



KSA Guide: VAT on Employee Benefits

Introduction

The General Authority of Zakat & Tax (GAZT), Kingdom of Saudi Arabia (KSA) has issued guidelines addressed to all businesses with employees or persons acting in a capacity similar to that of Employer and Employee. This guideline represents GAZT's views on the application and treatment of the Unified VAT Agreement, the VAT Law and the Implementing Regulations, but does not include, or purport to include, all the relevant provisions from those laws. This alert summarizes key points for your easy reference.

Key Terms not mentioned in the Implementing Regulations

Employee and employer: People working under the arrangements equivalent to an employment contract has been said to be under the employer–employee relationship. Furthermore, the guide has illustrated some key points that need to be considered while classifying a person under an employer–employee relationship. An individual who provides personal services to a business and does not meet these conditions are not termed to be as Employees.

Employment Contract: This is deemed to be a contract concluded between an Employer and Employee, whereby the latter undertakes to work under the management or supervision of the former for a wage.



Private use: GAZT considers private use to be any use, consumption or enjoyment of goods/services, where such use is not in relation to or not taking part in course of the economic activity of the employer or by Employees for private purposes, not in the course of their work duties.

Reimbursement of employee expenses

An employee who incurs any cost as a part of his employment duties, and which the employer later reimburses, would be deemed to be received by the employer in the course of the economic activity. Hence, the input tax deduction on those services is permissible. Provided the employer is able to prove to the GAZT that the expenses were incurred in the course of the economic activity.

Example: An employee of a Company is required to attend a conference and incurs accommodation cost including the VAT. The Company later reimburses the employee for the total accommodation costs incurred. If the Company can prove that these expenses were related to Companies economic activity, then the Company can account for that expenditure and it shall be eligible for input tax credit on fulfilment of the relevant conditions.

Cash benefits/ allowances

The cash benefits/ allowances are wages; thus, they are not treated as a consideration for any supply. Hence, VAT is not paid on the transactions, whether they are paid as a statutory requirement or discretionary allowances. In cases where a cash allowance is provided in place of any tangible benefit, the VAT treatment is the same as for any cash payment.

Outsourced Human Capital & Secondment

In cases where the seconded/ mandated worker fulfills the test for an employee, GAZT would consider the relationship between the secondee and the service recipient as that of an employer and employee. Thus wages (salary) given to the secondee would not be under the ambit of KSA VAT. However, the commission earned by the service provider (agency who supplies the man power) would be deemed to be the consideration and would attract VAT.



Supply of services without consideration

When an identical service is provided with the main service making it an indistinguishable part, and the service recipient has a paid single consideration expecting to receive the other service free, the free element would not be considered as a separate supply without consideration.

Example: If a mechanic provides a free safety check as part of motor vehicle servicing, the free element will not be considered as a separate supply, provided it is clearly an indistinguishable part of the overall supply and Customer has paid one price for the service.

Supply of goods without consideration

The supply of goods and services to employees or guests would be classified as a nominal supply, subject to the following conditions:

- The value of goods or services does not exceed the threshold limit mentioned under the KSA VAT regulation; and
- The input tax related to such goods/ services has been deducted

Valuation of goods/ services

An employer and the employee are related persons for the purpose of VAT in KSA. The value of the supplies between the employer and employee are subject to special valuation rules. Hence, the value of any supply between the employer and employee would be considered at a Fair Market Value. The applicable VAT on the transaction would be based on Fair Market Value and not the consideration received by the employer. In cases where a clear purchase value or cost cannot be ascertained, the value of the nominal supply is the Fair Market Value as determined in accordance with the Implementing Regulations.

Example: A fashion store offers a discount of 40% to its employees from the quoted retail price. The maximum discount offered to Customer is 20% discount. For VAT purposes, on supply to employees, tax will be payable taking 20% discount.

Statutory Benefits

As per the labor law governed under KSA, the employer is required to provide certain benefits to Employees. If the Employee provides any goods and services over and above the statutory requirement, then the excess amount would be recognized as a private expenditure and may be considered as nominal supply.

Example: Medical insurance for employees mandated under KSA law will be eligible for VAT deduction. Any insurance over and above the mandatory limit would not be eligible for VAT deduction.



Specific tangible Benefits

Sr. No	Particulars	Remarks
1	Motor Vehicle	<ul style="list-style-type: none">• Restricted motor vehicle is not eligible for input VAT deductions.• The key test is whether the vehicle is made available for private use.• The onus of establishing a vehicle not available for private use would be on the Employer. Evidence such as notices or reminders to employees or records of internal audits of vehicle usage, employment contract/ company policies etc.,• There is no mechanism for partial deduction if a vehicle is partly available for private use.
2	Maintenance and fuel expenditure	<ul style="list-style-type: none">• The maintenance and fuel expenditure of a restricted motor vehicle is deemed to be incurred outside of the economic activity and are thus not eligible for input VAT deduction.
3	Catering	<ul style="list-style-type: none">• Catering services provided by the Employer to the employee is in nature of private benefits to the Employee. Therefore, the Employer would be unable to deduct input VAT on catering costs.
4	Employee Housing accommodation	<ul style="list-style-type: none">• In general, the supply of residential accommodation is an exempt supply. The VAT impact would depend on the facts and circumstances in each case.
5	Housing Allowances	<ul style="list-style-type: none">• An employer may offer Employees a Cash Allowance, in place of provision of accommodation. This Cash Allowance is not a supply for VAT purposes.

Directors fees to a non-executive director

The services provided by a non-executive director are meant to be in the form of an economic activity. As per the KSA VAT regulation, if a person's annual value of taxable supplies exceeds SAR 375,000 should mandatorily apply for VAT registration. If the non-executive director's annual value of supplies exceeds the requisite threshold, he would be obligated to register for VAT and to charge VAT on director's fees.

Comments

Businesses should evaluate the existing compensation benefits provided to its employees in the light of the guidelines issued by the GAZT and should make the requisite modifications if necessary. This would ensure VAT compliance by the Business.



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