/Offset

GST on purchases that are used or to be used for the business can generally be offset against the GST collected on sales. This is generally taken to mean that the GST is used or to be used for the purpose of making taxable or zero-rated supplies. Where exempt supplies are made, there is generally a need to restrict GST recovery. The GST should be recovered in the period it is incurred and claims must be supported by tax invoices. There is also a rule that the GST must be paid within 12 months from the date of payment to qualify as an input tax credit.

Apportionment

Where a business makes both taxable and exempt supplies the business may need to restrict its input GST recovery. The rules here are complex and restrictions are subject to certain exceptions and de minimis limits.

Put simply, a business may take credit for GST incurred that relates directly to taxable supplies. The business may not take credit for GST incurred that is directly attributable to exempt supplies or supplies which are not to be used for the business. Any GST incurred that cannot be directly attributed must be apportioned. The standard method of apportionment is to claim based on the ratio of taxable supplies to total supplies. There are special input tax recovery rates for financial institutions.

Each quarterly return is a provisional claim, and is based on the ratio of taxable to total supplies in that period. The annual, or longer period adjustment is designed to average the recovery rate over a 12-month period. The longer period is generally the four quarters ending March, April or May (depending upon the normal return periods). The annual adjustment takes the ratio of supplies made in that period and applies it to the total GST to be apportioned for the same period. The result is compared to the 4 provisional claims made so far. Any difference is either paid or claimed (as the case may be) on the next GST return.

There are certain items which attract GST, however there is no set off-

- Club subscription fees
- Medical and accident insurance premiums
- Medical expenses
- Motor car expenses
- Family benefits
- Any transaction involving betting, sweepstakes, lotteries, fruit machines, or games of chance.

Pre-registration Claims

GST incurred by a business prior to its registration can be recovered subject to certain rules which include, amongst others:

- For goods, they must still be held by the business and not have been consumed or sold as at the date of GST registration.
- For services, the GST can only be recovered if it was incurred in the period of 6 months before registration and the services have not been on-supplied by the business prior to registration.

Change of Use/Capital Items Adjustments

Apart from the partial exemption annual adjustment, there are no rules to cover situations where the use of an asset changes over a period of time. If the usage of an asset changes after the first year, say from fully taxable to partly exempt (or vice versa), there is no mechanism for an adjustment of the GST originally claimed.

However, if input GST is claimed based on an intention to make taxable supplies, but before these supplies are made the intention changes and exempt supplies are made, the GST claimed must be repaid.

Compliance/Obligations

- ***Registration***

  A person is liable to be registered if at any time there are reasonable grounds for believing that the total value of his taxable supplies in the next 12 months will exceed S$1 million. the value of taxable supplies will be computed on a calendar year basis for the purpose of determining the registration liability.

  A person must apply to be registered within 30 days of the date when his registration liability arises.

  Voluntary registration option is always available if the value of taxable supplies is below the registration limit.

With effect from 1 January 2020, non-registered businesses that are not entitled to full input tax credit will have to register for GST to account for the reverse charge if the value of the imported services exceeds S$1 million in a 12-month period.

- ***Registration number***

  Each GST registered person is issued with an identifying number. It will either be a number issued by the tax authority or the Unique Entity Number that is issued by the Singapore Government to all entities in Singapore, which will double up as the GST registration number.

- ***Group registration***

  Group registrations are allowed subject to all of the companies in the group being under common control by one person or company. The controlling person does not need to be included in the group registration.

  In order to apply for a group registration, it is first necessary to individually register the companies. An application can then be made for a group registration, and the Inland Revenue Authority of Singapore (IRAS) normally insists on 90 days' notice for all applications.

  It should be noted that while supplies between group members are ignored for GST purposes, all members will become jointly and severally liable for any debts relating to GST.

- ***Retention period***

  The records described above must be kept for not less than 5 years. Records can be kept in electronic format. There is no particular method that must be used but the business must ensure that they are kept to the published performance standards.

- ***Returns***

  I. Period

  Every registered person must furnish a GST return every 3 months. The return must be electronically submitted to the Comptroller not later than one month after the end of the prescribed accounting period.

  The Comptroller can allow monthly returns, but again they must be furnished within 1 month of the period end.

  II. Payment

  The payment due with a return must be made no later than the last day that the return is due to be made.

  III. Refunds

  When a refund is due from the Comptroller, it must be made within a period of 3 months (for quarterly returns) from its date of receipt. For monthly returns, the refund period is 1 month. Assuming there are no outstanding returns or information or taxes in arrears, late refunds may be eligible for an interest payment.

  IV. Bad debts

  A GST registered business can claim relief (credit) for the GST paid on bad debts. The bad debt must be over a year old and all reasonable efforts must have been made to collect it. Subject to complying with certain requirements, a claim can be made for the GST element of the unpaid debt in the GST return.

- ***Non-residents***

  A non-resident is allowed to register for GST in Singapore if the non-resident makes taxable supplies of goods in Singapore or he has a fixed or business establishment in Singapore from which he makes supplies of services.

  A non-resident making supplies of goods in Singapore would need to appoint an agent to fulfil his GST obligations in Singapore.

  The registration of the non-resident for GST purposes does not necessarily give rise to a permanent establishment in Singapore as that is dependent on the types of activities carried out in Singapore.

- ***Refunds to foreign business***

  There are no provisions to allow a business that is not registered in Singapore to recover GST.

Penalties

There are penalties for many offences and errors. The majority are only incurred on conviction with penalties ranging from 100% to 300% of the tax, plus potential jail sentences. The IRAS has the power to compound offences or effectively reach out of court settlements. This power is used quite frequently.

There are penalties for:

- Failure to register
- Submitting a late return

- Paying a return late
- Incorrect returns
- Incorrect information
- Evading GST
- Knowingly obtaining a false refund
- Issuing an invoice with GST while not registered
- Failing to keep records
- Obstruction of an officer.

A late payment penalty of 5% of the tax due can be applied to all late payments. This penalty is applied at the discretion of the IRAS. It can be applied to all errors on returns and is in addition to any of the above penalties.

Digital economy

i. Goods

There is import relief for the postal import of non-dutiable goods valued not more than S$400 (also referred to as low value imports), where no import GST is payable to the Singapore Customs.

ii. Services - Scope

Under the Overseas Vendor Registration regime, digital services are defined as services which are supplied over the internet or an electronic network and the nature of which renders their supply essentially automated with minimal or no human intervention, and impossible without the use of information technology. For this purpose, B2C would refer to services that are made to a non-GST registered customer which means that it can apply to both individuals and businesses which are not registered for GST in Singapore.

Under the reverse charge regime, imported B2B digital services would generally fall within the scope of services that is subject to reverse charge. The exceptions are where the services qualify for exemption or zero-rating under the Singapore GST rules or the services are directly attributable to taxable supplies (not applicable to partially exempt person which has a fixed input tax recovery rate or a special input tax recovery formula) or the services are non-taxable government supplies.

iii. Affected businesses

The Overseas Vendor Registration regime affects an overseas supplier making sales of digital services to customers in Singapore. Under certain conditions, a local or overseas operator of electronic marketplaces (i.e., the intermediaries), may be regarded as the supplier of the services made by the suppliers through these marketplaces.

The requirement to account for reverse charge on imported B2B digital services would affect businesses which are not able to claim GST input tax in full, including businesses that are currently not registered for GST.

iv. Registration

Under the Overseas Vendor Registration regime, a person is liable to be registered if its annual global turnover exceeds S$1 million and the value of supplies of digital services to non-GST registered customers in Singapore exceed S$100,000. The overseas business is not required to appoint a local agent to fulfil his GST obligations in Singapore.

Under the reverse charge regime, a non-GST registered person who procures services (including digital services) from overseas suppliers would be liable for GST registration if:

- At any time, there are reasonable grounds for believing that the total value of its imported services in the next 12 months will exceed S$1 million, or the value of its imported services has exceeded S$1 million on a calendar year basis;
- It is not entitled to full input tax credit.

v. Refunds

No input tax claims on expenses in Singapore or refunds are available as the overseas suppliers and overseas electronic marketplace operators will be registered under a pay-only regime.

Conclusion

Tax proposals should be simple to understand and to comply with. Further the implementation should be smooth, encouraging compliance yet should have effective punitive implications for compliance. Singapore has done extremely well on all fronts on GST implementation while many other countries are struggling. Singapore further has exploited technology to its advantage on GST implementation for registration, filing of returns, claiming refunds etc which has further encouraged assessees to comply.

GST on Ocean Freight

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This article explores one of the significant areas that requires elaborate discussion for transparency. The subject matter of discussion is the **taxability and valuation for levying GST on ocean freight services** as a taxable service provided by a person located in a non-taxable territory to a person located in a non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.

Statutory Provisions

Notification No. 8/2017-IT (Rate) dated 28-06-2017-Levy of GST is introduced and IGST is leviable @5% under the clause (ii) of heading 9965 for the services described as under:

"Transport of goods in a vessel including services provided or agreed to be provided by a person located in a non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India."

Therefore, ocean freight in relation to transportation of goods by a vessel from a place outside India up to the customs station of clearance in India is liable to IGST.

Scope of GST Acts

Let us first deliberate upon the scope of GST Act, in case of activity of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India viz. whether Ocean Freight is covered under the ambit of the GST Act.

If we consider the basic section viz. applicability of Section 1(2) of the CGST Act and IGST Act it is clear that the provisions of the Act apply to the whole of India. Section 5(1) of the IGST Act (viz. the charging section) explains that the Integrated Tax is levied on all the inter-state supplies. Also, as per the definition of 'taxable supply' in sub-section (108) of Section 2 of the CGST Act, it means a supply of goods or service or both which is leviable to tax under this Act and definition of 'taxable territory' as per Section 2(109) of the CGST Act, means the territory to which the provisions of the Act applies, i.e. the whole of India. With combined reading of the aforesaid provisions, it can be observed that the supply made within the 'taxable territory' is leviable to tax.

Also, to determine the scope of GST Act, the following judicial pronouncements can be relied upon:

- *Indian Association of Tour Operators v. Union of India and Others*[1], a case under the Finance Act, 1994, which also had similar provisions (viz. scope & applicability of service tax provisions) under Section 64 of the said Act, where the Act was applied to the whole of India except the State of

[1] 2017 (5) GSTL 4 (Del.).

Jammu & Kashmir and the taxable territory was defined as the territory to which the provisions of the said Act was applicable. In this context, reliance is also placed on a decision of the Delhi High Court, wherein it was held that the services rendered outside India cannot be brought to tax by a delegated legislation by fixing a deeming provision without amending Section 64 of the Finance Act, 1994. It is an essential legislative function.

- The Supreme Court, in *GVK Industries Ltd. v. ITO*[2], clearly stated that the Parliament may exercise its legislative powers with respect to the extra-territorial aspect, that too when they have an impact on or nexus with India. Therefore, it does not empower the delegated legislation to exercise such power and nor such power can be delegated by the Parliament.
- *Ishikawajma-Harima Heavy Industries Ltd. v. Director of Income Tax, Mumbai*[3], held that the 'entire services having been rendered outside India, the income arising therefrom cannot be attributable to the permanent establishment so as to bring within the charge of tax'. The Court further held that the taxation liability of the overseas services would not arise in India.
- The Supreme Court in the case of *Mathuram Agrawal v. State of MP*[4], held that, 'The statute should clearly and unambiguously convey the three components of the tax law, i.e. the subject of the tax, the person who is liable to pay the tax and the rate at which the tax is to be paid. If there is any ambiguity regarding any of these ingredients in a taxation statute then there is no tax in law'.
- The Supreme Court in the case of *Govind Saran Ganga Saran v. CST*[5], held that, 'The components which enter into the concept of a tax are well known. The first is the character of the imposition known by its nature which prescribes the taxable event attracting the levy, the second is a clear indication of the person on whom the levy is imposed and who is obliged to pay the tax, the third is the rate at which the tax is imposed, and the fourth is the measure or value to which the rate will be applied for computing the tax liability. If those components are not clearly and definitely ascertainable, it is difficult to say that the levy exists in point of law. Any uncertainty or vagueness in the legislative scheme defining any of those components of the levy will be fatal to its validity'.

The same analogy should be extended to determine levy of GST on Ocean Freight. However, based on the present scenario and relevant notifications, let us continue our deliberation on the subject matter.

Responsibility to pay GST on Ocean Freight Services

Section 5(3) of the IGST Act states that the Government by notification may specify certain category of supply of services on which tax will be paid by the recipient of service on reverse charge basis. Notification No. 10/2017- IT (Rate) dated 28-06-2017 prescribes that Importer, as defined in clause (26) of Section 2 of the Customs Act, 1962, is liable to pay integrated tax as recipient of service under reverse charge for the services specified therein as under:

Nature/Supply of Service	Supplier of Service	Recipient of Service
Services supplied by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.	A person located in non-taxable territory	Importer, as defined in clause (26) of section 2 of the Customs Act, 1962 (52 of 1962), located in the taxable territory.

Wherein, Importer as per clause (26) of Section 2 of the Customs Act, 1962 is, Importer in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner, beneficial owner or any person holding himself out to be the importer.

The term recipient of service is defined in Section 2(93) of the CGST Act, and the same is provided hereunder:

> *"recipient" of supply of goods or services or both, means—*
>
> *(a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;*
>
> *(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and*

[2] (2011) 4 SCC 36.
[3] AIR 2007 SC 929.
[4] AIR 2000 SC 109.
[5] AIR 1985 SC 1041.

(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered, and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied;

It is evident from the provisions of Section 5(3) of the IGST Act read with Notification No. 10/2017- IT (Rate) dated 28-06-2017 that recipient of service is liable for payment of tax under reverse charge mechanism. However, as per Entry 10 of the Notification No. 10/2017 - IT (Rate), dated 28-6-2017, the liability has been shifted on the 'importer' and not on the 'recipient' which is contrary to the provisions of Section 5(3) of the IGST Act, under which the said Notification has been issued. Hereafter, the point of discussion here is whether the Importer of goods would be the recipient of services of Ocean freight.

Based on the above-mentioned provisions and definition, it is to be construed that importer can be recipient of service when consideration in respect of said supply of service is to be payable by the importer of service or if consideration is not payable then if service is rendered to importer of goods.

There can be two different cases in respect of import of goods; first if goods are imported on Free on Board (FOB) basis and second if goods are imported on Cost, Insurance and Freight (CIF) basis. While importing the said goods on FOB basis, the importer is liable to bear the cost of transportation of goods from the respective country upto Indian ports. Hence, for the transportation of goods, the importer avails the services of a shipping entity for bringing the said goods to India in a vessel and accordingly, importer of goods is recipient of said service of transportation as per Notification No. 10/2017-IT (Rate).

