Update

PKF

A QUARTERLY NEWSLETTER FROM PKF UAE AND PKF OMAN
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OVER 40 YEARS IN THE UAE

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OUR VISION

We will be the first choice for companies in their selection of professional advisors.

OUR MISSION

We will provide quality service to our clients by focusing on client-specific needs and providing solutions to business problems, thereby adding value through expertise whilst maintaining integrity, professionalism and independence.

FROM THE MANAGING PARTNER - UAE

"The best way to predict the future is to create it." — Abraham Lincoln

At the outset let me wish you all a very "Happy New Year". We hope 2023 will bring in hope, opportunity & prosperity to all of us. The UAE's Prime Minister, HH Sheikh Mohammed bin Rashid Al Maktoum has written a poem that describes 2022 as the Year of Distinction and Precedence and indeed UAE has forged ahead with determination, creativity & skill in its journey with this mission statement.

The year 2022 was quite a remarkable year for the UAE. From the successful completion of Expo 2020 and hosting the World Government Summit 2022 (WGS 2022) to easing and eventual removal of most covid restrictions, it continued in its journey towards being a global leader.

I give below the key regulations / changes introduced by the UAE in 2022:

Change in work week

Implemented from 2022, the UAE moved to a four-and-a-half day working week for all government entities. Most private sector companies followed suit in moving the weekend to Saturday and Sunday.

Introduction of Corporate Tax

UAE introduced the corporate tax on 31 Jan 2022.

Labour law updated

Federal Decree-Law No 33 of 2021, which was announced in November 2021, came into effect in February 2022, giving people in the private sector the chance to opt for temporary and flexible work, freelance jobs, condensed working hours and shared jobs.

Rental cheques go digital

In July 2022, the Dubai Land Department (DLD) announced a partnership with Emirates NBD that will see the system of paying rent by cheque replaced with online payments.

Changes in visa system

Among the biggest news for visitors entering the UAE is that tourist visas are now valid for 60 days. For residents, the expansion of the golden visa made it easier for more residents to apply for a 10-year visa, such as public and real estate investors, exceptional talents, scientists, and frontline heroes.

This edition starts off with an article on Environment, Social & Governance followed by an interview with the Managing Director & Co-Founder of Marina Home Interiors - Mr. Mushtaq Vaqil. We also have important updates on UAE VAT, Corporate Tax and Excise, including a piece on Oman VAT Guide on real estate.

Do write to us (update@pkfuae.com) for expressing your opinion on any matter included in the newsletter.

Stany Pereira

Environment, Social and Governance

Commitment to a Sustainable Future

There are few companies or individuals that dispute the need for an urgent approach to dealing with environment, social and governance (ESG) related matters to ensure sustainability and resilience in business and a secure tomorrow for future generations. Over the recent past global events such as severe supply chain disruptions and increased human suffering because of droughts and flooding have driven home the need to reconsider the way we as humans are managing the planet on which we live.

ESG considerations however extend far beyond environmental matters alone. Transparency for example has become the new paradigm for conducting business. Through better reporting, organizations can understand, communicate, and better manage their contributions to the SDGs. Over the past few months, a global increase in proposed disclosure requirements for increased transparency has been observed. These are summarized below.

1. Climate change and sustainability disclosures

Across the globe three main ESG disclosure frameworks are being finalised. The required disclosures are expected to assist investors, civil society organisations, consumers, policy makers and other stakeholders to evaluate the non-financial performance of companies and encourages them to develop a responsible approach to business. The table below indicates ESG disclosure requirements.

	United States	European Union	International
Regulatory body	Securities and Exchange Commission (SEC)	European Financial Reporting Advisory Group (EFRAG)	International Financial Reporting Standards (IFRS) Foundation
Directive		Corporate Sustainability Reporting Directive (CSRD)**	International Sustainability Standards Board (ISSB)***
Disclosure (proposed)	Climate disclosure Rule* (based on TCFD)	European sustainability reporting standards (ESRS)****	IFRS S1 and IFRS S2 Standards****
Voluntary Frameworks e.g. Global Reporting Initiative (GRI) and GHG Protocol			

* Based on TCFD requirements (financial)

