



Investment metals

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1. INTRODUCTION

1.1. IMPLEMENTING A VALUE ADDED TAX (VAT) SYSTEM IN THE KINGDOM OF SAUDI ARABIA (KSA)

The Unified VAT Agreement for the Cooperation Council for the Unified Arab States of the Gulf (the "Agreement") was approved by KSA by a Royal Decree No. M/51 dated on 3/5/1438 H. Pursuant to the provisions of the Unified VAT Agreement, the Kingdom of Saudi Arabia issued the VAT Law under Royal Decree No. M/113 dated 2/11/1438 H ("the VAT Law") and its corresponding Implementing Regulations were subsequently issued by the Board of Directors of the General Authority of Zakat and Tax ("GAZT") by Resolution No. 3839 dated 14/12/1438 H ("the Implementing Regulations").

1.1.1. General Authority of Zakat & Tax

GAZT, also referred to as "the Authority" therein, is the authority in charge for the implementation and the administration of VAT (which may be referred to hereinafter as "the tax") in KSA. In addition to the registration and deregistration of taxable persons for VAT, the administration of VAT return filing and VAT refunds; and undertaking audits and VAT visits; GAZT also has the power to levy penalties for non-compliance with legal provisions relating to VAT.

1.1.2. What is Value Added Tax?

Value Added Tax ("VAT") is an indirect tax which is imposed on the importation and supply of goods and services at the production and distribution stages, with certain exceptions. VAT is imposed in more than 160 countries around the world.

VAT is a tax on consumption that is paid and collected at every stage of the supply chain, starting from when a manufacturer purchases raw materials until a retailer sells the end-product to a consumer. Unlike other taxes, persons subject to VAT will both:

- Collect VAT from their customers equal to a specified percentage of each eligible sale; and
- Pay VAT to their suppliers, if any, from whom they have received the goods or services, equal to a specified percentage of each eligible purchase

When taxable persons sell a good or service, a 5% VAT charge – assuming a standard case – is assessed and added to the final sales price. The taxable persons will account for that 5% that they have collected from all eligible sales separately from its revenue in order to later remit a portion of it to the Authority. The VAT taxable persons collect on their sales is called **Output VAT**.

That same will apply to purchase transactions done by persons subject to VAT, in that VAT will be added at the rate of 5% to purchases of goods or services done by persons subject to VAT (on the assumption that the basic rate applies to those supplies). The VAT a business pays to its suppliers is called **Input VAT**.

Further general information about VAT can be found in the KSA VAT Manual or at vat.gov.sa.

1.2. THIS GUIDELINE

This guideline is directed for businesses involved in the investment metals sector, including producers, refiners, operators, wholesalers, retailers, and those using investment metals for industrial, commercial and investment purposes.

This guideline represents GAZT's views on the application and fair treatment of the Unified VAT Agreement, the VAT Law and the Implementing Regulations to the sector as of the date of this guideline, but does not include, or purport to include, all the relevant provisions in relation to the investment metals sector from those laws. It is not binding on GAZT or on any taxpayer in respect of any transaction carried out and it cannot be relied upon in any way.

However, for further advice on specific transactions you may apply for a ruling, or visit the official VAT website at (vat.gov.sa), which contains a wide range of tools and information that has been established as a reference to support the taxpayers and enterprises, as well as visual guidance materials, all relevant information, and FAQs.

2. DEFINITIONS

Qualifying metal is defined for VAT purposes as following:

- "Gold;
- Silver; or
- Platinum"⁽¹⁾

All qualifying metal is considered as precious metals under regulations of the Ministry of Commerce and Investment⁽²⁾. These regulations set out provisions for the supervision and control on the trade and industry of precious metals. However, these do not affect the VAT treatment of qualifying metals.

Other metals are not considered to be Qualifying metals, even in cases where these may have similar characteristics or uses to the Qualifying metals.

A Qualifying metal is **supplied for investment**:

"When the metal is at a purity level of not less than ninety-nine percent (99%) and tradeable on the global bullionmarket."⁽³⁾

Metal that is supplied for investment is referred to as metal in an investment form.

GAZT considers that Qualifying metal is an **investment metal** when all the following characteristics are met:

- Precious metals, in an investment form, must carry a stamp as authorized by the Ministry of Commerce and Investment, or where not produced locally, these must carry a mark or characteristic that is accepted as an international standard guaranteeing its quality allowing it to be traded on an international bullion market
- An investment/tradeable form may be bullion (wafers, bars or ingots) or coins (qualifying coins)
- Qualifying metals must be traded at a price based on the spot price of gold, silver or platinum on the global bullion market
- For Qualifying metals imported from outside the Kingdom, it has been refined by a refiner who is or was in the "Good Delivery" list of the LBMA "London Bullion Market Association" (in the case of gold or silver); or a refiner who is or was in the "Good Delivery" list of the LPPM "London Platinum and Palladium Market" (in the case of platinum)
- To be in the form of, and have the character of, the metal only

The following are not supplies of Qualifying Metals:

- A decorative bar, ingot or wafer or a collector's bar, ingot or wafer
- Granules for industrial use
- Non-Qualified collectable coins and jewellery

A Metal Producer is defined for VAT purposes as:

"Any person who carries on the mining and extraction of a Qualifying Metal."⁽⁴⁾

Producers in the Kingdom must be licensed under the respective regulation of the Ministry of Commerce and Investment.

(1) Article 36(3)(a), Supplies of investment metals, Implementing Regulations

(2) The Implementing Regulations of the Precious Metals and Gemstones Regulations enacted by ministerial resolution no. 1000 dated 8/4/1406H and its amendments

(3) Article 36(3)(b), Supplies of investment metals, Implementing Regulations

(4) Article 36(3)(c), Supplies of investment metals, Implementing Regulations

A **Metal Refiner** is defined for VAT purposes as:

“Any person who carries on the refining by any process of a commodity into a Qualifying Metal.”⁽⁵⁾

Refiners in the Kingdom must be licensed under the respective regulation of the Ministry of Commerce and Investment.

Economic Activity defines the activities which fall within the scope of VAT. This includes business activities but also any other ongoing activities which may be carried on by natural persons. The term is defined by the Unified VAT Agreement⁽⁶⁾ for VAT purposes as:

“An activity that is conducted in an ongoing and regular manner including commercial, industrial, agricultural or professional activities or Services or any use of material or immaterial property and any other similar activity.”

(5) Article 36(3)(d), Supplies of investment metals, Implementing Regulations

(6) Article 1, Definitions, Unified VAT Agreement

3. ECONOMIC ACTIVITY AND REGISTRATION

3.1. ECONOMIC ACTIVITY

An economic activity may be carried out equally by natural persons or legal persons.

It will be presumed that a legal person that has a regular activity making supplies carries on an Economic Activity. It should be stated that natural persons may perform certain transactions as part of their economic activity, or as part of their private activities. There are therefore specific rules to determine whether or not a natural person falls within the scope of VAT.

Natural persons and legal persons who carry on an economic activity must register for the purposes of VAT if so required, and such persons must collect the VAT applicable to their activities, and pay the tax collected to the Authority.

3.2. MANDATORY REGISTRATION

Registration is mandatory for all persons whose annual turnover exceeds a certain threshold. If the total value of a person's taxable sales during any 12 months exceeds SAR 375,000, the "mandatory VAT registration threshold", that person must register for VAT on the sale and any other taxable supplies made⁽⁷⁾, subject to the transitional rules in the Implementing Regulations.

The total taxable sales does not include⁽⁸⁾:

- Exempt income – such as any exempt financial services or residential rental which qualifies for VAT exemption;
- Supplies taking place outside of the scope of VAT in any GCC state; or
- Revenues on sales of capital assets – a capital asset defined as an asset intended for long-term business use

In certain circumstances, other tests will apply for mandatory registration:

- Persons who are not resident in the Kingdom of Saudi Arabia are required to pay the VAT in respect of supplies made or received by them in the Kingdom of Saudi Arabia and to register for VAT irrespective of the value of the supplies for which they are obliged to collect and pay the VAT⁽⁹⁾;
- During a transitional period (ending 1 January 2019), businesses will only be required to register where annual turnover exceeds SAR 1,000,000, and an application for registration must be submitted no later than 20 December 2018⁽¹⁰⁾

More information on mandatory registration for VAT is contained at vat.gov.sa.

(7) Article 50, Mandatory Registration, Unified VAT Agreement. And Article 3, Mandatory Registration – Supplies Exceed the Mandatory Registration Threshold, Implementing Regulations

(8) Article 52, Calculating the value of Supplies, Unified VAT Agreement

(9) Article 5, Mandatory registration of Non-Residents obligated to pay Tax in the Kingdom, Implementing Regulations

(10) Article 79(7), Transitional Provisions, Implementing Regulations

3.3. OPTIONAL REGISTRATION

Any Resident person who has taxable sales or taxable expenses exceeding the “voluntary VAT registration threshold” of SAR 187,500 in a twelve-month period may register for VAT on an optional basis.⁽¹¹⁾

Optional VAT registration may be desirable where a business wishes to claim VAT charged to it on their costs before invoices are raised or the occurrence of an onward supply.