Further, in case import of goods on CIF basis, the supplier of goods is liable to bear the cost of transportation of goods from the respective country upto Indian ports. Thus, exporter or supplier of goods avails the services of shipping entity for bringing the goods to India in a vessel. Here, recipient of service is supplier or exporter of goods to be imported into India.

On the basis of above legal provisions and discussion, in respect of service of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India, it may be said that the importer can be recipient of service when goods are imported on FOB basis (as the notification is silent) where the respective service will be rendered to importer of goods. Accordingly, importer of goods is liable for the payment of GST under reverse charge.

'Deeming fiction of value' in the Notification is Illegal

It is important to refer Corrigendum to Notification No. 8/2017-IT (Rate) dated 28-06-2017 vide F. No. 334/1/2017- TRU dated 30-06-2017 whereby the following has been inserted:

"Where the value of taxable service provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India is not available with the person liable for paying integrated tax, the same shall be deemed to be 10 % of the CIF value (sum of cost, insurance, and freight) of imported y n7goods."

Firstly, in para mentioned above, the expression used is the 'value of taxable service provided', which was also used in the erstwhile Finance Act, 1994. The present GST Acts has used the terms 'supply' and 'taxable supply'.

It is to be noted here that this valuation mechanism is applicable if value of ocean freight is not known to the importer of goods. As it can be seen from Notification No. 10/2017-IT (Rate) that the importer of goods is liable for payment of GST under reverse charge only if importer of goods is recipient of service and valuation mechanism is available where service is provided by a person located in non-taxable territory to a person located in non-taxable territory viz. recipient of service. Hence, provision of levy and provision of valuation are contradictory in order to charge GST on ocean freight. Here, valuation mechanism cannot justify the levy of tax in the absence of a provision to attract or to levy GST.

Therefore, we are of the view that where import of goods is made on CIF basis, the importer is not required to pay GST on ocean freight under reverse charge because the importer is not the recipient of service and as per Notification No. 10/2017-IT (Rate), only the importer in the capacity of recipient of service is liable for payment of GST on ocean freight under reverse charge.

Levy of Service Tax on Ocean Freight

It is pertinent to mention here about the pre-GST regime where service tax was leviable on ocean freight.

Prior to GST regime, the Government had notified the category of services on which tax was payable under reverse charge mechanism by the recipient of service or any other person.

The relevant entry from service tax is here as under:

> *"service provided by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India."*

Further, *in respect of services provided or agreed to be* ***provided by a person located in non-taxable territory to a person located in non-taxable territory*** *by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India,* ***person liable for paying service tax other than the service provider shall be the importer*** *as defined under clause (26) of section 2 of the Customs Act, 1962 (52 of 1962) of such goods.*

Here, supplier of service is located in non-taxable territory and recipient of service is also located in a non-taxable territory and the importer is person other than the recipient of service unlike the situation in GST where supplier is located in non-taxable territory and recipient of service is importer of goods located in India.

Comparison between GST & Service Tax Provisions

Here, it is relevant to discuss that to the extent the provisions of the service tax regime differ from the GST regime. In order to collect tax on the services of transportation of goods by vessels upto a port in India, the Government notified the importer (i.e. person other than service provider or service recipient) as the person liable to pay tax.

This was within the legislative competence of the Central Government but the same is not the case with GST as the statute specifically provides for service recipient only. Here, based on Section 5(3) of the IGST Act read with Notification No. 10/2017-IT (Rate) dated 28-06-2017 service recipient is liable for payment of GST on ocean freight under reverse charge and by any means importer cannot be construed as recipient of service. It is evident here that in respective transaction recipient of service is supplier or exporter of goods. As a result, importer of goods (in the capacity of other person) not being the recipient of service is not required to pay GST on such ocean freight.

Further, in respect of valuation the Government has provided by way of corrigendum mentioned above that where the value of ocean freight is not available, the same shall be deemed to be 10% of the CIF value (sum of cost, insurance, and freight) of imported goods.

Also, as mentioned above ocean freight will be included in the transaction value of imported goods on which IGST is to be paid by importer of goods. Thus, levy of GST on ocean freight will result in double taxation on value of ocean freight.

To determine levy of GST on ocean freight, applications have been made to the Authority of Advance Ruling and decisions were made against the applicant as provided hereunder:

Ocean Freight Liable to Double Taxation in case of CIF Imports

The Rajasthan Authority for Advance Ruling in the case of *M/s Chambal Fertilisers & Chemicals Limited*[6] held that the service supplied by foreign shipping entity of transportation of goods in a vessel to a port in India is an inter-State supply in terms of Section 7 of the IGST Act and IGST is leviable on the same under Section 5 of the IGST Act.

As per Entry No. 10 of Notification No. 10/2017-IT (Rate) dated 28-06-2017 issued under Section 5 of the IGST Act, in case of import of goods on CIF (Cost, Insurance, Freight) basis, the importer of goods is liable to pay GST under reverse charge mechanism on the component of ocean freight paid by foreign supplier to the shipping company.

Also, in the case of ***M/s Bahl Papers Mills Ltd.***[7], the Uttarakhand AAR held that:

> *In this regard it is observed that vide NN 8/2017-IT (rate): MANU/GSIT/0006/2017 dated 28.6.2017 and NN 10/2017- IT (rate): MANU/GSIT/0014/2017 dated 28.6.2017 an importer is required to pay IGST on the ocean freight. Therefore as on date, even if the importer has already paid IGST on CIF value imported goods, he is still required to pay IGST on ocean fright. Authority also observe that the applicant has also submitted a copy of Special Civil Application No. 726 of 2018 filed by*

[6] RAJ/AAR/2018-19/14.
[7] MANU/AR/0056/2018.
[8] [2020] 113 taxmann.com 436 (Gujarat).

Mohit Minerals (P) Ltd. before Hon'ble High Court of Gujarat in this regard. Authority observes that mere filing of an application before the Hon'ble High Court does not render a notification issued by the Central Government ultra vires until or unless the same is turned down by the competent court.

In a landmark judgment in the case of ***Mohit Minerals (P) Ltd. vs. Union of India***[8] the High Court of Gujarat has held that *no tax is leviable under Integrated Goods and Service Tax Act, 2017, on ocean freight for services provided by a person located in a non-taxable territory by way of transportation of goods by a vessel from a place outside India upto customs station of clearance in India and levy and collection of tax of such ocean freight is not permissible in law.* The Hon'ble High Court has held that *notification no. 8/2017-IT (Rate) dated 28.06.2017 and entry 10 of notification no. 10/2017-IT (Rate) dated 28.06.2017 are unconstitutional.*

Consequently, the High Court of Gujarat in the case of ***Gokul Agro Resources Ltd. vs. Union of India***[9] has further pronounced the decision in favour of the applicant by upholding the decision of the case *Mohit Minerals (P.) Ltd. vs. High Court of Gujarat*, for issuance of directions to Competent Authority to grant refund of amount of IGST already paid pursuant to said Entry, Entry No. 10 was to be declared as ultra vires of Section 5(3) of the IGST Act and further, assessee was directed to prefer application for refund of amount before Competent Authority.

Yet again, the High Court of Gujarat in the case of ***M/s Sal Steel Ltd. vs. Union of India***[10] has challenged the levy of service tax on ocean freight services and proclaimed the decision in favour of the applicant by striking down the chargeability of service on ocean freight services. The High Court has allowed the writ application by contending that

46. In the present cases, since the value of ocean freight is not available, Sub Rule (7CA) is inserted in Rule 6 of the Service Tax Rules thereby giving an option to the importer to pay service tax on 1.4% of CIF value of imported goods. But this insertion of Sub Rule (7CA) in Rule 6 is also ultra vires the machinery provision of Section 67, and also rule making power of Section 94.

47. There is no power conferred upon the Central Government under Section 94 to fix value of any service, the way such power is conferred upon the Board under Section 14(2) of the Customs Act, 1962. In absence of any power vested in the Central Government to fix value of any service by way of making a rule or a notification, Rule 6(7CA) of the Service Tax Rules is ultra vires the Rule making power. Secondly, it is an option under Rule 6(7CA) to pay service tax on the amount calculated @1.5% of CIF value of the imported goods; but if the importer does not exercise this option, then there is void because actual value of this service i.e. ocean freight is not known even to the Revenue officers. Therefore, the scheme of taxation would fail and fall in absence of a machinery provision for valuation of the service when tax is proposed to be recovered from a third party not having any information about the value of such service.

48. Therefore, Rule 6(7CA) amended by the Central Government is also ultra vires Section 67 and Section 94 of the Finance Act.

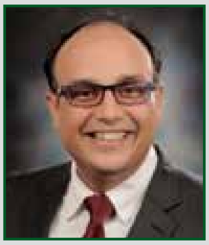
58. In view of the aforesaid discussion, the writ application succeeds and is hereby allowed. The Notification Nos.15/2017- ST and 16/2017-ST making Rule 2(1)(d)(EEC) and Rule 6(7CA) of the Service Tax Rules and inserting Explanation-V to reverse charge Notification No.30/2012-ST is struck down as ultra vires Sections 64, 66B, 67 and 94 of the Finance Act, 1994; and consequently the proceedings initiated against the writ applicants by way of show cause notice and enquiries for collecting service tax from them as importers on sea transportation service in CIF contracts are hereby quashed and set aside with all consequential reliefs and benefits.

By way of a series of judgments passed by the Gujarat High Court, it can be interpreted that IGST should not be levied and collected on Ocean Freight under Reverse Charge Mechanism (RCM) and tax paid, if any, should be claimed as refund.

Based on the discussions above, we are of the view that GST should not be levied under RCM on Ocean Freight. However, it can be analyzed that in the absence of proper clarification in respect of levy of GST on ocean freight, some decisions are already given against the importer. Therefore, non-payment of GST on ocean freight by importer under reverse charge could remain a subject for litigation till GST Department/Council issue some clarificatory statement.

[9] [2020] 116 taxmann.com 1 (Gujarat).
[10] [2020] 117 taxmann.com 619 (Gujarat).

VAT in the Netherlands



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1. Introduction

VAT in Dutch tax law is incorporated based upon EU Directives. This means that the principles and the structure of the tax are in general the same throughout EU. Member states are however free to determine their domestic rates and turnover limits for registration.

1.1 What is Dutch VAT System?

Value added tax (VAT, in Dutch 'BTW') is levied in the Netherlands at each stage in the chain of production and distribution of goods and services. In its simplest form, a business will charge VAT (output tax) on its sales (supplies), and will be entitled to deduct the VAT (input tax) it has paid on its purchases. The business will then file a return at regular intervals with the tax administration and will deduct the input tax from the output tax and pay the balance. Where the input tax exceeds the output tax, the business will receive a refund.

1.2 Who is subject to Dutch VAT?

When you have permanent establishment, or you start up a business in the Netherlands or intend to supply goods or services to Dutch customers you will be confronted with the Dutch VAT. If you start up a business in the Netherlands, you are required to register for VAT purposes. The same can apply if you do not have a Dutch presence but you are supplying goods or services to Dutch customers. For instance, foreign company providing E-commerce services to the Dutch market.

1.3 What is a permanent establishment?

A permanent establishment is a business premises in the Netherlands that is equipped with sufficient facilities to operate as an independent business. The business premises are used for supplying goods or services to third parties.

Examples of a permanent establishment are:

- A shop or another fixed retail outlet.
- A Workshop or a production plant with an adjoining office.

Storage space, a goods depot or an establishment that is used only for supporting activities (such as performing research, advertising or distributing information) is not regarded as constituting a permanent establishment. A rented holiday home is not considered to be a permanent establishment either.

Example 1:

A German department store sells goods from a shop in the Netherlands. This shop is a permanent establishment because it operates as an independent business. The permanent establishment is a domestic company.

Example 2:

A Belgian manufacturer has a warehouse for raw materials in the Netherlands. This warehouse is not a permanent establishment because it does not operate as an independent business. The manufacturer is deemed to be a non-resident entrepreneur for the turnover tax.

2. Classification of companies as per Dutch VAT Legislation:

According to the Dutch VAT legislation there are two types of companies classified as Entrepreneur:

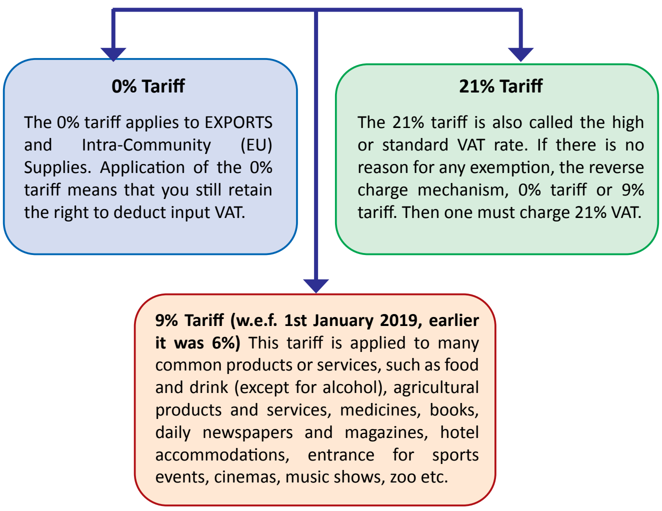
2.1 Operating Companies:

VAT entrepreneur is the person who deals in the goods and/or services which are taxable under VAT.

2.2 Holding Companies:

VAT entrepreneur is the company which is involved in financing & economic activities.

- **Financing Activities**: - When a holding company grants loan to its subsidiaries.
- **Economic Activities**: - The involvement of a holding company in the management of companies in which it has acquired a shareholding constitutes an economic activity where it entails carrying out transactions which are subject to VAT such as the supply by a holding company to its subsidiaries of administrative, financial, commercial, and technical services.



3. VAT Entrepreneur

A taxable person who conducts an independent business, including natural persons, corporate bodies, partnerships, associations etc.

4. Dutch VAT Tariffs

There are 3 VAT Tariffs in the Netherlands

5. VAT Structure

Followings are the taxable activities:

- Supply of goods
- Supply of Services
- Purchase of goods
- Purchase of Services
- Distance Sale

6. Goods transactions

There are various situations to be distinguished both with the purchase and sale of goods each with their own consequences for levying VAT.

6.1 Supply of Goods:

Supply of goods is the delivery or transfer of the power to dispose of the good as owner. In general, the supply of goods follows the sale of goods to a third party.

A supplier of goods may supply:

- To a buyer in the Netherlands;
- Intra-community;
- Export of goods.

6.1.1 Supply of goods within Netherlands:

When you supply goods to a buyer in the Netherlands and these goods remain in the Netherlands, then VAT has to be charged on the face of the invoice to purchaser and the purchaser can claim VAT Input through his VAT return. Except if the goods:

- Are used by purchaser for exempted services or supply of goods;
- Are used by him for his personal use.