** CSRD (double materiality approach)

*** ISSB consolidates the Value Reporting Foundation [merger of Sustainability Accounting Standards Board (SASB) and Integrated Reporting Framework] and the Climate Disclosure Standards Board and incorporates TCFD framework. (double materiality)

**** GRI to cooperate with both EFRAG and IFRS. Compatibility between ESRS and IFRS S1 and S2 Standards planned.

1.1 Climate Disclosure Rule

The Securities Exchange Commission (SEC) proposed climate disclosure rule would be like the requirements and standards set by the Financial Stability Board's Task Force on Climate-Related Financial Disclosures (TCFD) and the Greenhouse Gas (GHG) Protocol. The proposed rule's has specific disclosure requirements on the following topics:

- Financial Statement Disclosures
- GHG Emissions
- Governance
- Climate-Related Risks

These would include climate-related financial impact and expenditure metrics as well as a discussion of climate-related impacts on financial estimates and assumptions and would be subject to external audit.

1.2 Corporate Sustainability Reporting Directive (CSRD)

Under the CSRD all listed entities and many large organisations in the EU will in 2023 be required to report on their sustainability policy and performance. It applies to all entities that meet two of the following three criteria:

- More than 250 employees;
- More than €40 million turnover;
- More than €20 million on the balance sheet.

The CSRD is expected to impact on around 49,000 companies across Europe to disclose in their management report information on business model and strategy, policies, risks, targets and due diligence as regards environmental matters, social and employee aspects, respect for human rights, anticorruption and bribery issues, and diversity with regard to gender and other aspects such as, age, or educational and professional backgrounds in their board of directors.

1.3 The International Financial Reporting Standards (IFRS) Foundation

In November 2021 the IFRS Foundation announced the establishment of the International Sustainability Standards Board (ISSB) and the publication of prototype disclosure requirements. The ISSB has developed two draft IFRS Sustainability Disclosure Standards (IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information and IFRS S2 Climate-related Disclosures). The ISSB's standards will enable companies to provide comprehensive sustainability information for the global financial markets. The finalised standards are expected to be published in Q1 2023.

2. How do the ESG reporting developments affect you?

It is important that you give serious consideration to starting your company's ESG journey even if you will not be expected to formally report under one of the global disclosure frameworks indicated above. Listed and large companies that will be required to disclose will in turn expect their vendors to minimally report their own compliance to ESG standards, particularly on GHG emissions as required by GHG scope 3 reporting requirements. Most likely these companies will require their vendors to commit to several ESG targets to enable them in turn to meet their sustainability targets such as becoming carbon neutral. Global biopharma company GSK for example already requires suppliers to commit to sustainability targets in the areas of emissions, energy usage, heat, transport, waste, water and biodiversity (ESG Today 2022). Apple has also indicated that it is urging its suppliers to take action to address their GHG emissions towards the company's 2030 value chain decarbonization goal (ESG Today 2022).

3. Where to start?

While it might be simple to understand the different ESG elements of organisations and the subsequent benefits, the process of identifying and benchmarking organisation practice against ESG best practices has previously been a costly, time-consuming process. So where do you start? Which standards do you need to conform with? What is 'best practice' for your industry?

At PKF we optimised and streamlined the processes in conducting an ESG assessment. We have developed a simple but effective online assessment, which will take approximately 20 minutes to complete.

The PKF ESG Assessment is aligned with leading sustainability frameworks such as the:

- UN Global Compact
- Sustainable Development Goals (SDGs)
- IFC Performance Standards
- UN Guiding Principles for Human Rights
- Principles for Responsibility Investing
- International Labour Organization

Upon completion of the ESG assessment we will provide you with a report that includes industry relevant risks factors and highlight SDGs applicable to your organisation. The report will reveal your organisation's current awareness of ESG elements and benchmarks your organisation against similar organisations. The report reveals gaps in your organisation's ESG practices and how to extract this untapped value. Our advisory team will discuss the report with you and guide you through pragmatic solutions to eliminate the relevant gaps while extracting value.