More information on voluntary registration for VAT is contained at vat.gov.sa.

(11) Article 7, Voluntary Registration, Implementing Regulations. And Article 51, Voluntary Registration, Implementing Regulations

4. INVESTMENT METALS: ZERO-RATED SUPPLIES

Supplies of investment metals are supplies of goods where the supply involves the transfer of ownership or the right to dispose of a specific and identifiable wafer, bar, ingot and other parcel of investment metal.⁽¹²⁾

Many transactions in investment metals may not involve such a transfer of ownership. Investment metals may also be leased, or sold on a “general” (unallocated) basis. When metals are sold on that basis, the purchaser has the right to ownership of a certain quantity of metals for which the supplier holds in a pool, but the purchaser does not obtain ownership of any particular wafer, bar, ingot or other parcel of identifiable metal, until the sale is converted to allocated metal. A sale of unallocated metal does not give the ownership to any specific tangible goods. Therefore the sale of investment metals on “general” (unallocated) basis, and leases of metals are supplies of services for VAT purposes.

Example (1): A foreign bullion trader (not residing in KSA) sells 10 fine ounces of gold to a KSA investor resident and registered for VAT purposes on a general basis for USD 12,500. According to such sale the investor is given a certificate proving its investment in the same amount, but is not given ownership to a physical piece of metal unless it pays certain conversion fee to obtain ownership. There is no physical location of tangible goods, therefore this supply is treated as a supply of services for VAT purposes.

For VAT purposes, the KSA investor is required to self-account for VAT on the receipt of services related to general gold “unallocated” under the Reverse Charge Mechanism, although it is likely this will be considered a zero-rated supply for being a supply of investment gold rights.

The VAT treatment of different supplies of Qualifying Metals which may be considered as zero-rated is discussed under the headings in this section.

4.1. SUPPLY OF QUALIFYING METAL FOR INVESTMENT

Any supply of Qualifying metal for investment taking place in the KSA is zero-rated.⁽¹³⁾ The zero-rate applies to the outright sale of Qualifying metal for investment, and also to any other form of

“Grant, assignment or surrender of a right, interest or claim to Qualifying metal... if such right, interest or claim is considered a transfer of the possession or the grant of a right to the possession of the Goods.”⁽¹⁴⁾

In this way, the zero-rate also applies to:

1) The lease of Qualifying metal in an investment form, where the lessee obtains a right to the possession of the goods (whether the transferee actually takes possession or not);

Example (2): A silver refiner in the KSA enters into a lease with a metals trader to borrow a set quantity of investment grade silver according to the contract for six months, and provide the same quantity of identical silver as in the contract back to the trader at the end of the lease. The trader charges SAR 100,000 for the full duration of the lease of silver. This is a zero-rated supply of Qualifying Metal.

2) The transfer of rights to an unallocated portion of Qualifying metal in an investment form, where the transferee is able to obtain a right to possession of the metal (whether the transferee actually takes possession or not);

3) An assignment of possession in Qualifying metal in order for work to be carried out;

(12) Article 5, Supply of Goods, Unified VAT Agreement

(13) Article 36(2). Supply of Investment Gold, Silver and Platinum, Unified VAT Agreement

(14) Article 36(2), Supplies of investment metals, Implementing Regulations

Example (3): An investment metal trader in the KSA, who is registered for VAT purposes, has an excess stock of investment grade gold. The trader assigns the possession of gold to a recipient in the KSA, a jewellery producer, for three months for SAR 50,000. The jewellery producer uses this stock and agrees to provide the same quantity of equivalent quality gold back at the end of the term. The jewellery producer takes possession to the metal but is obliged to provide the same quantity of the same investment grade gold back at the end of the term. In such case, the fee charged for the assignment of possession is the consideration for a zero-rated supply of Qualifying metal.

4) The surrender of one of the above rights for consideration

4.2. IMPORT OF QUALIFYING METAL FOR INVESTMENT METAL

The import of Qualifying metal for investment is exempt from import VAT, on the basis that its supply in the KSA would be zero-rated.⁽¹⁵⁾

Consequently, no import VAT is payable on Qualifying investment metal when released by Saudi Customs. Whilst the import is exempt from VAT, the importer is not viewed to make an exempt supply in the KSA for VAT deduction purposes, i.e. the importer is viewed to make a zero-rated supply, therefore he can deduct the input tax, if any.