However, if VAT has to be charged on Reverse Charge basis then supplier does not need to charge the VAT on Invoice instead he needs to mention on the invoice "VAT Reverse-charged" as well as buyer's VAT number.

6.1.2 Intra-Community supply of goods:

An intra-Community supply of goods is the supply of goods to a buyer in another EU country. Following 2 conditions need to be satisfied:

- Goods must be transported to another EU country;
- The buyer has to pay VAT on the intra- Community acquisition of the goods.

Transport to the other EU country has to be related to the supply of the goods. If these conditions have been met, this supply is taxed with 0% rate.

You may only apply the 0% rate if you can demonstrate that you actually supplied the goods to an entrepreneur in another EU country. In order to demonstrate this, you may use invoices in the name of the foreign buyers or receipts.

6.1.3 Supply of goods from NL to Non-EU:

Supply of goods from NL to Non-EU i.e., Export of goods are taxed at 0% VAT. It makes no difference whether the goods are supplied to a private individual or an entrepreneur. However, you must be able to show from your administrative records that the goods have actually left the EU.

You may only apply the 0% rate if you can demonstrate by means of your accounts that the goods have actually been exported.

Export Declaration

If you export goods to non-EU countries, then you are required to complete an 'export declaration' for Customs. You can complete the export declaration yourself, but you can also arrange for a custom forwarding agent to submit the declaration.

6.2 Purchase/Acquisition of Goods:

When purchasing goods three situations may arise:

- Purchase of goods in the Netherlands;
- Intra-Community acquisition in the Netherlands (Purchase from EU to NL);
- Import of goods in the Netherlands.

6.2.1 Purchase of goods in the Netherlands

If you purchase goods in the Netherlands and the goods remain in the Netherlands, the supplier (VAT registered) of the goods will charge you VAT. You may deduct this VAT as input tax on your return.

If you use the goods for purposes for which there is no entitlement to deduction, you may not deduct the VAT. The goods you purchased in the Netherlands may:

- Remain in the Netherlands;
- be transported to another EU country; or
- leave the EU.

6.2.2 Acquisition of goods from EU to NL (ICA)

If you purchase goods from an entrepreneur in another EU country, you may perform an intra- Community acquisition in the Netherlands.

This is the case, if you:

- acquire the goods based on a supply, or
- purchase the goods from an entrepreneur, or
- transport the goods or have them transported from the other EU country to the Netherlands.

Transferring your own goods

You also perform an intra-Community acquisition if you transfer goods from your enterprise in another EU country to the Netherlands. In this case too, you register in the Netherlands and file a return in the Netherlands.

6.2.3 Acquisition of goods from Non-EU to NL (Import)

Goods entering the Netherlands from outside the EU have to be reported to Customs. You then have to submit a customs declaration for free circulation in the EU. The import of the goods is taxed with VAT and you have to pay this VAT upon import. If you file a VAT return you deduct this VAT as input tax. If you do not file a VAT return you may claim VAT back from the Belastingdienst (Tax and Customs Administration).

Fiscal representative:

A person with special power of attorney who acts on behalf of non-resident entrepreneurs is what is referred to as a 'fiscal representative'. If you wish to apply the reverse-charge mechanism upon import, you will have to engage the services of a fiscal representative in any case. If you engage the services of a fiscal representative, he will take care of the VAT return as well as the declaration of intra-Community supplies on your behalf. In addition, he will be able to apply the reverse- charge mechanism upon import on your behalf provided a permit has been requested for that purpose. Moreover, when you engage the services of a fiscal representative turnover tax in the Netherlands you will not have to register as a person liable for VAT if you are not developing any other VAT activities in the Netherlands.

Article 23 (VAT Deferment License):

The Netherlands have implemented a unique system based on Article 23 of the Dutch VAT Act i.e., Article 23 license. This license enables importers to avoid immediate payment of VAT upon importation of goods. Based on this system the VAT liability is shifted to the periodic VAT return. This means that import VAT needs to be declared in this periodic VAT return, but on the other hand can be deducted in the same return as well (assuming there is entitlement to a full VAT deduction). As a result, there is no actual payment of VAT upon import and thus a cash-flow and interest advantage.

Following conditions should be fulfilled for the application of the VAT deferment license:

The applicant must be a resident OR have a permanent establishment OR have engaged the services of a fiscal representative in the Netherlands;

- The applicant must import goods on a regular basis; and
- The applicant must keep clear administrative records of the imported goods.

7. Services transactions

Services refer to all activities, other than the supply of goods, conducted in the course of trade. If you perform services, you only have to pay VAT if you meet the following two conditions:

- The service is performed in the Netherlands;
- The VAT due is not levied on the buyer i.e. not a case of RCM.

7.1 Supply of services within Netherlands:

If services (other than exempted services) are supplied by a tax registered person in the Netherlands to a Dutch company or legal entity with its registered office in the Netherlands, then supplier is required to charge Dutch VAT on the face of the invoice. The receiver of service will take input of the same.

7.2 Supply of services from Netherlands to EU (ICS):

When services are supplied from the Netherlands to entrepreneurs in other EU countries, this is called as Intra-Community Supply. These supplies are taxed at 0% VAT. This represents an intra Community acquisition for the receiver of the services in the EU country for which services have been performed.

Following conditions need to be satisfied for ICS:

- Must be able to prove from your administrative records that services have actually been provided in other EU country.
- Recipient of service is a VAT entrepreneur in the country to which the services have been supplied.

There can be two cases of supply:

B2B supply of Services: The supply of services between businesses (i.e., service provider as well as the service receiver are VAT registered) is in principle taxed at the service receiver's place of establishment.

B2C supply of Services: The supply of services by Netherlands supplier to private individuals (i.e., not VAT registered) are taxed at the supplier's place of establishment.

7.3 Supply of services from NL to Non-EU (Export):

Export of Services is out of scope from Dutch VAT legislation.

7.4 Supplying or providing services exempt from VAT

A number of supplies and services are exempt from VAT. You will not have to pay VAT on these supplies or services but you will not be entitled to a deduction of input tax or a refund.

The following are some of the goods and services which are exempt from VAT:

- educational services,
- certain services in the medical sector performed by recognized medical, professions and institutions,
- certain socio-cultural services, financial services,
- services rendered by composers, writers and journalists.

7.5 Acquisition of services in Netherlands:

Services are only taxed with Dutch VAT if they are performed in the Netherlands. Special rules apply to determine where the location of the service is. The rules are the same in all EU countries.

The basic rule is that services are performed at the place where the supplier is either resident or established. However certain exceptions also exist to this basic rule.

Reverse charge Mechanism: If services are performed in the Netherlands by non-resident entrepreneur then he needs to report to the Dutch Tax and Customs Administration and need to declare the reverse-charged VAT in his VAT return. VAT has to be reverse charged if services are performed in the Netherlands and the buyer of the service:

- is an entrepreneur based in the Netherlands or
- has a permanent establishment in the Netherlands and is a legal entity established in the Netherlands.

8. Other Concepts in Dutch VAT

8.1 Distance sales:

If supplier is based in another EU country and he sells goods to private individuals and to entrepreneurs without VAT identification number in the Netherlands and goods are delivered to your buyer.

If the total amount of these supplies does not exceed the threshold limit i.e., € 100,000 he needs to pay the VAT in his own EU country.

However, if the total amount of these supplies exceeds the limit of € 100,000 then the supplier based in other EU country would be liable to pay VAT in the Netherlands and for this the supplier is required to register with the Belastingdienst.

The limit of €100,000 does not apply to Excisable goods. Supplier may also choose to pay Dutch VAT on all distance sales in the Netherlands, even if it does not exceed the threshold amount. You can make a request to this effect in your own EU country.

The distance sales regulation also applies in the reverse situation in which an entrepreneur sells goods from the Netherlands to private individuals in other member states of the EU.

If in a certain year you exceed the threshold of € 100,000, the following year there will be no threshold amount. The next year you will have to pay VAT in the Netherlands on all your distance sales.

8.2 A-B-C Supply chain transactions within the EU

An A-B-C supply chain transaction always concerns at least 3 business operators from one or more countries. In such a transaction, business operator A sells to B and B successively sells on to C. A delivers the goods directly to C. In such type of transactions, the questions which arise in mind is that who pays the VAT & where it needs to be paid?

It is classified into two categories:

i) Standard A-B-C supply

ii) Simplified A-B-C supply

Standard A-B-C supply:

In a standard A-B-C supply chain transaction, the business operator A sells to B and B sells to C. The goods go directly from A to C. If the transport occurs within the framework of the supply (A-B), B (Middleman) must register in the country of C and he must submit the VAT return there.

Example: The oil company A in Netherlands sells a consignment of crude oil to the oil company B in Hamburg, and the latter company in turn sells it to an oil merchant C in Italy. The oil company B has provided instructions to A to take the goods straight to C in Italy. The transport to Italy therefore forms part of the transaction from A to B.

1. The first supply – For the first supply from A to B, the following treatment will be done by company A & B

- *Company A will report ICS in Netherlands and send an invoice to B with 0% VAT on which Italian VAT no (as B has to take registration in Italy) of company B will have to be mentioned.*
- *Company B will neither report any ICA nor ICS in Hamburg. He will have to be registered in the country of C (i.e., Italy) for VAT purposes and report ICA there to company A.*

2. The second supply - The second supply (from B to C) is a domestic sale in Italy between two business operators. B therefore charges C with the Italian VAT. *Company B will raise invoice to company C for a local sale (as B will have to be registered in Italy) and collect Italian VAT on its sale invoice to company C based on which company C can take Input credit of VAT paid in his country.*

Simplified A-B-C supply

In a simplified A-B-C supply chain transaction, the business operator A sells to B and B sells to C. The goods go directly from A to C but there is no necessity for B to register and submit VAT return in the country of C.

In case of simplified A-B-C, the advantage to the middleman i.e., company B is that there is no need for him to register in the country of C. If B is already registered in country C then he may not apply the arrangement of the simplified A- B-C supply chain transaction.

Following conditions need to be fulfilled to apply the simplified A-B-C supply chain transaction:

- You must be able to provide evidence of having bought the goods from A with the aim of successively selling them to C. You may provide such evidence by submitting a contract or an offer;
- There are 3 business operators who each have a VAT identification number in a different EU country;
- You make an arrangement with A in respect of the transport of the goods.
- The goods go directly from A to C in the country of C.
- You are not registered in the country of C.
- You already have to submit your VAT returns in the Netherlands in respect of other taxable activities.
- You include your intra-Community supply to C in your VAT return and in your intra- Community transactions declaration.

Social Influencers
UAE VAT Taxability

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"Yeh hum hai. Yeh humari car hai. Aur yeh humari Pawari ho rahi hai."

This video is the latest trending viral video. If you have not seen it till now, google with above statement and you will find it. This new era of Gen Z, which caters to children born on or after 1997; have made internet sensational and created a new opportunity segment for themselves which is called Social Influencers.

Social Influencers are social media users who are followed by a large number of followers; thereby giving them power to persuade them with their views. These Social Influencers have started creating a big impact and have strength to promote or demote any brand, product or company, which brings in substantial change in their sales growth. This has been realized by companies/owners and therefore these social influencers are paid for their services in kind and/or cash by the companies for promoting their brands, products and company.

The rise of this new kind of service segment ha me write this article on understanding VAT Impact on services provided by social influencers.

Let us begin with the easiest part first. Social influencers can act suo moto or on direction of someone. When a social influencer acts suo moto, without any vested interest and any consideration in cash or kind from anyone; there is only supply of services by the influencer without receiving any consideration. If you are presuming why such cases will exist, think about influencers who are nationalists. They have no hidden agenda but just the objective to promote and safeguard the larger interest of the nation. This will not qualify for VAT. This is not because of the fact that this is in the interest of the nation, as law never works on emotion but on facts and regulations. As per the regulations, VAT can primarily be triggered on any transaction when there is supply of goods and services against a consideration, subject to other provisions. Since this transaction lacks consideration, VAT will not get triggered.

Now let us move ahead and understand other scenarios but to ensure that we do not complicate the understanding, we will restrict the nature of taxability based on UAE VAT laws and regulations.

Scenario 2: A Social Influencer is called by a retail chain in UAE to visit their stores and post ravishing posts about the retail chain for next 3 months in an interval of 15 days each. For this, the Social Influencer has demanded X amount. Now this transaction comes under the ambit of VAT, but the taxability of this transaction can only be decided based on residential status of the Social Influencer.

Assuming the Social Influencer is resident in UAE and has the required license to carry out these services. Further, he or she is already registered with the authority for VAT; then the Social Influencer is required to raise an invoice with VAT at 5% on this retail chain.

On the other hand, if the Social Influencer is not registered with the authority for VAT, assuming his or her turnover has not crossed the required threshold; the influencer needs to re-assess his eligibility for registration with the authority based on this transaction and applicable threshold. Based on this assessment, the influencer should proceed with either registration or issue of invoice without VAT. The retail company is not required to do anything except ensuring that the influencer is resident of UAE with proper license to operate and declaration that he or she is not required to register with the authority due to turnover threshold.

Now let us take another leap and assume the Social Influencer is not resident in UAE and operates out of a country outside UAE. The visit to the retail stores will be over video call and photographs will be shared over email. Based on that the influencer will act and post. Now in this transaction, both parties need to be cautious; else the chances of violation are high.

The Social Influencer needs to check the tax registration status of the retail store and ensure that he or she verifies the tax registration of the company in UAE. This verification process is easy and can be done by the influencer online. The same needs to be properly documented and accordingly issue invoice in line with VAT law of the country where he or she resides. He or she is not required to charge UAE VAT on such invoice. The retail store on the other hand, needs to document the resident status of the influencer backed by proper documents and without fail needs to report the same under Reverse Charge Mechanism while filing their VAT return. Companies sometimes fail to report this, and it may result in incomplete reporting of VAT.

However, let us assume when the Social Influencer checked for tax registration status of the retail store; the store came back saying that they are not registered for UAE VAT as they are within registration threshold limit. In this case, the Social Influencer has to take extra caution to avoid himself or herself from causing tax violation. He or she has two alternative routes.

The first one is easy but will put a dent in the pocket of the influencer. The influencer can connect with a marketing firm which is resident in UAE and is registered for VAT in UAE. After connecting, they can enter into a tripartite agreement; where the retail company will be contracting with the marketing company resident in UAE for these services and payments will be made to this marketing company. In parallel, the marketing company will opt for services of this influencer and it will be the responsibility of the marketing company to pay for the services of the influencer.

In this case, the influencer is dealing with a party tax-registered in UAE and the taxability and documentation will be same as discussed above. Similarly, the retail company is dealing with a party resident in UAE and therefore, tax treatment will be as discussed at the start i.e., marketing company will raise the invoice at 5% on this retail chain. Though, the transaction and taxability flow in this approach is fine but undoubtedly there is a dent in the pocket of the influencer as they will be sharing a part of their fees with this marketing company.