PKF can further assist you with the following:

- ESG Accreditation
- Performance mapping to international standards
- Selected eLearning courses (Introduction to ESG and Sustainability, Introduction to Materiality, Introduction to Carbon Reporting and ESG Target Setting)
- The development of an appropriate ESG Barometer and/or carbon profile
- A comprehensive technology platform that simplifies data management and performance against KPIs and targets
- Tracking of SE-ESG (strategic, economic, environmental, social and governance) performance across the entire organisation.
- Viewing and analysing real-time emissions data across the organisation
- Exporting summary reports for management and ESG/sustainability/carbon reporting

In conclusion

For most businesses, the substantial growth in disclosure requirements and the plethora of guidance documents and approaches are a challenge. We at PKF can assist you with determining the level of disclosure that is relevant to your organization and can assist you with compiling disclosures that would meet the standard of transparency required.

(This article was contributed by Dr. Christopher Whittle who supports us in providing ESG solutions to clients and can be reached at **christopherwhittle@pkfuae.com***)*

Interview with **Mr. Mushtaq Vaqil**, Managing Director and Co-Founder, Marina Home Interiors

In 1997, three visionary brothers joined hands and built a business that had quality and originality at its heart. Throughout this remarkable journey the business has grown from one store in 1997 to over 20 stores across 13 cities around the world along with 5 active franchises delivering the same retail experience.

An upscale home furnishings brand, Marina Home operates large-format showrooms across the Middle East, North Africa and the Indian subcontinent. A household name across the region, Marina Home is synonymous with quality, creativity and innovation. Each of their distinctive showrooms across major malls and popular high street locations is an eclectic destination of exploration and discovery. It was their pioneering warehouse-showroom concept that spearheaded the industry twenty years ago and quickly became an iconic landmark. Marina Home has stayed relevant over the years by continuously evolving the category and reinventing itself into its present personality, fusing the Urban and the Exotic.

The entire UAE operations were relocated recently to state-of-the-art headquarters in Jebel Ali Free Zone bringing together both its corporate teams as well as logistics and warehouse under one roof.

In a freewheeling interview with us, Mr. Mushtaq Vaqil spoke about his journey and that of his family in the world of business.

Q. The Marina Home interiors business was founded in Dubai. What is the group's origin story? Talk us through your journey as a first-generation entrepreneur who achieves success in a tough and highly competitive field.

Our grandfather was in the furniture business back in 1930s exporting famous walnut wood furniture worldwide from Kashmir, so you can say the business DNA and trade is in our blood. The journey of Marina Home started in the mid 1990s in Dubai and soon Marina Home became the main passion and focus for us despite having other businesses.

Q. You are the head of one of the largest expat-owned businesses from India. What management principles have helped keep your group at the top for all these decades?

We are a professionally managed company driven by thoughtful processes and principles. The business has a global vision and is run by a team of subject matter experts and professionals, with strong experience in their respective fields. We constantly innovate and evolve around new trends in the world of home fashion to stay relevant and ahead of the curve.

Q. Your brothers were a key part of your journey to success with Marina Home. Tell us more about the support you got from the rest of your family and their visible support role in the group's success?

The business is essentially family-run whereby everybody has their own area of expertise and add value across different areas of the company.

Q. How much did Dubai's ease of doing business help in molding your decision to set up shop in this country?

Dubai has played an instrumental role in encouraging people to pursue their passions and achieve their personal growth objectives. The visionary leadership of the Ruler of Dubai has also been essential in bringing new talent and innovation from all over the world.

Q. Did the pandemic alter any growth plans for your group. How has the pandemic shaped the future for the group?

Fortunately, the pandemic had a very positive impact on our business and was in fact one of the best periods in our history. The UAE's strong and timely response to COVID with the swift re-opening of the economy resulted in many expats moving and seeking a home in Dubai which boosted our sales. Additionally, our omni-channel presence helped enhance e-commerce sales and further establish our online footprint.

Q. How are the current economic challenges in the region and the world along with the recently concluded World Expo 2020 influencing the future of your Group and its business?

We are very bullish on the region and even recently expanded to Qatar and Kuwait. The region has been performing extraordinary well post COVID despite the ongoing geo-political issues.

Q. How do you balance life outside professional sphere with your business interests? How do you make time for hobbies and family in your busy schedule?