Example (4): A KSA jewellery manufacturer imports investment grade platinum from a refiner in South Africa. It declares this as investment grade platinum on the import declaration. Saudi Customs does not impose VAT on the import.

In this example, the importer should not report the value of exempted import on the VAT return submitted to the authority, therefore there should be no effect on the input VAT deduction position of the importer, when calculating the deductible input tax under section 7.3. of this guide.

The importer of Qualifying metal must comply with the provisions of the Ministry of Commerce and Investment for importing precious metals. The importer should ensure that the correct VAT treatment is set out on the import entry and applied to the import of the goods on Customs Declarations.

4.3. FIRST SUPPLY OF QUALIFYING METALS BY PRODUCER OR REFINER

The first supply in the KSA of a newly extracted or newly refined Qualifying metal is zero-rated.⁽¹⁶⁾ This applies to all Qualifying metal (whether it meets the investment form or not).

Supplies by producers or refiners are generally transfers of goods, but in some circumstances the first supply could also be a lease or provision of a right upon which the lessee obtains the ownership of goods.

Subsequent supplies made in the supply chain will not qualify for zero-rating as the first supply of Qualifying metals, but may be zero-rated under other circumstances, if it meets the definition of the Qualifying investment metals, or if it is exported from the KSA (see 4.4 below).

Example (5): Al Ikhlas KSA Mining Co. (a KSA Producer company, which is registered for VAT purposes) mines gold and sells this to Al Salam Co. (a KSA Trading company). Al Salam Co sells the newly produced gold to Eagle KSA Refining Co to convert to investment grade gold bars, with an approved stamp. The producer then sells the bars to Danah KSA Trading Co, who sells to a bank for investment purposes.

(15) Article 38(1), Exemptions on import, Unified VAT Agreement

(16) Article 36(1), Supplies of investment metals, Implementing Regulations. And Article 35(3), Supply of Investment Gold, Silver and Platinum, Unified VAT Agreement

Transaction	VAT Treatment
Mining the raw gold- Al Ikhlas Mining Co.	No supply – no VAT applies
Selling the raw gold from Al Ikhlas Mining Co. to Al Salam KSA Trading Co.	Zero-rated supply First supply of Qualifying metal by producer
Al Salam KSA Trading Co. sells the raw gold to Eagle KSA Refining Co	Standard rated supply Not a first supply and not investment grade
converting the raw metal to investment grade bars- Eagle Co.	No supply – no VAT applies
Eagle Co sells the gold bars to Danah KSA Trading Co	Zero-rated supply First supply of Qualifying metal by refiner AND supply of Qualifying metal for investment
Danah KSA Trading Co sells the gold bars to bank	Zero-rated supply Supply of Qualifying metal for investment

A producer may often not buy and sell precious metals, but provide services associated to Qualifying investment metals. The VAT treatment of services is considered in section 5.

4.4. EXPORTS

Where investment metals are exported from the Kingdom, it will be considered as an export of goods from the GCC, which is a zero-rated supply⁽¹⁷⁾. The supplier must obtain export documentation, commercial documentation and transport documentation to show the goods have left the GCC territory.⁽¹⁸⁾ Taking into consideration the transitional rules set out in the executive regulation of law.

(17) Article 34(1), Supplies to Outside the GCC Territory, Unified VAT Agreement

(18) Article 32(3), Exports of Goods from the Kingdom, Implementing Regulations

5. STANDARD RATED SUPPLIES OF QUALIFYING METALS

Any supplies of investment metals which take place in the KSA, other than the Qualifying metals or supplies of Qualifying metals which are zero-rated under the provisions discussed in section 4, will be subject to VAT at 5%.

5.1. INDUSTRIAL SUPPLIES OF METAL

Qualifying metals (gold, silver, and platinum) are in many cases used for industrial purposes. These are often supplied as granules or in a similar form, without being in an investment form. The supply of metal in the KSA which does not meet the definition of qualifying investment metals is chargeable to VAT at the standard rate of 5%.

Example (6): A KSA trader supplies industrial grade platinum to an oil refinery for use in the refining process. The supplied platinum does not meet the requirements to be considered Qualifying investment metal. Therefore the trader's supply is subject to VAT at 5%.

