

ICC INTERNATIONAL BEST PRACTICES AND GUIDANCE ON VAT IMPLEMENTATION

POLICY GUIDANCE

Key messages:

1. An efficient VAT regime ensures certainty, neutrality, simplicity and cost effectiveness for both business and tax administrations.
2. Consistency of VAT law with regional and global VAT regimes can facilitate cross-border transactions and foster economic growth. Benefits include enhanced transparency, predictability and efficiency. This helps to safeguard VAT revenues for tax administrations and ensure a level playing field for business.
3. With more countries globally planning to implement or reform their VAT regime, this document is a helpful guide to provide support before and during its implementation for both businesses and tax administrations.

Implementation:

The ICC Guidance responds to a request by ICC National Committees in the GCC to assist in the implementation of VAT and also by companies who operate globally. It is a living document (to be updated as necessary) and will be available on the ICC public website for implementation worldwide, and will be distributed to ICC members, National Committees and tax administrations.

Document review:

After 12-18 months

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Introduction

The International Chamber of Commerce (ICC), as the world business organization, works to promote international trade, responsible business conduct and a global approach to regulation. In an increasingly interconnected global economy, cross border trade in goods and services continues to rapidly expand. As such, a Value Added Tax (VAT) has become an increasingly important source of revenue for countries around the world.

The ICC International Best Practices and Guidance on Value Added Tax Implementation can be used as a starting point by governments around the world planning to introduce a VAT regime in their jurisdiction, and by businesses where VAT is planned to be implemented.

The ICC International Best Practices and Guidance on VAT also includes recent pre- and post-implementation practical experiences by businesses around the globe to further illustrate some of the complexities involved with VAT implementation.

Working constructively together both when it comes to designing and reforming VAT systems and throughout the phases of implementation can benefit all parties involved – business and tax administrations. With more countries planning to implement a VAT regime, this document may be a helpful guide to provide support before and during its implementation.

Please note: The ICC International Best Practices and Guidance on VAT Implementation is a living document and will be reviewed and updated as necessary. This includes Part 1, Part 2 and the annex with a view to include further relevant and timely case study examples.

Part 1: Guidance for government representatives

General recommendations:

- A collaborative partnership approach between business and tax administrations to ensure certainty, neutrality, simplicity and cost effectiveness, safeguarding VAT revenues for governments and ensuring a level playing field for business.
- Establishing an on-going dialogue between business and tax administrations to address the design and reform of VAT systems implementation and post-implementation challenges, as well as to share best practices.
- Sufficient lead time to implement the new regulations in practice – technological implementation requires significant time and resources. An appropriate grace period should therefore be allowed to resolve practical implementation issues, particularly if there is a short lead time.
- Consistency of VAT law with regional and global VAT regimes.
- Clear communication on hierarchy of legislation, particularly when a group of countries are introducing their national VAT regimes based on an overarching agreement.
- Alignment with the International VAT Framework based on the Organisation for Economic Co-operation and Development's (OECD) VAT/Goods and Services Tax (GST) Guidelines¹, particularly the two fundamental principles of neutrality and destination.
- Provide a stable online platform for VAT application, VAT filing and reporting that is compatible with the standard VAT determination tools on the market.
- Consider the production of detailed and, preferably industry, guidelines as early as possible.
- Publish a Questions and Answers section as soon as possible.

Specific points – key features of an efficient VAT regime:

- **VAT refunds** – For business, cash flow availability is a critical condition for growth and innovation, thus provision for the timely refunding of input VAT is a priority issue. Carry forward of excess input VAT should be avoided, as this is not only against the principles of neutrality, but also provides a competitive advantage to some businesses.
- **Export of goods and services** – In order to promote foreign direct investment and cross-border trade, the exporter should be able to zero-rate its sales of goods and services with no use and enjoyment rules, which create significant uncertainty and complexity.
- **Import of goods** – The import of goods should be subject to postponed accounting with payment on the VAT return rather than at the port of entry.
- **Import of services** – The application of the reverse charge in the country of destination by the local business customer represents the best practice collection mechanism.
- **Intra-regional supply of goods** – Clarity and consistency of VAT treatment across member states is crucial for intra-regional trade in goods.
- **Registration for non-established entities** – Give the possibility to any entity within or outside an established country to register for VAT purposes in any participating country as required. A VAT-registration as such should facilitate an efficient and simple VAT reporting process for both businesses and tax administrations alike. An additional impact on other means of taxation should be avoided. For example, a mere VAT-registration by a non-

¹ <http://www.oecd.org/ctp/international-vat-gst-guidelines-9789264271401-en.htm>

established entity should not result in consequences for corporate income tax or transfer-pricing purposes, such as the assumption of a permanent establishment.