Despite our busy schedules, we always try to make time for non-business activities for family, hobbies etc. It all comes down to how you manage and prioritize time. Social commitments are equally important and so is personal health. Prioritization, time management and effective delegation are key to freeing up time for non-business activities.

Q. Given the market turbulence, what is the way forward for your Group in particular and industry in general?

We are very optimistic about the future growth in UAE and other Gulf countries. Many people across the world are choosing to move to Dubai and the UAE as they find better job and lifestyle prospects which supports the case of Dubai and the Gulf Countries.

Q. Any parting words of wisdom for budding entrepreneurs who want to succeed in the UAE?

Study the market extremely well and calculate all pros and cons before starting any new venture. Dubai is a tough and competitive market. One must do proper research and due diligence before starting a new venture.

Meet our team member **Mr. Shailesh Kumar**, Director - Tax Division

Shailesh is a Chartered Accountant (Associate Member of the ICAI), having more than 15 years of experience in Taxation. He has rich experience of advising multinational companies on various domestic and cross border transactions and international tax issues, including Corporate Tax, taxation of Offshore & Onshore Supplies, Royalties, Fees for Technical Services, EPC contracts, Dividends, Permanent Establishments, Foreign Tax Credits, impact analysis of BEPS Action Plans for multinational enterprises, Tax Treaties amendments after implementation of MLI, etc. He has led structuring for several MNCs and large clients for tax planning and has represented clients in high profile tax audits and litigation proceedings before various tax authorities/appellate forums. He assists/ advises clients in the UAE on corporate taxation, international tax, VAT, Excise tax, Economic Substance Regulations and Country by Country reporting requirements.

EVENTS AND HAPPENINGS

PKF AUSTRALIA RANKED IN TOP 10 ACCOUNTING FIRMS IN AUSTRALIA

PKF Australia has been recognised among the top 10 accounting and advisory firms in Australia by The Australian Financial Review (AFR).

PKF NEW ZEALAND NAMED NATIONAL PARTNER OF THE YEAR BY XERO

Our member firm, PKF New Zealand, has been announced as the winner of the National Partner of the Year award at the New Zealand Xero Awards 2022.

DID YOU KNOW?

PECUNIARY

The Romans measured a man's worth by the number of animals he kept on his farm. They adapted the Latin word for a farm animal, "pecu" to refer to an individual man's wealth. But as people acquired new ways to measure wealth such as money and land, the Roman word evolved into "pecunia" which referred to money. From this came the adjective "pecuniary" pertaining to, or consisting of money.

BLUETOOTH

The name dates back more than a millennia to King Harald "Bluetooth" Gormsson who was well known for two things-uniting Denmark and Norway in 958 and his dead tooth, which was a dark blue/grey color, and earned him the nickname Bluetooth.

In 1996, three industry leaders, Intel, Ericsson, and Nokia, met to plan the standardization of this short-range radio technology to support connectivity and collaboration between different products and industries. During this meeting, Jim Kardach from Intel suggested Bluetooth as a temporary code name. Kardach was later quoted as saying, "King Harald Bluetooth…was famous for uniting Scandinavia just as we intended to unite the PC and cellular industries with a short-range wireless link."

Bluetooth was only intended as a placeholder until marketing could come up with something really cool. Bluetooth was to be replaced with either RadioWire or PAN (Personal Area Networking) both of which could not get clear mandate, making Bluetooth the only choice. The Bluetooth logo is a bind rune merging the Younger Futhark runes (Hagall) (ᚼ) and (Bjarkan) (ᛒ), Harald's initials.

TAX UPDATE

VAT, Corporate Tax and Excise Updates

UNITED ARAB EMIRATES ('UAE') TAX UPDATES

A. UAE VAT AND EXCISE TAX UPDATE

With respect to VAT and Excise Tax, the UAE Federal Tax Authority ('FTA') has recently released certain amendments / updates. Summary of the updates is hereunder:

- **Executive Regulation of the Federal Decree-Law No. 8 of 2017 on Value Added Tax (Cabinet Decision No. 52 of 2017 and its amendments) issued on 21 October 2022 (w.e.f. 01 January 2023).**

  1. **Services provided by a natural person as a Board Member not to be considered as Supply of Services:**

     ○ A natural person performing the functions as a Director on a Board of Directors of any government entity or private sector is eligible. However, a legal person who may delegate a natural person to act as director on their behalf is not eligible.