5.2. JEWELLERY PRODUCTION AND SUPPLY

All jewellery and artifacts are not Qualifying metals supplied for investment, even if they contain Qualifying metals (gold, silver, platinum) as their principal component. The sale of jewellery and artifacts in the KSA will be subject to VAT at 5%.

Example (7): KSA Gold Refining Co., which is registered for VAT purposes sells investment gold bars to KSA Trading Co., then the Trading Co. sells these bars to jewellery manufacturer for use in manufacturing gold jewellery. It then sells the jewellery to retailers for sales to consumers in their stores.

KSA Refining Co sells investment gold bars to KSA Trading Co	Zero-rated supply First supply of Qualifying metal by refiner AND supply of Qualifying metal for investment
KSA Trading Co sells the gold bars to KSA Manufacturing Co	Zero-rated supply Supply of Qualifying metal for investment
KSA Manufacturing Co uses the gold bars, and other materials, to create jewellery	No supply – no VAT applies
KSA Manufacturing Co sells the jewellery to KSA Retailer	VAT at 5% on the sale price
KSA Retailer sells the jewellery in its stores to a KSA consumer	VAT at 5% on the sale price

5.3. SERVICES RELATED TO INVESTMENT METALS

Refiners and other service providers will often provide services in respect of Qualifying metals – such as the refining, leaching, granulating, casting and re-casting of metals.

In these cases, the refiner may be assigned the possession of the metal on a temporary basis whilst the service is performed. The assignment of possession by the owner, without consideration, is not a supply of goods, provided these metals are returned to the owner.

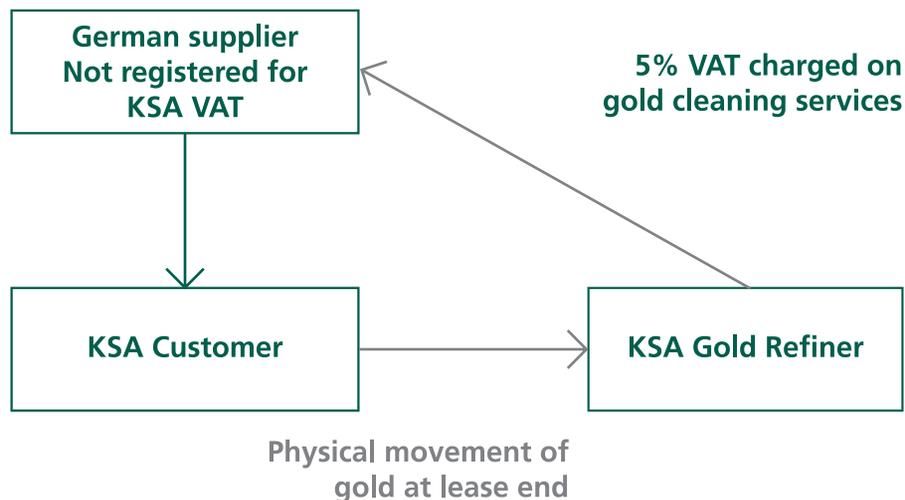
The services provided in respect of the Qualifying metals are not a supply of those investment metals. The services will be subject to VAT at 5%.

Associated services carried out on metals situated in the KSA will generally be subject to VAT at 5%, even if

provided to a non-GCC recipient. This is because the services are related to tangible goods in the KSA when carried out, therefore the zero-rate for services provided to a non-GCC supplier cannot apply⁽¹⁹⁾.

Example (8): A non-resident company “German supplier” of gold granules leases gold to a customer in the KSA for industrial use. At the end of the lease, the German supplier arranges for a KSA refiner to carry out cleaning work on the granules to allow them to be re-used by another customer.

The KSA refiner is providing services in respect of Qualifying metals, which are subject to VAT at 5% in all cases, because the metals are situated in the KSA. The German supplier is charged KSA VAT on the supply of the cleaning services.



(19) Article 33, Services provided to non-GCC residents, Implementing Regulations

6. OTHER SUPPLIES

In some cases, the transfer of investment metals will not result in a supply taking place in the KSA, as indicated in the following section.

6.1. USE OF INVESTMENT METALS IN ISLAMIC FINANCING TRANSACTIONS

In some cases, investment metals are used as a mechanism for Islamic financing products, under which the nominal ownership to metals will pass to the customer on a temporary basis. However, it is not intended that the possession of the metals ever passes to the customer: the metals are used as a mechanism to provide Islamic finance. The nominal ownership to the underlying goods is returned to the financial provider or other third party at the end of the contract.