- **Specific considerations for digital services** – Global best practices are emerging to address business to business (B2B) and business to consumer (B2C) supplies of digital services. If applied, use and enjoyment rules for telecommunication and electronic services need to be further clarified in order to ensure VAT neutrality.
- **Reduced VAT rates** – Studies have shown that reduced VAT rates are not always effective in terms of helping lower-income households or stimulating consumption of “merit goods” – instead alternative measures, such as subsidies to certain activities or social groups, could be a better option where possible. Moreover, the cost of compliance for businesses and disputes on reduced VAT rates which result in time consuming and costly litigations for both governments and businesses are counterproductive. Therefore, a single lower VAT rate should be taken into consideration. Nevertheless, this needs a careful, case-by-case analysis of the relative merits of various reduced VAT rates on a country per country basis.
- **VAT exemptions** – In order to minimise complexity and distortions, the tax base should be broad with limited and well-defined exemptions and zero-rating. A limited set of exemptions with clear rules and guidance is easier for a supplier to administer than a wide range of exemptions where the rules are complex and the guidance is vague, which often leads to time consuming and costly litigations.
 - Imported goods under a certain value, being exempt from import duty, should also be exempt of VAT. Consideration on whether the VAT exemption for low value goods should be abolished can only be given once the VAT registration regimes are up and running efficiently and are consistent globally.
 - Governments should assess VAT at the time of entry of goods in temporary admission (travelling under a Temporary Admission [ATA] Carnet), given that the goods are intended for export.
 - Goods in temporary admission should be exempt of VAT if they are re-exported after the temporary admission period.
- **Bonded warehouses/free trade zones** – Bonded warehouses and free trade zones can be used as strategic locations for business operations. Designated Zones (fenced free zones with a proper customs procedure in place) are outside the current scope of VAT.
- **Taxable amount in the context of promotional activities** – Simple and VAT neutral rules should apply to the use of rebates and free goods or samples for commercial investment purposes.
- **Documentation and evidence** – Whether for zero-rated export supplies or for other zero-rated or VAT exempted transactions, documentation required as evidence should always be based on commercially available documents. Alternative evidence should always be permitted.
- **VAT group** – Permitting any persons established in the territory, who, while legally independent, are closely bound to one another by financial, economic and organisational links to collect and administer VAT on a group basis can truly reflect the status of the group as an economic entity and increase the ability and efficiency to collect and administer VAT for both business and tax administrations. It should be for the business to decide whether to join the

VAT group after considering their business needs. Target-oriented and clear rules that avoid potential misuse of VAT groups should be considered when implementing VAT groups.

Part 2: Guidance for business representatives – VAT implementation roadmap

As a transaction-based tax, the implementation of a VAT/GST regime has significant effects on an organisation – all business functions are impacted. Therefore, careful planning is required to ensure that all relevant parties are fully engaged in a structured process which is tracked from inception to implementation and beyond with periodic post-implementation reviews.

Budgetary considerations, in particular IT developments, need early attention in order to secure appropriate resources. Without advanced scheduling it is often difficult to secure resources in today's tightly-scheduled IT environment.

Additionally, early identification of items for policy activities and transitional rules-based on global best practices are also critical to ensuring a smooth transition. Proactive business involvement from the outset is essential.

General aspects to consider:

- Develop a project plan (scope, timeline, etc.) and budget for the cost of implementing VAT (i.e. consultant fees, configuration of accounting systems, training expenses, hiring of additional finance support, etc.).
 - Take note of pricing considerations if VAT results in costs (for example with non-recoverable VAT due to the business setup).
- Undertake a detailed review of incoming and outgoing business flows (i.e. transaction mapping).
- Consider impact on cash flow due to the timing difference between paying and recovering VAT.
- Analyse the capabilities of existing accounting systems to deal with VAT.
- Review accounts payable processes to assess whether tracking and posting of expenses can be done in a timely manner.
- Review employee benefits and the process of approving expense claims.
- Determine the changes required for existing documentation to support VAT compliance. For example, invoicing.
- Analyse the transitional issues for supplies of goods and services.
- Evaluate the impact on pricing for supplies.
- Train team members to tackle the impact of VAT on accounting and reporting processes.
- Identify the legal implications of existing long-term contracts.
- If the law remains unclear, make legal and fiscal assumptions to keep the process moving (i.e. build the design to be ready in time).

Develop a project plan – important steps to take:

Given the wide organisational impact, a well-defined step-by-step process should be deployed in order to ensure all key components are captured – for example:

- Identifying businesses and contacts (stakeholders and enablers).

- Mapping transactional flows (goods and services) – prepare and review mapping questionnaire.
- Identifying:
 - VAT treatment of transactions and input tax credits.
 - Systems changes.
 - Resource requirements.
 - Training requirements.
- Executing a detailed action plan (system changes, training, implementation and post implementation review), including the role of the tax team with clearly defined roles and responsibilities, particularly when it comes to the VAT compliance process.
- Capturing issues in an issue tracker template.
- Tracking legislative developments and focusing on policy efforts.
- Identifying areas where consultant or third-party assistance is required pre- and post-implementation.
- Preparing key information template to be made available to businesses.

Learnings and tips:

As experience shows, when it comes to implementing a VAT, action items may arise with little warning, particularly concerning practical aspects. It is therefore recommended to start the planning of such a large project far in advance, allowing for an appropriate time lead, particularly for a multinational company. Only with advance thought can last minute aspects be handled quickly and efficiently.

Examples for early actions that can be taken are:

- Mapping of real-life business scenarios (to determine what is in scope and to be able to map tax consequences).
- For companies having multiple businesses in a country, ensure identification of all the Enterprise Resource Planning systems impacted by the VAT implementation (i.e. identify the challenging transactions at an early stage, especially if these happen on an irregular basis [triangulation, zero-rated transactions]).
- Begin VAT registration as soon as possible in order to collect all the necessary data in time, as a lot of information will be requested. Consideration should also be made concerning the payment and refund process (e.g., is a local bank account number required).

It is important to identify and allocate local internal and external resources to the implementation and run it as a specific project with a dedicated project team applying a project management approach (e.g., tollgates, timelines, ownership, action plan). This requires a centrally coordinated approach with local business responsibility.

If needed, a third-party service provider should be engaged as soon as possible. Ensure that scope, level and way of engagement, and the fees are agreed in an early phase.

VAT implementation is almost never an individual company challenge, so it is helpful to collaborate and exchange thoughts and experiences with other businesses that are in the same situation. This

can be done through industry groups or advisor-led business coalitions. Share issues identified, seek common solutions and keep, where possible, a close working contact with the tax administration to share practical challenges and offer solutions based on global best practices. In this context, tax authority websites may also be useful – the websites of the Federal Tax Authority (FTA) and General Authority of Zakat & Tax (GAZT) include material for awareness sessions, guidelines and supporting training materials, which proved helpful during the implementation process.

It is also important to be aware of other areas that can be impacted by the VAT implementation, such as Customs obligations. For example, customs systems may require an importer's profile update with a VAT registration number.

Final remarks:

VAT implementation is a journey. There are many unknowns when the journey begins, yet preparations may still be undertaken before the implementation commences. These preparations are vital to later overcome the challenges and complexities of a smooth and efficient transition.

Another important aspect to consider is that there are other stakeholders engaged in the same process who are dealing with the same challenges. Working constructively together throughout the phases of implementation can benefit all those involved – business and tax administrations. With more countries globally planning to implement a VAT regime, this document may be a helpful guide to provide support before and during its implementation.

ANNEX

Recent practical experiences with a VAT implementation:

Introduction

The recommendations and key features of an efficient VAT regime mentioned in Part 1 of the document are an important starting point for governments considering the implementation of a VAT regime. With more countries globally planning to implement a VAT regime, this annex might also be a helpful guide to provide support before and during this journey.

Experience shows that for a VAT regime to operate efficiently, a legal framework, based on clear, simple and easy to apply and administer VAT regulations is of utmost importance. Drafting VAT laws in line with the guidance above will therefore help the practical implementation and application of relevant legislation in an efficient manner for both business and tax administrations.

The bases of this annex are the valuable pre- and post-implementation practical experiences that businesses have gained thus far, which may prove helpful for countries that have implemented VAT recently (to further streamline their VAT regimes), and for countries who will soon be following with implementing a VAT (to foster a smooth implementation).

To provide context, we would like to stress, based on global VAT/GST experiences, that there is no perfect VAT/GST regime and as such, when it comes to implementing a VAT/GST regime there are and always will be challenges which must be faced by both business and tax administrations.

Therefore, this section of the guide will outline both lessons learned and good practices experienced, on which further processes can be built.

Example 1: The Gulf Cooperation Council Countries

On 1 February 2017, the six Members of the Gulf Cooperation Council (GCC) – United Arab Emirates (UAE), Qatar, Kingdom of Saudi Arabia (KSA), Oman, Kuwait and Bahrain – signed a unified VAT Agreement. A standard rate of 5% VAT will apply across the participating states unless supplies are specifically exempted, zero-rated, or out-of-scope. The GCC has traditionally had a zero-tax regime culture, requiring minimal documentation and no audit, which is why implementing VAT is of great importance.

To date, only the Kingdom of Saudi Arabia and UAE have implemented a VAT (effective as of 1 January 2018); the other four regional member states plan to follow in the near future. The below text takes into account the two GCC member countries that have implemented a VAT regime, effective 1 January 2018, as examples. The GCC VAT framework is, for the most part, aligned with existing VAT regimes and OECD's VAT/GST Guidelines. Implementation challenges thus far centre around topics such as: foreign VAT registrations, designated zones, branch to head office transactions, use and enjoyment provisions applied on exports services, import/export of goods, transitional issues, etc. These topics present challenges in that they are not always clear on how they should be applied in practice. The main reason for this implementation challenge is that the VAT law and regulations were

published quite late in the process, which allowed both business and tax administrations only a very short lead time to clarify and implement the relevant provisions.

This experience demonstrates a need for VAT laws and regulations to be published well in advance – ideally 12 months ahead, but at minimum 6 months before the final deadline (including detailed specifications for VAT return and reporting obligations) in order for business and tax administrations to be ready on day one of implementation. This provides for a clarification of all aspects of the implementation and ensures that the required structural and IT systems changes, which are often complex and time consuming, are made in time. In the past, businesses have also very much appreciated the VAT laws and regulations being published in English. As the VAT laws and the underlying regulations were published earlier in the Kingdom of Saudi Arabia, the VAT registration process ran more smoothly than that of the United Arab Emirates. In this context however, it needs to be considered that the UAE is a Federation of seven Emirates, which adds complexity and challenges to the processes.

Certain steps that may accelerate the efficiency of VAT implementation processes in UAE and KSA are as follows:

- **Intra-GCC supply of goods** – Clarity and consistency of VAT treatment across the member states is crucial for intra-GCC trade in goods.
- **Registration for non-established entities** – Provide the possibility for any entity established in a GCC country or outside to register for VAT purposes in any GCC country as required. Registrations for VAT by a taxpayer that is not established in-country could trigger a discussion on the existence of a permanent establishment on some occasions. However, if the registration serves the sole purpose of proper VAT compliance and the taxpayer is not performing any other activities that result in a permanent establishment for other purposes, then efficiency could be gained by avoiding a link between VAT registration and a permanent establishment.
- **Cross-border supplies of services** – Further clarification, where the GCC applies use and enjoyment rules, to ensure VAT neutrality is needed. The current situation creates significant uncertainty, complexity and costs for businesses.
- **Specific considerations for digital services** – Global best practices are emerging for dealing with B2B and B2C supplies of digital services. Use and enjoyment rules for telecommunication and electronic services are applied, which as mentioned above need to be further clarified in order to ensure VAT neutrality.
- **Taxable amount in the context of promotional activities** – The GCC countries provide thresholds for goods and samples for commercial investment purposes. Simple and VAT neutral rules should apply to the use of rebates and free goods/samples for commercial investment purposes.
- **Import and Export** – Customs and VAT sometimes have an overlap when importing and/or exporting, and a VAT regime benefits when there is clear legislation in place when such an overlap occurs. In these situations, efficiency increases when it is clear that the rules of VAT follow the Customs legislation or that VAT legislation is seen as separate from Customs facilities, such as warehousing, T1 transport and the application of ATA carnets.

A more general point to highlight is that standard invoicing and documentation should be based on existing commercial practice and commercially available documents. With technology developing rapidly, it is crucial that the legal framework allows these future developments to occur without adding additional layers of bureaucracy and complexity.

Conclusion

While existing global VAT/GST experiences demonstrate that no uniform solution exists to implement a VAT/GST regime, this guide serves to highlight potential challenges and best practices, through which specific VAT processes may be applied in tax administrations globally. Both business and tax administrations serve to benefit from working together to confront and resolve the challenges associated with VAT implementation.

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About The International Chamber of Commerce (ICC)

The International Chamber of Commerce (ICC) is the world's largest business organization representing more than 45 million companies in over 100 countries. ICC's core mission is to make business work for everyone, every day, everywhere. Through a unique mix of advocacy, solutions and standard setting, we promote international trade, responsible business conduct and a global approach to regulation, in addition to providing market-leading dispute resolution services. Our members include many of the world's leading companies, SMEs, business associations and local chambers of commerce.

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