     ○ Only the services performed in the formal capacity as a Director will be covered. Any free-lance services rendered by a third-party natural person who is not a Director during the meetings of a Board of Directors will not be included.

     ○ Transition rules:

Situation	Date of Supply
Performance of service: Calendar year 2022 **Tax Invoice issued:** No. Board fees determined and known w.e.f. 01-01-2022.	Date of actual completion of the services (Article 25 of Decree Law) **Conclusion:** Within the scope of UAE VAT.
Performance of service: Calendar year 2022. **Fees determination:** Conclusion of the AGM to be held on 31-01-2023.	Date on which the provision of the Director's services was completed (i.e., after 31-01-2023. **Conclusion:** Outside the scope of UAE VAT.
Contract period: 2 consecutive years (i.e. 2022 & 2023) **Date of Payment:** First business day after end of each calendar quarter. **Tax Invoice:** To be issued after receipt of payment.	Date of receipt of payment (Article 26 of Decree Law) Payments received on 01-04-2022, 01-07-2022, 03-10-2022 **Conclusion:** Within scope of UAE VAT. Payments received on or after 01-01-2023 **Conclusion:** Outside the scope of UAE VAT

     ○ A natural person already registered under UAE VAT not meeting the requirements for mandatory registration after this amendment must deregister themselves.

     ○ However, only value of services supplied as part of performance of functions as board of directors as specified above would be excluded from the calculation of threshold limit for registration.

  2. **Changes in Emirate wise record keeping if Taxable Person does not have a Fixed establishment in the state:**

     ○ Taxable Person does not have a ***Fixed establishment*** in the state - Record to be kept to prove the Emirate, where Place of Establishment is located.

     ○ Taxable Person does not also have a ***Place of establishment*** in the state - Record to be kept to prove the Emirate, where the supply is received.

  3. **Requirements for E-Commerce Operators for record keeping of the supplies made**

     ○ Emirate wise recording of transactions to prove the Emirate, where supply is received, is required to be kept only if Taxable supplies exceeds AED 100 million during the calendar year.

     ○ If the threshold is crossed in the calendar year ended 31-12-2022, the record will be kept for 18 months from first Tax period beginning on or after 01-07-2023

     ○ If the threshold exceeds in any Calendar year after 31-12-2022, the record will be kept for 2 years from first tax period of the calendar year subsequent to the calendar year in which threshold is exceeded.

- **Federal Decree-Law No. 8 of 2017 and its amendment effective 1 Jan 2023 on Value Added Tax**

4. **Insertion of Statute of Limitation for tax audit/ tax assessment by FTA [*Article 79 bis*]**

Situation	Time period for conducting a tax audit/ tax assessment by FTA
Tax audit/ tax assessment by FTA for default situations	Before the expiration of 5 years from the end of relevant Tax period
Notification for commencement of audit sent before the expiration of 5 years	Within 4 years from the date of the notification
Voluntary Disclosure (VD) is submitted in 5th year from the end of tax period	Within 1 year from the date of submission of VD
Tax Evasion	Within 15 years from the end of the Tax period in which Tax evasion occurred.
Tax Registration failure	Within 15 years from the date on which person should have registered.

No VD may be submitted after 5 years from the end of relevant tax period.

5. **Time limit to raise a Tax invoice in case of continuous supply and Tax credit note [*Article 26, 62(2), and Article 67(1)*]**

   - Tax invoice in case of continuous supply of goods or services shall be issued within 14 days from the date of supply.

   - A tax credit note shall be issued within 14 days from the date on which instances for issuing a tax credit note occurs.

