



VAT GUIDELINES FOR AGENTS

Introduction

The General Authority of Zakat and Tax ('GAZT') has recently released VAT Guidelines for Agents. The guidelines cover the requirements and procedures which must be followed by Agents and reinforces the procedures already mentioned under the VAT Regulations. The guidelines provide certain new and key concepts under VAT which will have to be adhered to by Agents. Certain clarifications have also been made which will help provide certainty for Agents who are registered as taxable persons.

This alert summarizes key points for easy reference.

Key Terms

Agent: the person representing another in his/her legal transactions.

Principal: the person represented by the "Agent" in his/her legal transactions.

Agent acting in its own name: an unapparent Agent. An Agent is considered to be acting in its own name in the event that the agency is not apparent to third parties or when the identity of the Principal is not revealed to them.

Reimbursement: the costs incurred by the Agent Acting in Its Own Name and reimbursed to the Agent by the Principal.

Disbursement: the costs incurred by an Agent on behalf of its Principal and refunded by the Principal to the Agent.



When does an Agent act in its own name?

The following points are to be noted:

- If the agency relationship is not disclosed by the Agent to the customer, then an Agent shall be considered to be acting in its own name.
- In such situations an Agent shall be considered as 'Principal' for the purposes of applying VAT.
- Accordingly, the Agent shall be liable to raise an invoice and discharge VAT on the supplies made to a customer, even though it was on behalf of the Principal.
- Similarly, if an Agent is receiving goods or services in its own name (i.e., without disclosing the agency relationship) then the Agent is considered as a customer in relation to the purchase.
- Since the goods/services received are not used for the economic activity of the Agent, the Agent is not eligible to deduct input VAT on such procurements.

Expenses recovered from the Principal

It is common practice that an Agent pays an amount to a third-party supplier and recovers the paid amount from its Principal. In such cases, the recovery of expenditures from the Principal shall not be treated as a consideration for the supply provided by the Agent. Such recovery of expenses is not liable to VAT provided the following standards are met:

- The Principal receives the goods or services (directly or through an Agent).
- The Principal is the person liable for payment.
- The Principal is aware and knows there is a supply from a third party and authorizes (either generally or specifically) the Agent to pay on behalf of the Principal.
- The Agent claims the specified amount from the Principal without profit margin.
- The commercial documents should set out that the incurred cost is separate and added to the supplies provided by the Agent to the Principal.

This is known as “disbursement of expenses.”

If the above conditions are not satisfied or if the Agent charges a price (for the supply of agency services) inclusive of the expenses incurred by them (on behalf of the Principal), then VAT shall be levied on the entire price being charged by the Agent. This is called “reimbursement of expenses.” It is important to note that in the case of reimbursement of expenses, the underlying nature of the expenses/reimbursement is not relevant, and the reimbursement would become the principle supply. Take for example a consulting firm



recovering the international air travel cost as actuals from its client. While air travel is zero rated, the reimbursement would be treated as standard rated taxable supply on par with the consulting services being the principle supply.

When can an Agent deduct input tax?

The following points are to be noted:

- An Agent acting in its own name is the one responsible for receiving goods or services, as if it were receiving such supplies as a customer.
- Since for the purposes of VAT an Agent acting in its own name is viewed as a customer when making purchases, in such circumstances an Agent would be eligible to deduct input tax.
- However, an Agent acting on behalf of the Principal would not be entitled to deduct the input tax on the supplies it receives on behalf of the Principal.

Who can deduct input tax at the time of import?

A customs broker can import goods on behalf of another taxable person who requires such goods in furtherance of their economic activity. In such cases, the broker acts on behalf of said person for importing the goods into the Kingdom of Saudi Arabia. Whilst also being the broker, the importer is not utilizing imported goods in furtherance of its own economic activity, and so the customs broker cannot deduct import VAT. Therefore, it is imperative to organize the business in such a way that input VAT does not become a cost in the line of operations.

Dhruva Insights

The Guidelines for Agents issued by the GAZT provides certainty and clarity to taxpayers and simplifies compliance procedures for businesses on the role of VAT in matters of agency relationships. It will become easier for taxpayers to assess their VAT liabilities and ensure proper deduction of input tax.



WTS Dhruva Consultants

Dubai

WTS Dhruva Consultants
U-Bora Tower 2, 11th Floor, Office 1101
Business Bay P.O. Box 127165
Dubai, UAE
Tel: + 971 56 900 5849

Bahrain

WTS Dhruva Consultants
Bahrain Financial Harbour, East Tower - Floor 23,
Office 2301, Building 1398, Road 4626, Block 346.
Manama, Kingdom of Bahrain
Tel: +973 1663 1921

Dhruva Advisors

Mumbai

1101, One IndiaBulls Centre,
11th Floor, Tower 2B,
841, Senapati Bapat Marg,
Elphinstone Road (West),
Mumbai 400 013
Tel:+91 22 6108 1000 / 1900

Ahmedabad

B3, 3rd Floor, Safal Profitaire,
Near Auda Garden,
Prahladnagar, Corporate Road,
Ahmedabad - 380 015
Tel: +91-79-6134 3434

Bengaluru

Prestige Terraces, 2nd Floor
Union Street, Infantry Road,
Bengaluru 560 001
Tel: +91-80-4660 2500

Delhi / NCR

101 & 102, 1st Floor, Tower 4B
DLF Corporate Park
M G Road, Gurgaon
Haryana - 122 002
Tel: +91-124-668 7000

Pune

305, Pride Gateway, Near D-Mart, Baner,
Pune - 411 045
Tel: +91-20-6730 1000

Kolkata

4th Floor, Unit No 403, Camac Square,
24 Camac Street, Kolkata
West Bengal – 700016
Tel: +91-33-66371000

Singapore

Dhruva Advisors (Singapore) Pte. Ltd.
20 Collyer Quay, #11-05
Singapore 049319
Tel: +65 9105 3645

New York

Dhruva Advisors USA, Inc.
340 Madison Avenue, 19th Floor, New York,
New York 10173 USA
Tel: +1-212-220-9494

Silicon Valley, USA

Dhruva Advisors USA, Inc.
5201 Great America Parkway,
Santa Clara, California 95054
Tel: +1 408 930 5063

KEY CONTACTS

Dinesh Kanabar

Chief Executive Officer
dinesh.kanabar@dhruvaadvisors.com
Phone: +91 22 6108 1010/11

Pratik Shah

Resident Partner & VAT Expert
pratik.shah@dhruvaadvisors.com
Phone: +971 55957 8232

Nimish Goel

Resident Partner & VAT Expert
nimish.goel@dhruvaadvisors.com
Phone: +971 50106 6531

Nilesh Ashar

Resident Partner & VAT Expert
nilesh.ashar@dhruvaadvisors.com
Phone: +971 50106 6531

Gaurav Khurana

Executive Director, KSA & Bahrain
gaurav.khurana@dhruvaadvisors.com
Phone: +973 3442 3043

Dhruva Advisors has been named **“India Tax Firm of the Year”** for 2017 and 2018 by International Tax Review

Dhruva Advisors has been named **“India Disputes and Litigation Firm of the Year 2018”** by International Tax Review

Dhruva Advisors ranked as a **Tier 1 Firm** in India in Tax and Transfer Pricing by International Tax Review.

Disclaimer:

This information contained herein is in summary form and is therefore intended for general guidance only. This publication is not intended to address the circumstances of any particular individual or entity. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation. This publication is not a substitute for detailed research and opinion. Before acting on any matters contained herein, reference should be made to subject matter experts and professional judgment needs to be exercised. We cannot accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication.