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Analysis of the Oman VAT Law and its impacts

Everything you need to know

October 2020

Oman VAT: reality

Oman Royal Decree No. 121/2020, promulgating the Value Added Tax (VAT) Law, was published in Arabic in the Official Gazette 1362 on 18 October 2020. The Law will go live on 16 April 2021, 180 days from the date of its publication in the Official Gazette.

This alert highlights what we think currently are the key aspects of the Law. Further guidance and analysis will be shared in due course via Deloitte thought pieces.

What you need to know?

Framework of the Law: The Law is divided into 13 Chapters and has 106 Articles. More details on exactly how some of the main decisions work will be in the Executive Regulations, which are to be released within the next two months. The standard rate of VAT will be 5% on go-live, with certain supplies being zero-rated or exempt from VAT.

Scope of VAT: The ambit of the tax is very wide under the Law (Chapter 2). VAT applies on transactions in most goods and services. Note that the tax would also be applicable on importation of goods and services into Oman. Certain transactions - gifts, free samples, or private use of business assets - are treated as "deemed" supplies and fall within the purview of VAT.

Chapter 6 of the Law deals with supplies, which will be exempt or zero-rated. The details include:

Exempt supplies: The Law provides an exemption from VAT on certain supplies that include financial services, healthcare services, educational services, and local passenger transportation. Supply of bare land, resale or renting of residential properties is also exempted from VAT. Certain imports of goods (subject to conditions) will be exempt from VAT, including supplies to non-profit organizations or charities as well as returned goods.

Zero-rated supplies: Supplies which are zero-rated under the Law include:

- ✓ Certain food items (to be prescribed through Ministerial Decision);
- ✓ Medicines and medical equipment (again to be prescribed through Ministerial Decision);
- ✓ Investment gold, silver and platinum;
- ✓ International or intra-Gulf Cooperation Council (GCC) transport of goods, as well as passengers, and related services;
- ✓ Oil, oil derivatives and natural gas;
- ✓ Exports of goods and services, re-exports of goods (after temporary importation); and
- ✓ Supplies in connection with economic zones.

More details on the specific transactions that will be exempt or zero-rated and conditions that apply are to be stipulated in the Executive Regulations and guidance to be issued by the Oman Tax Authority (OTA).

Chapter 3 of the Law talks about place of supply and time of supply:

Place of supply: Place of supply is essentially about where a transaction takes place, whether Oman VAT applies (and if so, in what manner). The Law provides for different rules for supplies of goods and services. For goods, the general rule is that the location of goods at the start of transportation or dispatch is relevant. For services, normally it is customer's place of residence. There are special rules in respect of various other transactions (supply of oil, gas and water through pipelines, supply of goods without transportation, real estate related services, telecommunication services, etc.).

Time of supply: The Law stipulates rules when tax due needs to be paid: the concept of time of supply requires that VAT due is accounted in the "correct" tax period. The Law provides familiar guidelines, to those who are used to dealing with VAT in other jurisdictions: tax shall be due on the earliest of firstly the date of supply, secondly the date of issuance of tax invoice, and thirdly the date of partial/full receipt of consideration or payment. There are different rules for special cases that we will analyze subsequently in other alerts, and in our webinar series: amongst other examples for so-called "continuous supplies", for transactions in prepaid cards or vouchers.

For imports of goods, time of supply will be the date of import of goods or date of release of goods from a Customs Duty or tax suspension regime, governed by the GCC Common Customs Law. Interestingly the Law provides an option to defer payment of tax until submission of the corresponding periodical VAT return, subject to conditions and other procedures to be specified by the Executive Regulations and in guidelines issued by the OTA. Importers should take note and explore the deferral options further.

Value of supply: Taxable value, under Chapter 4 of the Law, will be the "consideration" for the transaction not including any VAT amount, but will generally include all expenses, fees or other taxes or duties paid or payable as a result of the supply (such as Excise or Selective Tax, and Customs Duty). Special valuation rules apply in respect of supplies between "related" or connected persons, which will be prescribed in the Executive Regulations. Those businesses that have intra-group transactions will need to examine how

these rules work in the context of their supply chains.