6. **The value of Deemed Supply between related parties would be equal to 'market value' on fulfilling of certain conditions mentioned in Article 36 of Decree Law [*Article 36*]**

7. **The FTA has clarified the scope of tax payable under reverse charge mechanism on '*any hydrocarbons*' to '*Pure hydrocarbons*', which has been defined under Article 1 of Decree Law. [*Article 48*]**

8. **Place of supply in case of continuous supply of goods where the ownership of Goods is transferred inside the UAE, would be UAE. [*Article 27*]**

9. **Registration exception can be availed by a taxable person who are only making zero rated supplies irrespective of their VAT registration status. [*Article 15*]**

10. **Government Entities or Charities specified in applicable Cabinet Decision can recover full amount of Input VAT for the purpose of its sovereign activities and relevant charitable activities, respectively. [*Article 57*]**

11. **FTA may issue a decision for deregistration if it is of the view that keeping Registration of a registrant would prejudice the safety of Tax system. It is stated that VAT deregistration would not impact the Authority's right to recover any Tax Dues or Administrative Penalties from the person deregistered from UAE VAT law. [*Article 21*]**

- **Refund of Input Tax Incurred on the Construction and Operation of Mosques**

The Cabinet Decision No. 82 of 2022 issued by FTA states the eligibility, process and effective date of refund of the Input Tax incurred on the Construction and Operation of the Mosque. Below are the key highlights:

— Eligibility criteria for refund of input tax incurred on the construction of Mosques:

- The donor has incurred Input Tax on goods or services directly in connection with the construction of Mosques.

- The construction was approved by competent authority

- The donor has a Mosque Operation Commencement Certificate.

— Eligibility criteria for refund of input tax incurred on the operation of Mosques:

- The operator has incurred Input Tax on goods or services directly in connection with the operation and maintenance of Mosques.

- The mosque is registered as a 'Mosque' with the Competent Authority.

- The Operator holds a written time-limited permit issued from the competent Authority for the Operation of the Mosque during the period for which a Refund Request is made.

— Effective Date of Refund Entitlement: The donor or Operator may claim refund of Input Tax incurred from 01st January, 2018 on the construction and operation of the mosque.

- **Maximum Amount of TRS Cash Refund**

The decision given by FTA states that the maximum cash refund of Value Added Tax under the Tax Refunds for Tourists Scheme shall be AED 35,000 per overseas tourist per 24 hours.

- **Federal Decree-Law No. 7 of 2017 and its amendment effective 14 October 2022 on Excise Tax**

12. **Insertion of Statute of Limitation for tax audit/ tax assessment by FTA [*Article 25(bis)*]**

Situation	Time period for conducting a tax audit/ tax assessment by FTA
Tax audit/ tax assessment by FTA for default situations	Before the expiration of 5 years from the end of relevant Tax period
Notification for commencement of audit sent before the expiration of 5 years	Within 4 years from the date of the notification
Voluntary Disclosure (VD) is submitted in 5th year from the end of tax period	Within 1 year from the date of submission of VD
Tax Evasion	Within 15 years from the end of the Tax period in which Tax evasion occurred.
Tax Registration failure	Within 15 years from the date on which person should have registered.

13. **Exception from Registration [*Article 6*]**

A person not registered under excise laws is not allowed to import excise goods. However, it has been clarified that FTA may exclude the following persons from registering under the excise tax laws:

- The person who will not regularly import excise goods; or
- The person who imports for purposes other than conducting business - however, the person is obligated to pay Due tax on the import. *(This category of person added under the subject amendment)*

Points to be noted:

- The person shall inform the FTA within timeframe if he becomes liable for tax registration at any given time.
- The person would be liable to pay any due tax or any administrative penalties even if the said person is to be excluded from tax registration.

14. **Any amount collected as Excise Tax or reflecting in the invoice as Excise Tax (even though the same is collected in respect of goods which are not excise goods) shall be reported and settled with FTA as Excise Tax. [*Article 19*]**

Source: https://www.tax.gov.ae/en

B. INTERNATIONAL TAX UPDATES

I. UAE's DTAA network

The UAE has entered into and concluded the Double Taxation Avoidance Agreements ("DTAA" / "Tax Treaties") with 139 countries. The list of the countries / jurisdictions with whom UAE has entered and concluded the DTAA can be found at:

https://www.mof.gov.ae/en/StrategicPartnerships/DoubleTaxtionAgreements/Pages/DoubleTaxtion.aspx

I. II.New Cabinet Decision on Determination of Tax Residency issued

Recently, MOF issued a Cabinet Decision, specifying the requirements and conditions for determining the tax residential status of a natural and a legal person in the UAE, for issuance of a 'Tax Residency Certificate' ('TRC') in the UAE, which will come into force on 1st March 2023.