The alternative approach can be that the Social Influencer registers himself/herself for tax in UAE and accordingly issues an invoice with 5% UAE VAT on the retail chain. Though this route seems simple with a dent to the limited extent of getting tax registered, however this will increase regular compliance on part of the influencer. Therefore, the influencer needs to take a judicious call before entering into an agreement with a party resident in UAE which is not registered for VAT.

If the discussion above looks complex, trust me we actually have not entered into complexity. The above paragraphs are just the foundation which needs to be cemented properly because now we will take a leap of faith and discuss the real-life scenarios of transactions between influencers and corporates.

Case 1

Ahmed is a Social Influencer based out of UAE, who has around 1 million followers and he is contacted by a UAE restaurant to visit and post reviews on a well-known platform. The terms of understanding were that he can visit along with a friend and taste the food to the extent of AED 400, and nothing will be charged to him. In return, he will post reviews and photographs on the agreed platform.

In the above case, the first question is whether this a taxable supply, that is, whether the consideration is flowing for the services of Ahmed. The answer is yes, in kind, in form of free food. Now if consideration is flowing; it becomes a taxable supply and assuming Ahmed is a registered tax person in UAE, he will have to raise an invoice with 5% VAT on the restaurant. The restaurant in turn will raise an invoice with 5% VAT for food supply on Ahmed. Since both invoices are of same value, they can either exchange AED 500 with each other or consider respective invoices paid.

Either we can follow the above stated process or alternatively we can skip it and consider this as a barter transaction of equal value, and thereby no need to issue any invoice by either party for services. The authority understands the unwanted wastage of resources in above process and therefore provides this alternative. The only pre-condition is, that the transaction is barter and of truly equal value.

In case, anyone is thinking of triggering deemed supply provision on the restaurant due to free supply of food, please restrict your thoughts. There was no free supply, rather it was a barter transaction where supply of food took place against supply of services by the Social Influencer. The issue of invoice and collection of payment could have been done by either party, but this would have not resulted in any additional value as explained above and therefore relaxed approach was taken, which authority has also permitted.

Case 2

Ameena is a Social Influencer who is resident of Canada and has around 5 million followers. She is contacted by a multinational company which has presence across UA, Canada, Middle East and Africa. The terms of understanding are that Ameena will be promoting their brands by tagging her UAE followers and UAE locations where their brands are available. The agreement is between Ameena and an entity of this MNC which is registered in Canada. In return, Ameena was promised one month supply of the brand she is promoting.

By now after reading the scenario, one thing you must be saying that the consideration is there in kind by way of free one month supply i.e., Ameena is providing a taxable supply but for me the bigger question is whether this is UAE taxable supply. The answer is no. The supplier or influencer is not resident of UAE and the party with whom she is entering into an agreement is also not UAE registered entity. By just tagging UAE residents and UAE locations on post, does not make her supply taxable in UAE. She is not required to be worried in terms of taxability from UAE perspective, but she may have to look at the transaction from Canada tax perspective. Similarly, the Canada entity needs to look into input tax recoverability of this transaction from Canada Tax input tax recoverability perspective. UAE has no role to play unless the facts change drastically dragging in any local entity into the transaction.

Case 3

Before I indulge on the facts of the case, let me clarify that I will not decode this case but will leave it for you to decode based on your understanding of the above article because you learn swimming when you dive into the pool and not when you watch from the shore.

Jamal is a Social Influencer who is a resident of UAE and has around 10 million followers. He is contacted by a hotel in UAE. The terms of understanding are that Jamal will be promoting their hotel on his blogs and other known social media sites for next 3 months. To enable him to post, he was given 3 day and night stay including buffet breakfast and dinner in the hotel for which he is not required to pay. What will be the tax implication? Decoding will not be complex if we break the transaction into simpler transactions and then evaluate as learnt in the article above. In case you still face difficulty and want to connect with me to decode this scenario, you can reach me on Jaiprakash.agarwal@gmail.com.

An Insight into the VAT System in Indonesia

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History of Value Added Tax in Indonesia

VAT was first introduced into the world in the 1950s but was confined to only a few countries. It was in the late 1960s that most countries considered adopting it. Indonesia adopted the VAT system in 1984 to minimize tax evasion by both individuals and companies as well as to create transparency and uniformity in the tax payment process. The adoption of VAT brought with it the enactment of the VAT law in the Indonesian constitution. When the VAT law in Indonesia was enacted in 1984, the standard VAT rate was set at 10%. The law, however, also stated that the rate was subject to change depending on government regulations. In case changes are to be made, the rate may reach a minimum of 5% and a maximum of 15%. The VAT law also set the VAT rate on the export of taxable tangible and intangible goods as well as export of services at 0%. Since its enactment, the VAT law in Indonesia has not changed and is not expected to change in the near future. This is because of the government's efforts to maintain a conducive environment for the conducting of business activities by both individuals and companies alike. Doing so is also a way of making the tax burden of tax-paying companies and individuals more affordable.

General

Value Added Tax (VAT) is typically due on events involving the transfer of taxable goods or the provision of taxable services in the Indonesian Customs Area. VAT is an indirect tax imposed on taxable goods and/ or services and due on the following taxable events, among others,

1. Local delivery of taxable goods and/or services.
2. Import and export of taxable goods.

3. Consumption of services and/or intangible goods from offshore within the Indonesian customs territory.
4. Export of taxable goods (tangible and intangible) by a taxable enterprise.
5. Export of taxable services by a taxable enterprise.

The VAT obligations arise upon the above deliveries with the value exceeding Rp 4.8 billion per annum.

The delivery of taxable goods is defined very broadly; it includes the following:

1. Deliveries of a title to taxable goods according to an agreement;
2. Transfers of taxable goods according to a hire-purchase or a finance-lease agreement;
3. Deliveries of taxable goods to an intermediary trader or through an auction official;
4. Own-use and/or free gift of taxable goods;
5. Remaining taxable goods in the form of inventories and/ or assets, which were originally not for sale, upon a company's dissolution;
6. Deliveries of taxable goods within a company (e.g., between branches, or between the head office and its branches) unless the company, subject to the Directorate General of Taxes' (DGT's) approval, centralises its VAT reporting;
7. Deliveries of taxable goods on consignment;
8. Deliveries of taxable goods by a taxable entrepreneur in the framework of sharia-based financing, whereby the deliveries are deemed to take place directly from the taxable entrepreneur to the party in need of the taxable goods.

Rate & Base

The VAT rate is typically 10%. This may be increased or decreased to 15% or 5%, respectively according to a government regulation. However, VAT on the export of taxable tangible and intangible goods as well as export of services is fixed at 0%. Certain limitations for the zero-rated VAT apply to export of services.

VAT is calculated by applying the VAT rate to a relevant tax base. In most cases, the tax base is the transaction value agreed between the parties concerned. For certain events or situations, other criteria must be used as the tax base, including:

1. Market value for transactions between related parties, remaining inventories of taxable goods upon a company's dissolution, and sales of (non-inventory) assets originally not for sale;
2. Cost of sales (selling price minus gross margin) for own-use or free gifts and internal deliveries of taxable goods (e.g., between branches, or from the head office to branches);
3. Auction price for deliveries of taxable goods through an auction officer;
4. Agreed price for deliveries of taxable goods through an intermediary trader;
5. Average result per film for movies;
6. Rp 12 million per copy of imported movies;
7. 20% of total costs incurred or paid, exclusive of the acquisition price of land, for the self-construction of a building;
8. Retail selling prices for deliveries or imports of tobacco products;
9. 10% of the actual billing for package shipment services;
10. 10% of the actual billing for tour and tourism agency services whose deliveries are not based on commissions;
11. 20% of selling price on the deliveries of gold jewellery, including services carried out by the factory in relation to gold jewellery;
12. 10% of the actual billing on the deliveries of freight forwarding services in which billing includes freight charges;
13. 100/110 of the Government subsidy value and 100/110 of the highest retail price determined by the Minister of Agriculture for deliveries of certain fertilizer for agricultural sector.

By law, all goods and services, unless otherwise stated, constitute taxable goods or taxable services. The legal negative list sets out which goods and services are categorised as non-taxable with certain exceptions, as follows:

VAT Invoice

A VAT invoice is an instrument to levy VAT (for the seller) and to claim VAT credit (for the buyer).

The format and contents of a VAT invoice must follow guidelines set by the ITA. Failure to meet the guidelines will cause the VAT invoice to be considered as an

Incomplete VAT Invoice and thus subject to penalties for the seller and disallowed as credit for the buyer.

A VAT Invoice must be issued at one of the following events:

1. Upon the delivery of taxable goods and/or services; or
2. When payment is received, if the payment occurs before the delivery of taxable goods and/or services; or
3. When a progress payment is received, if the work is delivered on a phase basis; or
4. Upon other defined events as determined by MoF.

VAT Invoice is required to be produced through an electronic system (e-VAT Invoices) designated by ITA, including generating replacement or cancellation of VAT invoices.

VAT invoices must bear Rupiah currency, electronic signature, and a VAT serial numbers. VAT-able entrepreneur must file application to the ITA to request for this predetermined range of VAT serial numbers. Prior to submitting such request, the VAT-able entrepreneur must first request for Activation Code and Password from the ITA, as these will be required when filing a request for VAT invoice serial numbers.

Retail entrepreneurs and entrepreneurs that issue documents treated as VAT invoices are exempted from the obligation to issue e-VAT invoices.

Certain documents are treated as VAT invoices. These include:

1. Export Declaration on taxable goods, taxable services and
2. intangible goods (with accompanying invoice);
3. Import Declaration (with accompanying payment slips);
4. Goods Delivery Order (SPPB) from BULOG/DOLOG for wheat delivery;
5. Delivery Note (PNBP) issued by Pertamina;
6. Invoice issued by a Telecommunication Company;
7. Ticket, airway bill or delivery bill issued for domestic air transport services;
8. Service Delivery Note issued for port service;
9. Invoice issued by an Electricity Company;
10. Tax payment slip (SSP) for payment of self-assessed VAT on the use of offshore intangible goods and/or services;
11. Invoice issued by a Drinking Water Company for delivery of taxable goods or services;
12. Trading confirmation from stock brokerage company;
13. Invoice issued by a Bank for delivery of VATable services;
14. Tax payment slip (SSP) for the payment of VAT on delivery of taxable goods through auctioneer accompanied with the Minutes of the Auction;
15. Document used for ordering tobacco products excise tape (CK-1Document).

Non-taxable Goods

Goods produced from mining or from drilling that are extracted directly from the source such as:

1. crude oil;
2. natural gas, excluding natural gas such as LPG that is ready to be consumed directly by the public;
3. geothermal energy;
4. asbestos, slate, semiprecious stone, limestone, pumice, gemstone, bentonite, dolomite, feldspar, halite, graphite, granite/andesite, gypsum, calcite, kaolin, leucite, magnesite, mica, marble, nitrate, obsidian, ochre, sand and gravel, quartz sand, perlite, phosphate, talc, fuller's earth, diatomaceous earth, clay, alum, trass, jarosite, zeolite, basalt, and trachyte;
5. coal not yet processed into coal briquettes; and
6. iron ores, tin ores, gold ores, copper ores, nickel ores, silver ores, and bauxite ores.

Basic commodities vital to the general public such as:

1. rice and unhusked rice-grains;
2. corn;
3. sago;
4. soybeans;
5. salt for consumption;
6. meat, namely uncooked fresh meat, packaged or not packaged, but having gone through processes of slaughtering, skinning, cutting, cooling, freezing, salting, liming, pickling, preservation by other methods, and/or boiling;

7. eggs, namely unprocessed eggs, including cleaned, salted, or packaged eggs;
8. milk, namely animal's milk that has gone through a cooling or heating process, containing no additional sugar or other ingredients, and/or packaged or unpackaged;
9. fruit, namely picked fresh fruit, including that which has gone through washing, sorting, peeling, cutting, slicing, grading, and/ or packing or non-packing processes;
10. vegetables, namely fresh vegetables that are picked, washed, drained, and/or stored at low temperature, including chopped fresh vegetables;
11. tubers;
12. ingredients; and
13. sugar for consumption.

Food and beverages served in restaurants, including food and beverages delivered by catering businesses; and Money, gold bars, and commercial paper.

Non-taxable Services

1. medical health services;
2. social services, for example orphanages and funeral services;
3. mail services using stamps;
4. financial services;
5. insurance services;
6. religious services;
7. educational services;
8. art and entertainment services;
9. broadcasting services which are not used for advertising;
10. public transportation on land and water and domestic air transport that is an integral part of international air transport;
11. manpower services;
12. hotel services;
13. public services provided by the government;
14. parking area services;
15. public telephone services using coins;
16. remittance services by money orders; and
17. food or catering services.

VAT Reporting

Companies and individuals designated as taxable enterprises (Pengusaha Kena Pajak/PKP) are required to report their business activities and settle the VAT liabilities on these every month. VAT is usually to be accounted for on a decentralization basis. As a result, a company carrying out business activities through a number of business units (branches) in the jurisdiction of different district tax service offices (Kantor Pelayanan Pajak/KPP) must register each unit with the relevant KPP. It is in this context that internal deliveries of taxable goods within a company are subject to VAT.

However, a company may centralise its VAT reporting and exclude internal deliveries of taxable goods from the scope of VAT by submitting a written notification to the DGT. Companies registered with the following

KPP are required to centralise their VAT reporting:

1. KPP for large taxpayers/LTO;
2. KPP for foreign investment companies (Penanaman Modal Asing/PMA);
3. KPP for certain foreign companies and foreigners (Badan dan Orang Asing/Badora);
4. KPP for listed companies (Perusahaan Masuk Bursa/ PMB); and
5. KPP for medium-sized taxpayers/MTO.

Input-Output Mechanism

VAT liabilities are typically settled by using an input-output mechanism. A vendor of taxable goods or taxable services must typically charge VAT to the buyer. From the vendor's perspective, it is an output tax. The buyer has to pay the VAT to the vendor. From the buyer's perspective, it is an input tax. To the extent that the goods or services are necessary for running the buyer's business, the input tax can be credited against the buyer's own output tax. If the accumulated output tax for a particular month exceeds the accumulated input tax for the same period, the taxpayer in question has to settle the difference by the end of the following month and prior to the VAT return filing deadline. If, however, the accumulated input tax for a particular month exceeds the accumulated output VAT, the taxpayer may carry over the overpaid VAT to the following months or ask for a yearly refund at the end of book year.