In our experience, the oil and gas sector has these VAT complexities and more – and the introduction of VAT will doubtless add extra complications for businesses across supply chains.

Deductible VAT:

Chapter 5 of the Law deals with tax calculation and deductible VAT. A VAT registered or “taxable” person will be entitled to deduct or recover input VAT (the VAT incurred on associated costs) borne in relation to VAT taxable supplies. An input VAT claim may be postponed to subsequent tax periods, but not beyond three years from the end of the VAT tax period in which the right to deduct arose. Businesses that have both taxable and exempt supplies, will have to comply with proportional input VAT recovery rules, once again to be laid down in the Executive Regulations and in industry-specific guidance expected to be issued by the OTA.

Registration requirements: As representatives of the OTA have been saying this week, registration for VAT is affected by transition rules and will come in waves. Businesses should take heed of emerging guidance and the registration requirements under Chapter 7 of the Law. Different registration types set down under the Law include:

Mandatory registration: As per the Law, businesses reaching the mandatory registration threshold would have to compulsorily register under the Law. The Law provides for the manner of calculation of the mandatory registration using either the historical or future turnover method. The mandatory registration threshold would be prescribed separately through a Ministerial Decision.

For businesses already operating in Oman, it is important to take account of the supplies made prior to the effective date of introduction of VAT for determining whether you are above the mandatory registration threshold.

Voluntary registration: Businesses which do not reach the mandatory registration threshold would have an option for voluntary registration. The threshold for voluntary registration would be determined based on the value of total supplies or expenses, which is to be stipulated through a Ministerial Decision; watch out for emerging guidance and be aware that the time frame for voluntary registration application may be different from mandatory registration. Given the way that mandatory registration requirements work in other VAT jurisdictions, it is likely that more evidence and proof of business activity will be required here than under mandatory registration.

Tax grouping: Businesses having multiples entities/conglomerates would have an option of forming a tax group, subject to conditions to be provided under the Regulations. It is not yet clear whether ‘grouping’ can only be applied for once the group entities are already registered for VAT for a period of time (as is the case in Singapore). Grouping is always a double-edged sword – one edge or advantage for businesses seeking group registration would be that supplies made within the group would be outside the scope of VAT; the other edge or disadvantage is the pressure and complication grouping imposes on compliance to get turnover and expenses across entities consolidated correctly, then filed on time.

Non-resident persons: Under current rules businesses that have no place of residence in Oman would also have to compulsorily seek registration, if they are making any taxable supplies to non-taxable customers in Oman. There is no minimum registration threshold for a non-resident person; and the registration would have to be sought from the date on which they are obliged to pay VAT in Oman.

With the approval of the OTA, a non-resident business would have an option to appoint a tax agent in Oman, who shall then be responsible for meeting some of the VAT obligations under the Law. The conditions to appoint a tax agent are expected to be outlined in the Executive Regulations. OTA guidance and decisions. We anticipate that these rules will be different from what we have seen during VAT implementations in the United Arab Emirates (UAE), the Kingdom of Saudi Arabia (KSA) and Bahrain.

Overseas service providers (say internet service businesses and e-commerce providers supplying services to non-registered businesses or individuals in Oman) will need to monitor the release of these rules closely – watch out too for developments at GCC level.

Businesses operating in customs duty suspension zones, free zones and special economic zones: Special rules provided in terms of Articles 52 and 54 of the Law for businesses operating in the customs duty suspension or special economic zones. Concessionary VAT treatments will be applicable for supplies within, to and from the customs duty suspension areas and special economic zones as well as free zones. The Executive Regulations and OTA decisions or guidance are expected to have more details on procedural aspects, maintenance of documents and so on.

Invoicing requirements: Chapter 8 of the Law outlines invoicing requirements. Every person making any taxable supply of goods or services would have to mandatorily issue tax invoices under the Law (though potentially in e-invoice form as an alternative to paper format). The details that need to be mentioned on a tax invoice, the language in which tax invoices should be issued, details for simplified tax invoices and similar rules are to be stipulated under the Executive Regulations. At this stage we expect that invoicing may be in English and not compulsorily in Arabic; the Regulations are also expected to define cases where a business would be exempted from issuing tax invoices.