Therefore, new conditions will need to be examined for a taxpayer, before applying for a TRC on/ after 1st March 2023.

(This article is contributed by Shailesh Kumar, Director-Tax Division)

OMAN UPDATE

Value Added Tax (VAT) guide on real estate in Oman

The Oman Tax Authority (OTA) has issued a Value Added Tax (VAT) Guide on Real Estate in Oman, details of which is explained in this article.

1. What is Real Estate?

Any specific area of land, any building, structure or engineering work permanently attached to the land, including any goods affixed to any building, structure or engineering work.

2. VAT on Supply of plot of Land

For the implication of VAT on supply of land, land has been categorized into two:

1. **Undeveloped Land:** Land which has no man-made structures, or partially completed structures on it above the surface or in the ground below the surface
2. **Developed Land:** Land which does not fall under the definition of undeveloped land is known as developed land. It is further clarified that construction would be considered sufficient to represent a partially completed structure when the stage of construction has progressed beyond the foundation level.

Tax implication based upon the nature of plot of land is as follows:

Whether the plot of land meets the definition of undeveloped Land ?

- YES → Exempt from VAT
- NO → Shall be considered as commerical land and subject to VAT at the standard rate of 5%

Illustrative Examples of developed and undeveloped land

i. Erection of fence and wall to allow construction to commence will not cause the land to be considered as developed land.

ii. Farmland will be considered as developed land as man-made structure (irrigation systems, roads, utility connections, etc) is required to make it operational as a farm.

iii. Lands used to operate as car parking on permanent basis are considered as developed lands.

3. VAT on Residential Real Estate

A residential real estate means any property or building, or part of a property or building, designed and intended for residential purposes and has the required approval from the relevant competent authority.

Hotel, tourist compound, industrial compound, commercial compounds, bed and breakfast establishment, hospitals, serviced apartments and any such structure which is not fixed to the ground and can be moved without damage is not considered as residential real estate.

VAT Implication on Residential Real Estate

- Sale of Residential Real Estate
  - First Supply of residential property is subject to VAT at standard rate of 5%
  - Resale of residential property is exempt from VAT
- Rental of Residential Real Estate
  - Exempt as per Article 47(7) of the Oman VAT Law subject to the fulfillment of certain conditions.

Tax implications on Ancillary Services

Generally, car parking fees and services charges for maintenance, electricity, internet, water, administrative services, commissions, etc are subject to tax at the standard rate of 5%. However ,if such fees and services forms part of a single supply of real estate rental for residential purposes, it will be treated in the same treatment applied to the real estate itself.

4. VAT on Commercial Real Estate

Commercial Real Estate is any land or property which is not one of the following:

- Any building, or part of a building, designed and intended for residential purposes and has the required approval from the relevant competent authority; or
- Undeveloped land.

The supply of commercial real estate either sale or lease is subject to VAT at the standard rate of 5%. VAT is therefore due on the total consideration received from the supply of commercial real estate. Any VAT on costs incurred in relation to the taxable supply of commercial real estate shall be recoverable in full.

5. VAT on Transfer of Activity

When a Taxable Person make a sale of properties that form part of the transfer of his Activity – fully or partially - to another Taxable Person will not be considered as a taxable supply when the following conditions are met:

- The part of the activity that has been partially transferred is capable of operating by itself,
- The transferee uses the assets – including properties to carry out the same type of activity that the transferor is engaged in.

- There must not be a series of consecutive transfers of the assets.

6. Mixed use Real Estate

A mixed-use real estate is a property or a plot of land which has been put to different uses, they have a different VAT treatment when supplied. For example, a property having retail units at ground floor, office or commercial space on middle floors and building and residentials units on the top floors.

Where a distinct part of mixed-use real estate is supplied, the VAT liability applicable to the supply depends on the use of the part of the real estate i.e. commercial unit shall be taxable whereas residential unit (other than the first supply) shall be exempt from VAT.