Import and Self-Assessed VAT

Resident taxpayers receiving and utilizing taxable services and/or taxable intangible goods from offshore or from a Free Trade Zone are obliged to self-assess, report and pay 10% VAT calculated from the gross amount paid or payable. The self-assessed VAT is due when the goods or services are:

1. actually used or utilized by the user;
2. declared as payable by the user;
3. invoiced by the service provider/seller; or
4. fully or partly paid by the user.

VAT Collector

To safeguard VAT revenues, the Government Treasurer, the State Cash and Treasury Office, Contractors of oil and gas production sharing contracts with the Indonesian Government, Geothermal Energy Contractors or License Holders (including head office, branches or units), State-Owned Enterprises and certain entities as defined by MoF regulation, are assigned to act as VAT withholding agents (VAT collectors).

Crediting Input VAT

VAT must be accounted for to the DGT every month. Input tax for a particular tax period (month), in principle, must be claimed as a tax credit against the output VAT for the same tax period. However, the claim can still be made within three months of the end of the particular tax period if the input tax has not yet been expensed or if a tax audit has not yet been started.

The validity of particular tax invoices is a key to successfully claiming the input tax as a tax credit. A tax invoice must contain the following minimum information:

1. the name, address and NPWP of the taxpayer delivering the taxable goods or services;
2. the name, address and NPWP of the purchaser;
3. the type of goods or services, the quantity, the sales price or compensation and any discounts;
4. the VAT that has been collected;
5. the LST collected (if any) on luxury goods;
6. the code, serial number and date of issue of the invoice; and
7. the name and signature of the authorised signatory to the invoice.

Failure to satisfy the minimum information requirement will mean that the input tax cannot be used as a tax credit. PKPs are required to prepare its tax invoice in electronic format (electronic Faktur Pajak/e-FP).

A tax invoice must be issued at:

1. the time of delivery of taxable goods or services;
2. the time a payment is received if the payment is received prior to the delivery of taxable goods or services;
3. the time a term-payment is received in the case of delivery of a part of the work phase; or
4. such other time as maybe stipulated by an MoF regulation.

VAT Refunds

Excess of input VAT over output VAT can be requested for refund or carried forward without limitation.

- Claims for VAT refund can only be made at the end of a tax year, except for certain VATable entrepreneurs that are eligible to claim tax refund at each monthly period.
- A refund request usually results in a tax audit, and such reviews are very strict on the quality of documentation. It is important for taxpayers to reconcile their corporate tax returns and books for the year-end VAT Return. E-VAT invoice is not required to be attached in the VAT Return in the event of the VAT Refund request.
- The time frame to obtain a refund decision varies, depending on the category of business applying for the refund. In general, it takes 12 months from the submission of the VAT refund request for the tax auditor to issue the decision letter.
- Failure of production: For those VATable entrepreneurs that are in the pre-production stage, if they fail to commence production within 3 (three) years from when the input VAT is credited, the VAT that has been refunded must be repaid. If no refund has been made, the VAT can still be credited and claimed for refund after the initial three-year period. The extension is provided for up to 2 (two) years after the initial three-year period has elapsed.
- VAT refund for foreigners: VAT paid by foreign individuals on purchases in designated retail stores can be claimed for refund by the foreigners upon leaving Indonesia. The minimum amount for a claim is Rp 500,000.

VAT Exemption Facilities

Strategic goods

The deliveries and/or import of taxable goods designated as strategic goods are exempt from VAT. The designation of strategic goods is made through a government regulation. Currently, the following goods are included:

1. capital goods in the form of machinery and plant and equipment required for the manufacturing of taxable goods;
2. animal husbandry products, including hunting and trapping, and fishery products, including the capture and cultivation of fish;
3. raw hides and skins which were not tanned;
4. seeds and seedlings for agricultural, plantation, forestry, farm and animal husbandry products;
5. cattle, poultry and fish feed, and the raw materials for manufacturing these;
6. raw materials of silver craft in the form of granules and/ or bars;
7. basic flats with size 21m^2 up to 36m^2;
8. electricity, except household electricity exceeding 6,600 VA;
9. clean water distributed through pipes by drinking water companies.

Other VAT Exemption Schemes

To support the achievement of certain national objectives, VAT is exempt on the imports and/or deliveries of the following taxable goods or taxable services:

1. weapons, ammunition, and various other appliances for use by the armed forces and the state police;
2. equipment and spare parts for providing boundary data and aerial photographs used by the armed forces;
3. polio vaccines for use in the National Immunisation Program;
4. general education and religious books;
5. low-cost houses, low costs flats with size less than 21m^2, labor low-cost accommodation, and student accommodation with certain threshold;
6. services rendered for the construction of low-cost accommodations in point 5. and places of worship;
7. rental of low-cost houses and low-costs flats less than 21m^2;
8. certain port services rendered to shipping companies that are serving international routes.

VAT Not-Collected Facilities

Certain means of transport and related taxable services

To strengthen the national transportation industry, VAT is not-collected on the imports and/or deliveries of the following taxable goods or taxable services:

1. transportation vehicles and spare parts thereof, used by the armed forces and the state police;
2. ships and spare parts thereof, as well as navigational or personal safety equipment used by national commercial shipping companies, national fishing companies, national seaport operators or national river, lake and ferry operators;
3. aircraft and spare parts thereof, as well as aviation

and personal safety equipment, and repair and maintenance equipment used by national commercial airlines;

4. trains and spare parts thereof, as well as equipment for repair, maintenance and infrastructure used by national train enterprises (Badan Usaha Penyelenggara Sarana atau Prasarana Perkeretaapian Umum);
5. services received by national commercial shipping companies, national fishing companies, national seaport operators or national river, lake crossing and ferry operators, covering vessel leasing services, port services, and vessel maintenance or docking services;
6. services received by national commercial airlines, covering aircraft leasing services, aircraft maintenance or repair services;
7. train maintenance or repair services received by national train enterprises.

Other VAT Not-Collected Schemes

VAT is also not-collected on the following events:

1. the traffic of goods or services under the concessions on special projects and special zones;
2. deliveries of certain fuels for petrol-fuelled ships that transport goods to or from overseas ports;
3. deliveries of anode slime to be further processed in producing gold bars.

VAT on Digital Products

From July 1, 2020 Indonesian value-added tax (VAT) applies to sales of digital products supplied by foreign businesses to Indonesian consumers.

Examples of these sales include downloading or streaming of apps, books, computer software, games, magazines, movies, music, and newspapers, as well as the subscription of such products. Online services such as advertising, design, marketing, and video conferencing services are also examples of digital products covered by this measure.

Overseas businesses that make sales like those described above and meet certain criteria will be appointed as VAT collectors by the Indonesian Government and be responsible for:

1. charging VAT on sales of digital products,
2. making a monthly payment to the Indonesian Government, and
3. submitting a quarterly VAT return to the Indonesian Directorate General of Taxes (DGT).

The criteria to be appointed as VAT collectors are:

1. the value of transactions with buyers in Indonesia exceed IDR 600,000,000.00 in 1 year or IDR 1,000,000.00 in 1 month; and / or
2. the amount of traffic or access in Indonesia exceeds 12,000 in 1 year or 1,000 in 1 month.

The applicable VAT rate is 10%. This means the VAT amount on a taxable sale will be 1/11th of the price the Indonesian customer pays.

Who Charges VAT

Sellers of digital products who might need to charge Indonesian VAT include:

1. overseas merchants or online retailers who sell digital products to Indonesian consumers,
2. overseas operators of online marketplaces who supplies digital products to Indonesian consumers,
3. Indonesian operators of online marketplaces who supply foreign digital products to Indonesian consumers.

A customer is considered Indonesian if the customer:

1. provides an Indonesian billing address or mailing address for his account with the seller,
2. uses payment facilities such as credit or debit cards issued by Indonesian financial institutions, and/or,
3. places orders using Indonesian IP addresses or country calling code.

Obligations as VAT Collector

An appointed VAT collector must charge Indonesian VAT on sales of digital products to Indonesian consumers.

You must begin to charge VAT on sales you make from the first day of the month following your appointment as a VAT collector. The applicable VAT rate is 10 percent of the pre-tax amount. The amount of VAT you collect during a month must be paid to the Indonesian Government by the end of the following month. You are required to submit a quarterly VAT return by the end of the month following the end of the quarter. In special cases, the Director-General of Taxes may require a VAT collector to furnish a more detailed report covering a period of one calendar year.

Substantial Changes in GST

effective from 1st August, 2021

1. Sections 110 and 111 of Finance Act, 2021 notified

Sections 110 and Section 111 of the Finance Act, as introduced vide Notification No. 9/2017 dated 28th June, 2017 has been notified through Notification No. 29/2021 dated 30th July, 2021 effective from 01st August, 2021 for the provisions to come in force.

Section	Provisions
Section 110	This Section omitted the Section 35 subsection 5 of the CGST Act, 2017.
	Section 35(5) specifically stated that every person having turnover:
	Turnover > prescribed limit
	Shall get audit his accounts by a CA or a cost accounts reconciliation statement as specified under Section 44.
Section 111	This Section amended Section 44 stating that every annual return to be filed shall be accompanied with a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year.

2. Amendments through Central Goods and Services Tax (Sixth Amendment) Rules, 2021

Major changes as brought in the Annual Returns and Reconciliation statements as specified under Section 44 of the CGST Act, 2021.

Annual Return as provided under Section 44 provides that:

- GSTR 9 shall be filed by 31st December following the end of F.Y. by every registered person other than:-
  - Those referred to in the second proviso to section 44
  - Input Service Distributor
  - person paying tax under section 51
  - person paying tax under section 52
  - casual taxable person
  - non-resident taxable person

A Self Certified statement- GSTR 9C shall also be filed along with by taxpayers having:-

Turnover > INR 5 Crores

- GSTR 9A shall be filed by every person paying tax under section 10 of CGST Act, 2017

- GSTR 9B shall be filed by every electronic commerce operator required to collect tax at source under section 52

Central Goods and Services Tax (Sixth Amendment) Rules, 2021, vide Notification No. 30/2021, brought following major changes in the Section 44 (Annual Return) w.e.f.) 1st August, 2021 which are:-

I. Form GSTR 9 has been notified for the F.Y. 2020-2021 by substituting words and letters F.Y. 2019-20 with F.Y. 2020-21 in Rule 80 of the Central Goods and Services (Rules), 2017

II. Changes as brought into GSTR 9C has been described as below:-

Particulars	**Changes made**		
Part No	S.No.	Before Amendment	Post Amendment
A	9	Details were till entry no K	After entry relating to serial number K, **Entry no K-1 stating others** shall be inserted.
	11	After entry relating to "0.10%, **"Input Tax Credit"** details was there	After entry relating to "0.10%, **Entry namely "Others" shall be substituted.**
	Pt. V	Auditor's recommendation on additional Liability due to non-reconciliation	Substituted with "Additional Liability due to non-reconciliation" shall be substituted"
	Pt. V	After entry relating to "0.10%, **"Input Tax Credit"** details was there	After entry relating to "0.10%, **Entry namely "Others" shall be substituted.**
	Pt. V	Verification of registered person:	Verification of registered person:
		I hereby solemnly affirm and declare that I am uploading the reconciliation statement in FORM GSTR 9C prepared and duly signed by the Auditor and nothing has been tampered or altered by me in the statement. I am also uploading other statements, as applicable, including financial statement, profit and loss account and balance sheet, etc."	I hereby solemnly affirm and declare that the information given herein above is true and correct and nothing has been concealed there from. I am uploading this self-certified reconciliation statement in **FORM GSTR-9C**. I am also uploading other statements, as applicable, including financial statement, profit and loss account and balance sheet, etc."
B		Certification	Omitted now

3. No Annual Return for turnover upto INR Crore

Commissioner of Council with effect from 01st August 2021, by Notification number 31/2021, exempts the registered person whose aggregate turnover in the financial year 2020-21 is upto two crore rupees, from filing annual return for the said financial year.

4. Applicability of E-Invoicing

Taxpayers are required to issue e-invoice for B2B supply from 01.04.2021, if the aggregate turnover exceeds Rs.50 Crore in any preceding financial year from 2017-18 onwards.

Roadmap for E-Invoicing

The GST Council approved the standard of e-invoice in its 37th meeting held on 20th Sept 2019 and accordingly, on 13th December 2019, Government has issued **Notification No 68/2019 CT** to **72/2019 CT**, laying down legal roadmap for E-Invoicing.

Legal Provision

As per newly inserted sub rule (4) in Rule 48 of CGST Rules, 2017 **Notified class** of registered persons have to prepare invoice by uploading specified particulars of invoice (in **FORM GST INV-01**) on **Invoice Registration Portal** (IRP) and obtain an **Invoice Reference Number** (IRN).

The invoice copy containing inter alia, the IRN with QR Code issued by the notified supplier to the buyer is commonly referred to as 'e-invoice' in GST

E-invoicing was to be implemented in a phased manner starting from 1st October 2020. The applicability of E-invoicing along with required conditions and notifications is as follows:

Aggregate Turnover in any Financial Year From 2017-18	Applicability Date	Notification No.
More than 500 Crores	1st October 2020	61/2020- Central Tax dated 30th July 2020
More than 100 Crores	1st January 2021	88/2020- Central Tax dated 10th November 2020
More than 50 Crores	1st April 2021	**05/2021- Central Tax dated 8th March 2020**

It is imperative for all taxpayers as recipient of goods or services to seek a declaration from their vendors who fall under E-Invoicing and ensure that Valid Tax Invoices along with QR Code (embedded with IRN) are issued to enable availment of Input tax credit.

5. Change in HSN Code & SAC code Requirement

HSN (Harmonized System of Nomenclature) is an internationally accepted 6 digit uniform product coding system developed by World Customs Organisation (WCO).

In India, HSN coding was earlier used under Excise, Customs, and state Value Added Tax (VAT) laws and is accordingly is now used under Goods and Services Tax (GST) law, for classification of products/goods. Further SAC (Service Accounting Codes) as issued by CBIC are used for classification of supply of services.

Currently, the requirement of disclosing HSN / SAC on tax invoices / GST returns is governed by Notification No 12/2017- Central Tax dated 28-6-2017.

Vide CGST **Notification No. 78/2020 dated 15.10.2020**, Government has amended CGST Notification No. 12/2017 dated 28.06.2017 amending requirements for HSN to be mentioned on Tax Invoice applicable w.e.f. 1st April 2021. The new requirements are summarized below-

Sr. No.	Aggregate Turnover in the preceding Financial Year (i.e., FY 2020-21)	HSN /SAC requirement w.e.f. 01.04.2021	Transactions
1	Upto INR 5 Crs.	4 Digits	B2B Transactions- Mandatory
			Export/ SEZ Sales – Mandatory
			B2C Transactions- Optional
2	More than INR 5 Crs.	6 Digits	Mandatory for all transactions

Corresponding changes in **Table 12 of GSTR 1** (i.e., details of outward supplies of goods or services) to capture 4 or 6 Digit HSN/SAC code, have been made.