For businesses issuing invoices using a foreign currency, it is mandatory to mention VAT amounts in Omani Rials (OMR), which has to be converted as per the average purchase and sale price of the currency published by the Central Bank of Oman on the date when VAT is due. Whether any other conversion methods are available is expected to be clarified by the OTA.

Be careful too that the requirement to issue tax invoices is triggered in other circumstances – examples include receipts of advance payments that trigger a requirement to account for VAT, or on the making of “deemed” supplies under the Law.

Compliance:

Key areas of compliance obligations under the Law include:

Record keeping: In terms of Article 70 of the Law, every VAT registered taxpayer will have to maintain proper records, tax invoices, Customs documents and accounting books in a manner to be specified under the Executive Regulations. All details will have to be maintained for a minimum period of ten years (fifteen years in relation to the real estate).

VAT return filings: The Executive Regulations will provide for the tax period (which has to be a minimum of one month) for which a VAT return has to be filed. The following minimum information will have to be provided in the periodical return (Article 72):

- ✓ Value of taxable and exempt supplies;
- ✓ Totals of imported goods;
- ✓ Amount of output VAT on revenue transactions;
- ✓ Figures for recoverable input VAT on costs; and
- ✓ Net VAT due in the period.

An option to amend tax returns will be available within a period of 30 days from the date of discovery of any error or omission (Article 73).

Collection/refund of VAT: VAT shall be payable to the OTA within a period of 30 days from the end of the VAT period (i.e. along with the filing of the return). In case of non-payment of VAT by the due date, an additional tax of 1% per month (or part month) will be due, unless waived by the OTA per Article 82 of the Law.

Transition provisions:

The Law also provides for applicability of VAT on transactions which would straddle the effective date of introduction of VAT (or registration date of a business). The Law specifically deals with transactions where an invoice is raised or payment is received prior to this effective date (or registration date of the business) and the supply of goods or services is made after. In these cases, VAT will be due on the full value of the supplies subject to tax, even if payment has been received before the effective date.

To ensure that VAT is correctly reported on transitional transactions, we would suggest that businesses carefully analyze the transitional provisions under Chapter 13 of the Law and the rules which will form part of the Executive Regulations and decisions of the OTA.

Broader transition rules are expected tyo be clarified and released shortly. Our analysis of the wording of Article 106 means that businesses need to evaluate their taxable turnover based on year leading up to October 2020 (backward look) or estimate for a year from October 2020 (forward look) for the purposes of the initial registration process.

It is important to realize that under the transition provisions if a contract is silent on VAT, the consideration mentioned in the contract would be deemed "inclusive of VAT". This could have impacts on revenue and costs for a business. Please review all material contracts (especially those contracts expected yo still be current or live in April 2021) - analyse the VAT impact of those contracts for the business, and clarify with vendors, customers or clients and your advisers as required.

As with a number of areas of the Law, more details will be provided in the Executive Regulations, OTA guidance and decisions for transition. Businesses should be determining strategies to ensure compliance with the Law as well as minimizing any adverse fiscal consequences.

Penalties:

No round-up of any VAT law is complete without an examination of the penalty regime. In case of violation or non-fulfilment of the obligations under the Law, stringent penalty provisions will be applicable under Chapter 12. A general penalty of OMR 1,000 up to OMR 10,000 and imprisonment from two months up to one year is prescribed under the Law for certain deliberate offences like:

- ✓ Refraining from identifying responsible persons;
- ✓ Not informing the OTA of any change in the registration;
- ✓ Failure to submit tax return;
- ✓ Not maintaining proper records and books; and
- ✓ Improper tax invoicing, amongst others.

Penalties are also stipulated under the Law for more severe, criminal or repeated offences.

Actions and Deloitte briefing

The release of the Law is an important milestone for VAT. Many aspects of the Law will be clarified in the Executive Regulations and other guidance – start work and ask the questions that need to be raised now. The issuance of the Law itself requires businesses to prioritize their financial processes in order to be compliant.

You are not alone. Deloitte has a dedicated team of VAT experts who can help your business navigate this tax reform by ensuring you understand the impact of all requirements, and provide practical, effective implementation support. Watch out for further alerts, join our Tax Webinar series and get in touch.

VAT is nearly here. There is no time to waste.

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