Similarly, where a mixed-use real estate is sold in its entirety, it is necessary to apportion the value of consideration between the taxable supply and the exempt supply.

The input tax must be apportioned in accordance with the following method:

a). Input tax that relates wholly to supplies where input tax is recoverable (e.g. taxable supplies), is recoverable in full;

b). Input tax that relates wholly to supplies where the input tax is non-recoverable (e.g. exempt supplies and non-business supplies), is blocked in full;

c). Input tax that cannot be allocated under (a) or (b) above (e.g. roof repairs in case of building where residential as well as commercial properties exists) must be apportioned and is commonly referred to as “general overhead input tax”.

The residual input tax identified under point (c) above should be apportioned using the following method:

1.

$$\textbf{Recoverable Tax \%} = \frac{\text{Supplies falling within paragraph (a) above}}{\text{Supplies falling within paragraph (a)} + \text{Supplies falling within paragraph (b)}}$$

2. The percentage calculated under paragraph (1) above is then rounded to the nearest whole number;

3. The percentage calculated under paragraph (2) is to be multiplied by the amount of input tax referred to in paragraph (c) to establish the recoverable proportion of that input tax; and

The total recoverable input tax is then the sum of supplies falling within paragraph (a) plus the answer under paragraph (3).

7. Place of Supply

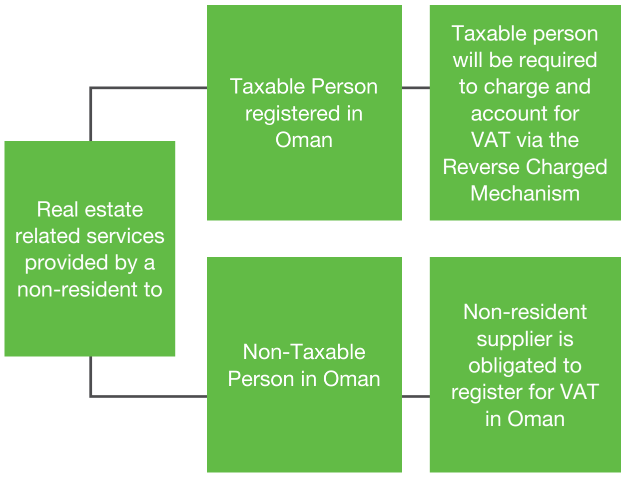
7.1. Place of Supply of real estate and related services

The place of supply of real estate and related services is where the real estate is located. The place of Supply is Oman, if the real estate is located in Oman and accordingly VAT law provision will apply on such provisions.

The place of supply of related services depends on whether such services are directly related to real estate or not.

Examples of services which are directly related to real estate includes:	**Examples of services which are not considered to directly related to real estate includes:**
• Engineering, studies, management and construction supervision works; • Building and demolition services and services related to construction works • The works of trading buildings, management, maintenance and repair works of buildings, real estate agents and brokers, real estate experts and others who carry out tasks and works related to real estate.	• Staff transport to a building site; • Consulting services related to land or property markets generally; • Management of a property investment portfolio; • The supply of storage of goods in a property without a right to a specific area for the exclusive use of that customer; • Advertising services, including those that involve the use of signage; • General legal advice advice on real estate related contracts.
The place of supply of supply in case of above services will be the location of the real estate.	The place of supply of supply in case of above services shall be subject to normal place of supply rules as per the Oman VAT Law and its executive regulations.

7.2. Services provided by Non-residents



7.3. Real Estate within a Special Zone

The VAT Law and its Executive Regulations state that supplies of real estate made within Special Zones (i.e., Free Zone or Special Economic Zone) will be zero-rated, subject to the conditions attaching to supplies within Special Zones.

Supplies of services related to real estate which are performed in the Special Zone will also be subject to VAT at the zero-rate, subject to the conditions of the Special Zone.

(This article is compiled by CA Hussain M Kathawala and CA Kapil Sheth of PKF LLC, the PKF member firm in the Sultanate of Oman)

PUBLICATIONS

- Practice Profile
- Doing Business in the UAE
- Credentials
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  - Registrations and compliance;
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