Consequences of non-mentioning or mentioning wrong HSN/ SAC Code

1. General Penalty **Rs 50,000/-** (Rs 25,000/- each for CGST and SGST) can be levied under Section 125 of the CGST Act, 2017.
2. Buyer will not be able to Claim ITC.

Time Limit for Availing the QRMP Scheme for the FY 2021-22

The government has launched the Quarterly Return Filing & Monthly Payment of Taxes (QRMP) scheme for small taxpayers under the GST system.

CBIC rolled out Circular No. **20/01/08/2020- GST** on November 10th, 2020, introducing the QRMP Scheme that is effective from January 1, 2021.

Under the said scheme, **eligible taxpayers** have the option to file their GST returns on quarterly basis, while payment of tax will be on monthly basis through a Challan. In this case payment through Challan in cash is mandatory.

This is an **OPTIONAL** scheme. This option can be availed GSTIN wise. Therefore, few GSTINs for a PAN can opt for the Scheme whereas the remaining GSTINs of the same PAN can remain out of the Scheme.

Eligibility for the Scheme

- In terms of Notification No. 84/2020-Central Tax, dated 10-11-2020, a registered person who is required to furnish a return in **FORM GSTR-3B,** having **aggregate annual turnover (PAN wise) of up to Rs 5 crore in the preceding financial year** is eligible for this scheme.

  Aggregate annual turnover for the preceding financial year shall be calculated in the common portal taking into account the details furnished in the returns by the taxpayer for the tax periods in the preceding financial year.

- Any person obtaining a new registration or opting the Composition Scheme can also opt for this Scheme.

Time Limit to opt for QRMP Scheme

- The facility is available online and can be availed throughout the year, in any quarter
- Taxpayer can opt for any quarter from first day of second month of preceding quarter to the last day of the first month of the quarter

Timeline for exercising option under QRMP Scheme during FY 2021-22

Quarter	Period – Quarter	Timeline
1st	April 2021 to June 2021	1st February 2021 to 30th April 2021
2nd	July 2021 to September 2021	1st May 2021 to 31st July 2021
3rd	October 2021 to December 2021	1st August 2021 to 31st October 2021
4th	January 2022 to March 2022	1st November 2021 to 31st January 2022

- In order to exercise this option, the registered person must have furnished the last return, as due on the date of exercising such option.
- Option for QRMP, once exercised, will continue till registered person revises the option or his annual aggregated turnover exceeds INR 5 Crores.

Judicial Pronouncements amplifying the GST Law vis-a-vis Rights provided by the Constitution of India

CASE: PARESH NATHALAL CHAUHAN V. STATE OF GUJARAT (GUJARAT HIGH COURT) R/ CR.MA/6237/2020

Important Facts of the Case:

- The case pertains to search and seizure operations conducted by GST officials on the residential premises of the petitioner.
- **Section 67(2)** gives the right to search and seize "goods liable to confiscation or any documents or books or things".
- But in this case the officers from the department resided for 8 days at taxpayers' premises and all the family members were questioned for such long period. This right is not given to the officers by any provision of the CGST Act. There is no provision in GST for such prolonged investigation.
- Under **section 70** of the CGST Act, they had the right to summon them for questioning.
- The act of officers has violated the **Article 21 of the Constitution of India**. It provides for the right to privacy.

Important discussions in the proceedings:

High Court Held That

- Sub-section (2) of section 67 of the CGST Act empowers the authorised officer to search and seize goods, documents or books or things. Sub-section (4) of section 67 empowers the officer authorised under sub-section (2) to seal or break open door of any premises or to break open any almirah, electronic devices, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, where access to such premises, almirah, electronic devices, box or receptacle is denied.
- Thus, the officers concerned were authorised to seize such books, goods, documents, or things which were found at the premises.
- Sub-section (2) of section 67 does not empower the C/SCA/18463/2019 ORDER officer concerned to record statements of family members through force or coercion or to record their conversations in their mobile phones.
- In exercise of powers under sub-section (2) of section 67 of the CGST Act, it is not permissible for the authorised officer to use coercive measures against family members to find out the whereabouts of the taxable person.
- It is shocking to see that in a premise where there are three ladies, namely, the petitioner's mother, wife and young daughter, male officers together with a CRPF Officer have stayed throughout day and night despite the fact that the goods, articles and things were already seized on 11.10.2019.
- The entire exercise carried out by the concerned officers from 12.10.2019 to 18.10.2019 was totally without any authority of law and in flagrant disregard of the provisions of the Act and the rules and in total abuse of the powers vested in them under the Act.
- The manner in which the officers have conducted themselves by overreaching the process of law and acting beyond the powers vested in them under sub-section (2) of section 67 of the CGST Act needs to be deprecated in the strictest terms.
- Therefore, a proper inquiry needs to be made in respect of the action of the respondent officers of staying day and night at the premises of the petitioner without any authority of law.

CASE: DEL SMALL ICE CREAM MANUFACTURERS WELFARE'S ASSOCIATION (REG.) V. UNION OF INDIA & ANR (HIGH COURT OF DELHI) CM NO. 1712/2021

Important Facts of the Case:

- The case pertains to the exclusion of Ice cream from the benefits of Composition Scheme under **Section 10(1) of the CGST Act,2017**

- The petitioner contended that the said exclusion is in violation of the spirit **of Articles 14 and 19 of the Constitution of India** and against the principles of natural justice.
- It was mentioned that that GST Council, in exercise of powers under Section 10(2)(e) of the Act, has clubbed ice cream with pan masala and tobacco. The pan masala and tobacco are sin goods and ice cream cannot be clubbed therewith.
- Delhi High Court directs GST Council to reconsider its decision of such exclusion.

Important discussions in the proceedings:

- Hon'ble Delhi High Court directs the GST Council to reconsider the exclusion of small scale manufactures of ice cream from the benefit of Section 10(1) of the Act, including on the aforesaid two parameters i.e. the components used in the ice cream and the GST payable thereon and other similar goods having similar tax effect continuing to enjoy the benefit.
- The contention of the counsel for the petitioner is that GST Council, in exercise of powers under Section 10(2)(e) of the Act, has clubbed ice cream with pan masala and tobacco. The counsel for the petitioner has contended that there is no reason for clubbing ice cream with sin goods like pan masala and tobacco. It is contended that pan masala and tobacco are sin goods and ice cream cannot be clubbed therewith.
- On enquiry, as to the reasons if any given by the GST Council in its meeting, for excluding ice cream from benefit of Section 10(1) of the Act, the counsel for the petitioner contends that the reason which prevailed for excluding ice cream was that there is no Goods and Services Tax (GST) on milk, being a large constituent of ice cream and if small manufacturers of ice cream were to be given benefit of Section 10(1) of the Act, there would be large scale loss of revenue.
- It is the argument of the counsel for the petitioner that ice cream comprises of a large number of other components which are assessable to GST and thus the reasoning emanating from the minutes of the impugned meeting of the GST Council for excluding ice cream from the benefit of Section 10(1) of the Act, is fallacious.
- The petitioner, claiming to represent the interest of more than 50 small scale ice cream manufacturing units operating in the National Capital Territory of Delhi, has filed this petition impugning the decision dated 18th June, 2017 of the Goods and Services Tax Council (GST Council), in exercise of powers under Section 10(2)(e) of the Central Goods & Services Tax Act, 2017, of exclusion of ice cream from the benefits of Composition Scheme under Section 10 of the Act.

- It is the contention of the petitioner that the said exclusion is in violation of the spirit of Articles 14 and 19 of the Constitution of India and against the principles of natural justice.
- The issue raised in the petition is pan India, similar petitions are pending in several High Courts.
- The court directed the GST Council to take up the aspect in its next meeting and to take a decision thereon at the earliest, keeping in view that the ice cream season has just begun, and preferably within three months.

Notifications & Circulars

As per the provisions of Section 164 of the Central Goods and Services Tax Act, 2017 the general power is granted to the Central and State Government to make rules. The said power is subject to a procedural limitation that can be exercised only when there is a recommendation by the Council. Power to issue of Notifications with retrospective effect under the rules is also included in such rule making power.

In exercise of the said powers, the Government, on the recommendations of the Council, hereby issues following Notifications to makes the following rules further to amend the Central Goods and Services Tax Rules, 2017 during the period starting from January 2021.

Amendments introduced by CGST (Amendment) Rules, 2021

CGST (Sixth Amendment) Rules, 2021 Dated 30 July 2021

CBIC has notified the CGST (Sixth Amendment) Rules, 2021 vide Notification No. 30/2021- Central Tax dated 30 July 2021. A brief summary of important amendments is as below-

1. Substitution of rule 80-

"80. Annual return.-

(1) Every registered person, other than those referred to in the second proviso to section 44, an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year as specified under section 44 electronically in **FORM GSTR-9** on or before the thirty-first day of December following the end of such financial year through the common portal either directly or through a Facilitation Centre notified by the Commissioner:

Provided that a person paying tax under section 10 shall furnish the annual return in FORM GSTR-9A.

(2) Every electronic commerce operator required to collect tax at source under section 52 shall furnish annual statement referred to in sub-section (5) of the said section in **FORM GSTR - 9B**.

(3) Every registered person, other than those referred to in the second proviso to section 44, an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, whose aggregate turnover during a financial year exceeds five crore rupees, shall also furnish a self-certified reconciliation statement as specified under section 44 in **FORM GSTR-9C** along with the annual return referred to in sub-rule (1), on or before the thirty-first day of December following the end of such financial year, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

2. Changes in instructions of FORM GSTR-9-

a. in paragraph 4, -

i. after the word, letters and figures "or FY 2019-20", the word, letters and figures "or FY 2020-21" shall be inserted;

ii. in the Table, in second column, for the word and figures "and 2019-20" wherever they occur, the word and figures ", 2019-20 and 2020-21" shall be substituted;

b. in paragraph 5, in the Table, in second column, -

i. against serial number 6B, after the letters and figures "FY 2019-20", the letters, figures and word "and 2020-21" shall be inserted;

ii. against serial numbers 6C and 6D, -

1. after the word, letters and figures "For FY 2019-20", the word and figures "and 2020-21" shall be inserted;

2. for the word and figures "and 2019-20", the figures and word ", 2019-20 and 2020-21" shall be substituted;

iii. against serial number 6E, for the letters and figures "FY 2019-20", the letters, figures and word "FY 2019-20 and 2020-21" shall be substituted;

iv. against serial number 7A, 7B, 7C, 7D, 7E, 7F, 7G and 7H, in the entry, for the figures and word "2018-19 and 2019-20", the figures and word "2018-19, 2019-20 and 2020-21" shall be substituted;

c. in paragraph 7, -

i. after the words and figures "April 2020 to September 2020.", the following shall be inserted, namely: -

"For FY 2020-21, Part V consists of particulars of transactions for the previous financial year but paid in the **FORM GSTR-3B** between April 2021 to September 2021.";

ii. in the Table, in second column, -

1. against serial numbers 10 and 11, after the entries, the following entry shall be inserted, namely: -

"For FY 2020-21, details of additions or amendments to any of the supplies already declared in the returns of the previous financial year but such amendments were furnished in Table 9A, Table 9B and Table 9C of **FORM GSTR-1** of April 2021 to September 2021 shall be declared here."

2. for the figures and word "2018-19 and 2019-20", the figures and word "2018-19, 2019-20 and 2020-21" shall be substituted;

iii. Against serial number 13, -

1. after the words, letters and figures "reclaimed in FY 2020-21, the details of such ITC reclaimed shall be furnished in the annual return for FY 2020-21,", the following entry shall be inserted, namely: -

"For FY 2020-21, details of ITC for goods or services received in the previous financial year but ITC for the same was availed in returns filed for the months of April 2021 to September 2021 shall be declared here. Table 4(A) of **FORM GSTR-3B** may be used for filling up these details. However, any ITC which was reversed in the FY 2020-21 as per second proviso to sub-section (2) of section 16 but was reclaimed in FY 2021-22, the details of such ITC reclaimed shall be furnished in the annual return for FY 2021-22.";

2. for the figures and word "2018-19 and 2019-20", the figures and word "2018-19, 2019-20 and 2020-21" shall be substituted;

3. Changes in FORM GSTR-9C, -

a. in Part A, in the table

i. in Sl no 9, after the entry relating to serial number K, the following serial number and entry relating thereto shall be inserted, namely:-

"K-1	Others					.":

ii. in Sl no 11, after entry relating to "0.10%", the following entry shall be inserted, namely: -

"Others					.":

iii. against Pt. V, -

1. in the heading, for the words "Auditor's recommendation on additional Liability due to non-reconciliation", the words "Additional Liability due to non-reconciliation" shall be substituted;

2. after entry relating to "0.10%", the following entry shall be inserted, namely: -

"Others					.":

b. after the table, for the portion beginning with "Verification:" and ending with "and balance sheet etc.", the following shall be substituted, namely:

"Verification of registered person:

I hereby solemnly affirm and declare that the information given herein above is true and correct and nothing has been concealed there from. I am uploading this self-certified reconciliation statement in **FORM GSTR-9C**. I am also uploading other statements, as applicable, including financial statement, profit and loss account and balance sheet, etc.";

c. in the instructions,

i. in paragraph 4, in the Table, in second column, for the figures and word "2018-19 and 2019-20" wherever they occur, the figures and word "2018-19, 2019-20 and 2020-21" shall be substituted;

ii. in paragraph 6, in the Table, in second column, for the figures and word "2018-19 and 2019-20" wherever they occur, the figures and word "2018-19, 2019-20 and 2020-21" shall be substituted.

iii. for paragraph 7, the following paragraph shall be substituted, namely, - "7. Part V consists of the additional liability to be discharged by the taxpayer due to non-reconciliation of turnover or non-reconciliation of input tax credit. Any refund which has been erroneously taken and shall be paid back to the Government shall also be declared in this table. Lastly, any other outstanding demand which is to be settled by the taxpayer shall be declared in this Table.";

d. Part B Certification shall be omitted.

CGST (Fifth Amendment) Rules, 2021 dated 1st June 2021

CBIC has notified CGST (Fifth Amendment) Rules, 2021 vide **Notification No.27/2021 dated 1st June 2021**. A brief summary of important amendments are as below-

1. In Rule 26(1) regarding substitution of the date "31st day of May, 2021", to "31st day of August, 2021"-

Hence, authentication of the details in GSTR-1 and GSTR-3B through Electronic Verification Code (EVC) by the companies and LLPs extended to 31st August 2021.

2. In Rule 36(4) regarding relaxation given for cumulative adjustment of ITC-

"Provided further that such condition shall apply cumulatively for the period April, May and June, 2021 and the return in FORM GSTR-3B for the tax period June, 2021 or quarter ending June, 2021, as the case may be, shall be furnished with the cumulative adjustment of input tax credit for the said months in accordance with the condition above.";

Hence, the effect of restriction of 5% of ITC as in GSTR-2B to be furnished cumulatively for the Month of April 2021, May 2021 and June 2021 in Form GSTR-3B of the month or quarter ending 30th June 2021.

3. In Rule 59(2) regarding insertion of following proviso after first proviso-

"Provided further that a registered person may furnish such details, for the month of May, 2021, using IFF from the 1st day of June, 2021 till the 28th day of June, 2021."

Hence, the registered person may furnishing the details in IFF for the month of May 2021, from 28th June to 13th June 2021.

CGST (Fourth Amendment) Rules, 2021 dated 18th May 2021

CBIC has notified CGST (Fourth Amendment) Rules, 2021 vide **Notification No.15/2021 dated 18th May 2021.** A brief summary of important amendments are as below-

1. Rule 23(1) regarding Revocation of cancellation of registration

Sub-rule 1 of rule 23 is amended to allow filling of application for revocation of cancellation of registration within a period of 30 days from date of service of order of cancellation or within such time period as may be extended by the Additional Commissioner or the Joint Commissioner or the Commissioner, as the case may be, to bring rules in line with the amendment made in section 30 of CGST Act which allows extended time period for filing of revocation application;

2. Rule 90(3): Acknowledgement (Refund)

New proviso has been inserted in sub-rule (3) to Rule 90 to exclude the time period from the date of filling of the refund claim in **FORM GST RFD-01** till the date of communication of deficiencies in **FORM GST RFD-03** by the proper officer, from the period of two years as specified under sub-section (1) of section 54, in respect of any such fresh refund claim filed by the applicant after rectification of the deficiencies.

3. Rule 90(4): Acknowledgement (Refund)

after sub-rule (4), the following sub-rules shall be inserted, namely: -

"(5) The applicant may, at any time before issuance of provisional refund sanction order in **FORM GST RFD-04** or final refund sanction order in **FORM GST RFD-06** or payment order in **FORM GST RFD-05** or refund withhold order in **FORM GST RFD-07** or notice in **FORM GST RFD-08**, in respect of any refund application filed in **FORM GST RFD-01**, withdraw the said application for refund by filing an application in **FORM GST RFD-01W**.

(6) On submission of application for withdrawal of refund in **FORM GST RFD-01W**, any amount debited by the applicant from electronic credit ledger or electronic cash ledger, as the case may be, while filing application for refund in **FORM GST RFD-01**, shall be credited back to the ledger from which such debit was made.";

4. Rule 92(1): Order Sanctioning Refund

Sub-rule (1) of Rule 92 relating to Part A of FORM RFD-07 has been omitted and Part B has been renamed as Part A.

5. Rule 92(2): Order Sanctioning Refund

Proviso has been inserted to Rule 92(2) to allow the proper officer or the Commissioner to pass on order for release of withheld refund in Part B of FORM GST RFD-07 where refund is no longer liable to be withheld.

6. Rule 96: Refund of Integrated tax paid on goods or service exported out of India

Similar amendments have been made in Rule 96 also-

(a) in sub-rule (6), for the word and letter "Part B", the word and letter "Part A" shall be substituted;

(b) in sub-rule (7), for the words, letters and figures, "after passing an order in **FORM GST RFD-06**", the words, letters and figures, "by passing an order in **FORM GST RFD-06** after passing an order for release of withheld refund in Part B of **FORM GST RFD-07**" shall be substituted;

7. FORM GST REG-21

Changes has been made in instructions to FORM GST REG-21 to make it in line with the changes made in Rule 23.

8. FORM GST RFD-07

FORM GST RFD-07 has been substituted to incorporate the above mentioned changes.

9. Rule 138E

Further in Rule 138E the line ""in respect of a registered person, whether as a supplier or a recipient, who" is substituted by "in respect of any outward movement of goods of a registered person, who".

CGST (Third Amendment) Rules, 2021 dated 01th May 2021

CBIC has notified CGST (Third Amendment) Rules, 2021 vide Notification No.13/2021 dated 01th May 2021. A brief summary of important amendments are as below-

1. In Rule 36(4) regarding insertion of following proviso after the first proviso-

"Provided further that such condition shall apply cumulatively for the period April and May, 2021 and the return in FORM GSTR-3B for the tax period May, 2021 shall be furnished with the cumulative adjustment of input tax credit for the said months in accordance with the condition above.";

Hence, the effect of restriction of 5% of ITC as in GSTR-2B to be furnished cumulatively for the Month of April 2021 and May 2021, in Form GSTR-3B of May 2021.

2. In Rule 59(2) regarding insertion of following proviso-

"Provided that a registered person may furnish such details, for the month of April, 2021, using IFF from the 1st day of May, 2021 till the 28th day of May, 2021.";

Hence, the registered person may furnishing the details in IFF for the month of April 2021, from 1st May 2021 to 28th May 2021.

CGST (Second Amendment) Rules, 2021 dated 23rd March 2021

CBIC has notified CGST (Second Amendment) Rules, 2021 vide **Notification No.07/2021 dated 23rd March 2021**. A brief summary of important amendments are as below-

1. In Rule 26(1) regarding insertion of following proviso after the third proviso-

"Provided also that a registered person registered under the provisions of the Companies Act, 2013 (18 of 2013) shall, during the period from the 27th day of April, 2021 to the 31st day of May, 2021, also be allowed to furnish the return under section 39 in FORM GSTR-3B and the details of outward supplies under section 37 in FORM GSTR-1 or using invoice furnishing facility, verified through electronic verification code (EVC)."

Hence, the furnishing of details in GSTR-1 and GSTR-3B from the period 27th April 2021 to 31st May 2021 by the companies have been made available to get verified through Electronic Verification Code (EVC) instead of DSC.

CGST (Amendment) Rules, 2021 dated 1st January 2021

CBIC has notified CGST (Amendment) Rules, 2021 vide **Notification No.01/2021 dated 1st January 2021**. A brief summary of important amendments are as below-

1. In Rule 59 regarding insertion of sub-rule (6) after the sub-rule (5)-

A new sub-rule 6 is added to rule 59 of the CGST Rules, 2017, restricting or blocking the filing of GSTR-1 as follows:

a) a) For monthly filing of GSTR-1, where GSTR-3B filing for the preceding two months is pending, then GSTR-1 for the current month is not allowed.

b) For quarterly filing of GSTR-1, where GSTR-3B filing for the preceding tax period is pending, then neither the Invoice furnishing facility (IFF) nor the GSTR-1 for the current quarter is allowed.

c) Where more than 99% of tax liability is discharged through electronic credit ledger under Rule 86B, then taxpayer cannot use the IFF or file GSTR-1 if the preceding tax period's GSTR-3B is not filed.

Notifications

No.	Date	Subject	Description
31/2021-Central Tax	30.07.2021	Seeks to exempt taxpayers having AATO upto Rs. 2 crores from the requirement of furnishing annual return for FY 2020-21	Exemption given to those persons whose aggregate turnover in FY 20-21 is up to 2 Cr. from filing GSTR 9 for the said FY
30/2021-Central Tax	30.07.2021	Seeks to amend Rule 80 of the CGST Rules, 2017 and notify Form GSTR 9 and 9C for FY 2020-21. Rule 80 provides for exemption from GSTR-9C to taxpayers having AATO upto Rs. 5 crores	For those taxpayers having aggregate turnover of more than 5 Cr rule 80 provides for exemption from filing self-certified GSTR-9C & further changes are notified to the format of Form GSTR-9C from FY 2020-21 onwards
29/2021-Central Tax	30.07.2021	Seeks to notify section 110 and 111 of the Finance Act, 2021 w.e.f. 01.08.2021.	Section 35 subsection 5 of the CGST Act shall be omitted & i.e. Compliance obligation of mandatory requirement of getting annual accounts audited & submitting reconciliation by specified professional removed to allow self-certification & Section 44 stands amended
28/2021-Central Tax	30.06.2021	Seeks to waive penalty payable for non-compliance of provisions of Notification No. 14/2020 dated 21st March 2020	Late fee charged for non-compliance of QR code requirement from 1dec,2020 to 30 sept 2021 stands waived
27/2021-Central Tax	01.06.2021	Seeks to make amendments (Fifth Amendment, 2021) to the CGST Rules, 2017.	In sub-rule (4) of rule 36 shall apply cumulatively for the period April, May and June, 2021 and the return in FORM GSTR-3B for the tax period June, 2021 or quarter ending June.
26/2021-Central Tax	01.06.2021	Seeks to extend the due date for furnishing of FORM ITC-04 for QE March, 2021 to 30.06.2021.	Due date for furnishing declaration in FORM ITC-04, in respect of goods dispatched to job worker or received from a job worker, during the period from 1st January 2021 to 31st March extended to 30th June 2021.

25/2021-Central Tax	01.06.2021	Seeks to extend the due date for filing FORM GSTR-4 for financial year 2020-21 to 31.07.2021.	Due date for filing FORM GSTR-4 (Yearly return for Composition scheme) extended to 31st July 2021.
24/2021-Central Tax	01.06.2021	Seeks to amend notification no. 14/2021-Central Tax in order to extend due date of compliances which fall during the period from "15.04.2021 to 29.06.2021" till 30.06.2021.	Where any time limit for compliances falls during the period from "15.04.2021 to 29.06.2021" has been extended to 30th June 2021.
23/2021-Central Tax	01.06.2021	Seeks to amend Notification no. 13/2020-Central Tax to exclude government departments and local authorities from the requirement of issuance of e-invoice.	Government departments and local authorities are excluded from E-invoice provisions.
22/2021-Central Tax	01.06.2021	Seeks to rationalize late fee for delay in filing of return in FORM GSTR-7.	
21/2021-Central Tax	01.06.2021	Seeks to rationalize late fee for delay in filing of return in FORM GSTR-4.	
20/2021-Central Tax	01.06.2021	Seeks to rationalize late fee for delay in furnishing of the statement of outward supplies in FORM GSTR-1.	
19/2021-Central Tax	01.06.2021	Seeks to rationalize late fee for delay in filing of return in FORM GSTR-3B ; and to provide conditional waiver of late fee for delay in filing FORM GSTR-3B from July, 2017 to April, 2021; and to provide waiver of late fees for late filing of return in FORM GSTR-3B for specified taxpayers and specified tax periods.	Waiver of Late Fees as specified in Section 47 of CGST Act, 2017.
18/2021-Central Tax	01.06.2021	Seeks to provide relief by lowering of interest rate for a specified time for tax periods March, 2021 to May, 2021.	Reduction of Rate of Interest for liability to pay tax but fails to do so.
17/2021-Central Tax	01.06.2021	Seeks to extend the due date for FORM GSTR-1 for May, 2021 by 15 days.	Due date for furnishing FORM GSTR-1 for May, 2021 extended to 26th June 2021.
16/2021-Central Tax	01.06.2021	Seeks to appoint 01.06.2021 as the day from which the provisions of section 112 of Finance Act, 2021, relating to amendment of section 50 of the CGST Act, 2017 shall come into force.	Appointed effective date for provisions of Section 112 of Finance Act, 2021 as 1st June, 2021, which amended sub section (1) of Section 50 of the CGST Act, 2017 retrospectively i.e., Interest shall be levied only on the portion of the tax which is paid by debiting the electronic cash ledger.

14/2021-Central Tax	01.05.2021	Seeks to extend specified compliances falling between 15.04.2021 to 30.05.2021 till 31.05.2021 in exercise of powers under section 168A of CGST Act.	Regarding the extension of time limit for completion or compliance by any authority or any person falling in the period from 15th April, 2021 to 30th May 2021 if such compliance has not been made within time to till 31st May 2021 for the purpose of- (a) Completion of any proceeding or issuance of any notice, sanction or approval. (b) filing of appeal, reply or application or any return under the provision of the Act. **Exclusion of provisions from extension:** (a) Chapter IV (b) Sec 10(3), 25, 27, 31, 37, 47, 50, 69, 90, 122, 129 (c) sec 39 except sub- section (3), (4) and (5). (d) Sec 68 (for e-way bill) Further for time limit of completion of any action from 1st May 2021 to 31st May 2021 has been extended upto 15th June 2021.
12/2021-Central Tax	01.05.2021	Seeks to extend the due date of furnishing FORM GSTR-1 for April, 2021	The due date of GSTR-1 has been extended for the month of April 2021 from 11th May to 26th May, 2021.
11/2021-Central Tax	01.05.2021	Seeks to extend the due date for furnishing of FORM ITC-04 for the period Jan-March, 2021 till 31st May, 2021.	The due date of furnishing job work details in Form ITC-04 for the period Jan- March 2021 has been extended from 25th April 2021 to 31st May 2021.
10/2021-Central Tax	01.05.2021	Seeks to extend the due date for filing FORM GSTR-4 for financial year 2020-21 to 31.05.2021	The due date of GSTR-4 (Composition dealer) for the year ending March 2021 has been extended from 30 April to 31st May 2021.

09/2021-Central Tax	01.05.2021	Seeks to amend notification no. 76/2018-Central Tax in order to provide waiver of late fees for specified taxpayers and specified tax periods	The amount of the late fee payable on delay in filing GSTR-3B shall stand waived for the period March and April 2021 and quarter ending March 2021 in the following manner: 1. Taxpayer having turnover of more than 5 Cr, late fee waived for 15 days from the due date. 2. Taxpayer having turnover upto 5 Cr, late fee waived for 30 days from the due date. 3. For quarterly period taxpayer, late fees waived for 30 days from the due date.
08/2021-Central Tax	01.05.2021	Seeks to provide relief by lowering of interest rate for the month of March and April, 2021	The rate of interest on late filing of return under sec 39(1) (GSTR-3B) for the month of March and April 2021 and quarter ending March 2021, has been lowered in the following manner: 1. Taxpayer having turnover of more than 5 Cr, 9% for first 15 days from the due date and 18% thereafter. 2. Taxpayer having turnover upto 5 Cr, NIL for first 15 days from the due date, 9% for the next 15 days and 18% thereafter. 3. For Quarterly Taxpayer, NIL for first 15 days from the due date, 9% for the next 15 days and 18% thereafter.
06/21- Central Tax	30.03.2021	"Seeks to waive penalty payable for non-compliance of provisions of Notification No. 14/2020 dated 21st March 2020."	Waiver of penalty for non-compliance of Dynamic QR code for B2C invoices for the period 01.12.2020 to 30.06.2021 i.e., compliance exemption extended till 30.06.2021.
05/21- Central Tax	08-03-2021	Seeks to implement e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 50 Cr from 01st April 2021.	The e-Invoicing system will apply from 1st April 2021 for the taxpayers with annual aggregate turnover of more than Rs.50 crore in any preceding financial year (starting from FY 2017-18). It means that the businesses with the turnover ranging between Rs. 50 crore to Rs. 100 crore must begin reporting their invoices on the invoice registration portal from 1st April 2021.

04/2021-Central Tax	28-02-2021	Seeks to extend the deadline for filing of the annual return specified under section 44 of the CGST Act, 2017 for the FY 2019-20	The due date to file GSTR-9 and GSTR-9C for FY 2019-20 has been further extended from 28th February 2021 to 31st March 2021.
03/2021-Central Tax	23-02-2021	Seeks to notify the persons to whom provisions of sub-section (6B) or sub-section (6C) of section 25 of CGST Act will not be applicable	Regarding furnishing of Aadhaar details of authorised person for a taxpayer, following are exempted: 1. Individual not being a citizen of India 2. Government department 3. Local authority 4. Statutory body 5. Public sector undertaking 6. A person applying for unique identity number
02/2021-Central Tax	12-01-2021	Notifying amendments to Jurisdiction of Central Tax officers	Regarding the jurisdiction of tax officers and their powers: **Table I** (1) The jurisdiction of the Principal Chief Commissioner, Delhi vested over 'Commissioner (Appeals II) Delhi and Additional Commissioner or Joint Commissioner (Appeals II) Delhi' is now substituted by 'Commissioner (Appeals I) Delhi and Additional Commissioner (Appeals II) Delhi'. (2) The jurisdiction of the Principal Chief Commissioner, Mumbai vested over 'Commissioner (Appeals I) Mumbai and Additional Commissioner or Joint Commissioner (Appeals I) Mumbai' now stands substituted to 'Commissioner (Appeals II) Mumbai and Additional Commissioner (Appeals I) Mumbai'. **Table III** (1) The Commissioner of Central Tax (Appeals I) Delhi, will have jurisdiction as Principal Commissioner over Delhi I (Delhi North, Delhi East) and Delhi II (Delhi South, Delhi West). (2) The Commissioner (Appeals II) Mumbai, will have jurisdiction as Principal Commissioner over Mumbai I (Mumbai South) and Mumbai II (Mumbai East, Mumbai Central).

05/2021- CT (Rate)	14-06-2021	Seeks to provide the concessional rate of CGST on Covid-19 relief supplies, up to and inclusive of 30th September 2021	Concessional rate of GST on all Covid-19 relief supplies like Remdesvir,testing kits ,Hand Sanitizer, Ventilators etc.
04/2021- CT (Rate)	14-06-2021	Seeks to amend notification No. 11/2017- Central Tax (Rate) so as to notify GST rates of various services as recommended by GST Council in its 44th meeting held on 12.06.2021.	Composite supply of works contract supplied by way of construction, erection, repair, maintenance etc. of road, bridge, civil structure pertaining to a govt scheme, pollution control treatment plant, structure meant for burial, funeral or cremation of deceased, the rate of CGST charged on the above services is changed from 6% to 2.5% during the period beginning from 14th June 2021 and ending with 30th September 2021.
03/2021- CT (Rate)	02-06-2021	Seeks to amend notification No. 06/2019- Central Tax (Rate) so as to give effect to the recommendations made by GST Council in its 43rd meeting held on 28.05.2021	Promoter who receives development rights on or after 1 April 2019 for construction of a project against consideration payable or paid by him or a promoter who receives long term lease of land for construction of resedential apartments as the registered person who shall pay central tax “in a tax period not later than the tax period in which the date of issuance of the completion certificate for the project, where required, by the competent authority, or the date of its first occupation, whichever is earlier.
02/2021- CT (Rate)	02-06-2021	Seeks to amend notification No. 11/2017- Central Tax (Rate) so as to notify CGST rates of various services as recommended by GST Council in its 43rd meeting held on 28.05.2021.	Relevant for following services: a) services provided by landowner-developer and b) Maintenance, repair or overhaul services in respect of ships and other vessels, their engines and other components or parts.
01/2021- CT (Rate)	02-06-2021	Seeks to amend notification No. 1/2017-Central Tax (Rate) to prescribe change in CGST rate of goods.	Relevant for following products: a) Toy balloons made of natural rubber latex and b) Diethylcarbamazine

Circulars

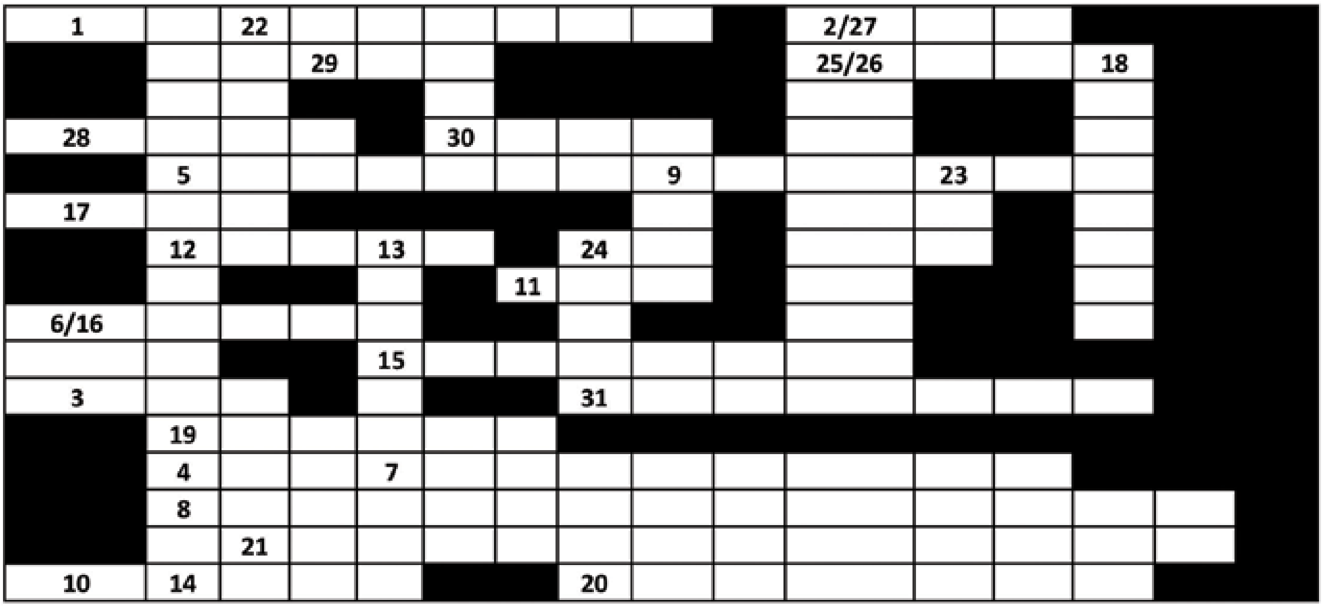
No.	Date	Subject	Description
157/13/2021	20-07-2021	Clarification regarding extension of limitation under GST Law in terms of Hon'ble Supreme Court's Order dated 27.04.2021.	Clarification regarding the cognizance for extension of limitation in terms of Hon'ble Supreme Court Order dated 27.04.2021 in Miscellaneous Application No. 665/2021 in SMW(C) No. 3/2020under the GST law. This order is applicable in respect of any appeal which is required to be filed before Joint/ Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts against any quasi-judicial order or where proceeding for revision or rectification of any order is required to be undertaken, and is not applicable to any other proceedings under GST Laws.
156/12/2021	21.06.2021	Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020- Central Tax dated 21st March, 2020 - Reg	The circular clarifies that the applicability of QR code on B2C invoices in order to ensure uniformity in the implementation of the provision of the law
155/11/2021	17.06.2021	Clarification regarding GST rate on laterals/parts of Sprinklers or Drip Irrigation System	The circular clarifies that laterals/ parts of sprinkles or drip irrigation system would attract GST of 12 % under heading 8424
154/10/2021	17.06.2021	GST on service supplied by State Govt. to their undertakings or PSUs by way of guaranteeing loans taken by them	The council clarifies that granting of loans by CG or SG for their undertaking or PSU is exempt under entry 34 A
153/09/2021	17.06.2021	GST on milling of wheat into flour or paddy into rice for distribution by State Governments under PDS	The Circular clarifies that in case supply of service by way of milling of wheat or paddy is not eligible for exemption under serial no. 3A of notification No. 12/2017 for reason that the value of goods supplied is such a composite supply exceeds 25% then the applicable GST rate would be 5%
152/08/2021	17.06.2021	Clarification regarding rate of tax applicable on construction services provided to a Government Entity, in relation to construction such as of a Ropeway on turnkey basis	GST council clarifies that entry No 3 (vi) does not apply to any works contract thus it will not attract 12% but works contract service provided by way of construction such as of a ropeway shall fall under entry at Sl. No. 3(xii) of Notification 11/2017-Central Tax (Rate) and will attract GST at the rate of 18%.

151/07/2021	17.06.2021	Clarification regarding GST on supply of various services by Central and State Board (such as National Board of Examination)	GST council in its 43rd meeting clarifies that i)GST is exempt on services provided by Central or State Boards by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution ii)GST is also exempt on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination, admit card and questions papers etc., when provided to such Boards iii) GST at the rate of 18% applies to other services provided by such Boards
150/06/2021	17.06.2021	Clarification regarding applicability of GST on the activity of construction of road where considerations are received in deferred payment (annuity).	GST council in its 43rd meeting clarifies that GST is exempt on service, falling under heading 9967 (service code), by way of access to a road or a bridge on payment of annuity and entry 23 and 23A of exemption applies only to t access to road or bridge, whether the consideration are in the form of toll or annuity [heading 9967] but construction of road service fall under heading 9954, therefore said service is not exempt whether its deferred payment or not
149/05/2021	17.06.2021	Clarification regarding applicability of GST on supply of food in Anganwadis and Schools.	GST council in its 43rd meeting clarifies that services provided to an educational institution by way of catering is exempt, and catering includes mid-day meal and term educational institution includes pre-schools and schools whether formal or informal thus Angadwadi comes under the said exemption , therefore GST is exempt on food provided by anganwadi as mid-day meal
148/04/2021	18-05-2021	Seeks to prescribe Standard Operating Procedure (SOP) for implementation of the provision of extension of time limit to apply for revocation of cancellation of registration under section 30 of the CGST Act, 2017 and rule 23 of the CGST Rules, 2017.	It clarifies the procedure of revocation of cancellation of registration and correspondingly changes have been made in rule 23 and Form GST REG-21 wherein clarification has been given if the application for revocation was not made within 30 days or extended 30 days (means beyond 30 days but within 60 days) and beyond 60 days but within 90 days.

147/03/2021	12-03-2021	Clarification on refund related issues – Reg.	Certain Clarification is given in respect of refund claim of Deemed export supply. Extension of relaxation for filling refund claim in Zero Rated supplies. Manner of calculation of Adjusted total turnover
146/02/2021	23-02-2021	Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020- Central Tax dated 21st March, 2020 - Reg.	The board Clarifies issues in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices
145/01/2021	11-02-2021	Standard Operating Procedure (SOP) for implementation of the provision of suspension of registrations under sub-rule (2A) of rule 21A of CGST Rules, 2017	It clarifies Standard Operating Procedure(SOP) for suspension of Registration under sub-rule (2A) of rule 21A of CGST Rules, 2017

Crossword

Crossword Puzzle



Across

1. Rules that need to be followed when supply made to related party.
2. Provisions to check profiteering after introduction of GST
3. An area where GST is not applicable i.e., supply within_________
4. GST______would be determined as per GST notification
5. The liability to pay GST will arise at the ____________________________.
6. Two or more individual supplies of goods or services made in conjunction with each other for a single price is called___________________
7. Businesses can enjoy GST ______________if their aggregate turnover is less than Rs.40 lakhs in a financial year.
8. Reduction of tax paid on input from tax to be paid on output.
10. _________ is a tax levied on Intra State supplies of both goods and services by the Central Government
11. __________globally known as goods and service tax (GST).
12. In case of CIF transaction GST is not payable whereas in case of FOB transaction GST is payable on ____________freight.
14. The_________ provides reliable, efficient and robust IT backbone for the smooth functioning of GST in India.
15. All supplies of goods & services made as ________________ into India will be treated as an inter-state supply.
17. GST cannot be charged on _____ as it is inclusive of all taxes.
19. The ________ of goods or services is considered as a zero-rated supply.
20. ITC can be __________ by a person registered

under GST only if he fulfills all the conditions as prescribed.

21. _______________ under GST defines whether the transaction will be counted as intra-state or inter-state, and accordingly levy of SGST, CGST & IGST will be determined.

26. Amendment in ________field takes 15 days to get approval from a proper office.

27. An advance ruling is an opinion or decision under the GST law given by __________

28. Every person who fails to pay tax within prescribed time shall pay tax _______interest @ 18%.

29. ______ is a document that exporters can file to export goods or services without having to pay taxes.

30. Under _______, the service providers of notified services are incentivized in the form of 'Duty Credit Scrips' at the rate of 3% or 5% on their net foreign exchange earnings.

31. Specific cases are mentioned under GST where no input tax credit shall be ___________ to the applicant

Down

9. ________is a tax levied on Intra State supplies of both goods and services by the State Government

13. GST Act provides for two types of ___________ under section 65 & 66.

16. The GST ______ report is an added functionality to enable decision makers or the top management to take a quick look at the compliance status.

18. Bill for movement of goods which can be generated through GSTN portal.

22. Notification No.1/2017-Central Tax (Rate) provides the ______of goods with rate of tax.

23. Any matter where the interest of public at large is affected can be redressed by filing a __________ in a court of law.

24. _______ is a tax levied under Section 115JB of the Income Tax Act, 1961.

25. Supply naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply is called________________________

Solution

V-1	A	L-22	U	A	T	I	O	N		A-2/27	A	R		
	N	I	L-29	U	T					C-25/26	O	R	E-18	
	T	S			E					O			W	
W-28	I	T	H		S-30	E	I	S		M			A	
	P-5	O	I	N	T	O	F	S-9	U	P	P-23	L	Y	
M-17	R	P						G		O	I		B	
	O-12	C	E	A-13	N		M-24	S		S	L		I	
	F			U		V-11	A	T		I			L	
M-6/16	I	X	E	D			T			T			L	
I	T			I-15	M	P	O	R	T	E				
S-3	E	Z		T			A-31	V	A	I	L	E	D	
	E-19	X	P	O	R	T								
	R-4	A	T	E-7	X	E	M	P	T	I	O	N		
	I-8	N	P	U	T	T	A	X	C	R	E	D	I	T
	N	P-21	L	A	C	E	O	F	S	U	P	P	L	Y
C-10	G-14	S	T	N			C-20	L	A	I	M	E	D	

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