In these cases, the transfer of ownership of goods (metals), without the intention for possession of those goods to transfer to the customer, is not considered a supply for VAT purposes.⁽²⁰⁾

Further information on these special rules is provided in the Financial Services guideline.

Example (9): A KSA Islamic financial provider, registered in KSA for VAT purposes, arranges for a KSA customer (individual), whereas the financial provider will purchase platinum from a related supplier for SAR 100,000, then sell it to the customer for SAR 120,000 with payment terms over one year. Then the customer, who never obtains possession of platinum, re-sells it to the supplier through the bank (as an agent) for SAR 100,000.

Bank purchases platinum from the supplier for SAR 100,000	No VAT Islamic financial product
Bank purchases platinum from the supplier for SAR 120,000- payment over one year	No VAT SAR 100,000 disregarded as supply of goods in course of financial product SAR 20,000 Tax Exempted
Customer sells platinum to the supplier through the bank for SAR 100,000, then the bank deposits the amount in the account of the customer (amount of loan)	Disregarded (as transfer of goods as part of Exempt supply) Equivalent to traditional financing product (refer Financial Services guideline)
Underlying platinum is returned to Platinum Supplier	No VAT Islamic financial product

6.2. METALS SITUATED OUTSIDE OF THE KSA

Often, investment metals may be held in specially designed warehouses or safes in international locations, with owners keeping the product for safekeeping and ease of onwards sale.

The supply of goods which are situated outside of the KSA are not subject to KSA VAT.⁽²¹⁾

(20) Article 29(4), Financial Services, Implementing Regulations.

(21) Article 2, Scope of Tax, Unified VAT Agreement. And Article 10, Supply of Goods without Transportation, Unified VAT Agreement

As described in chapter 4, the supply of unallocated metals is the supply of a service, and this is subject to VAT upon receipt by a VAT-registered recipient in the KSA (regardless of the location of the metals).⁽²²⁾ VAT is accounted for by the customer through the reverse charge mechanism.

Under the reverse charge mechanism, a corresponding input VAT deduction will be made by the customer in the same VAT return, provided that the metals:

- Have been acquired with the intention to be used to make an onwards taxable supply⁽²³⁾ and can be attributed to that onwards supply, or
- Are an overhead of an otherwise taxable business with right to input VAT deduction in full on non-attributed costs

Section 7 provides further detail on Input VAT deduction.

(22) Article 41, Customer obliged to Pay Tax According to the Reverse Charge Mechanism, Unified VAT Agreement

(23) Including a supply that would be taxable if it were made in the KSA: Article 49(1)(c), Input Tax deduction, Implementing Regulations

7. INPUT VAT DEDUCTION

7.1. GENERAL PROVISIONS

A VAT registered person may deduct Input VAT charged on goods and services it purchases or received in the course of carrying on its Economic Activity. Input VAT may be deducted on:

- VAT charged by a VAT-registered supplier in the KSA;
- VAT self-accounted by the VAT-registered person under the Reverse Charge Mechanism; or
- Import VAT paid to the Customs Department on imports of goods into the Kingdom

As a rule, input VAT which is related to the taxpayer's exempt activities, such as exempt financial supplies, is not deductible as input VAT.

In addition, Input VAT may not be deducted on any costs which are for private purposes, or not incurred as part of the Economic Activity. Some types of "blocked" expenditure (including motor vehicles and entertainment) are specifically excluded from the right to deduct input VAT⁽²⁴⁾. This input VAT is a credit entered on the VAT return which is offset against the VAT charged on supplies (output VAT) made during that period.

Input VAT may only be deducted where the Taxable Person holds a tax invoice, or customs documents showing the amount of tax due, or any other document showing the amount of input tax paid or due, subject to the approval of the Authority.⁽²⁵⁾

7.2. PROVISIONS RELATING TO THE INVESTMENT METALS SECTOR

The right to input VAT deduction arises from activities involving taxable supplies (including zero-rated supplies), intra-GCC supplies, or supplies outside the KSA which would be taxable if made in the KSA. However, input VAT which is related to a taxpayer's VAT exempted or private activities, is not deductible as input VAT. It is not expected that traders in precious metals, producers or refiners will have exempt or private activities. If participants in the investment metals sector have no exempt or private activities, these businesses should have full right to input VAT deduction for costs incurred in the course of their activities.

7.3. PARTIAL DEDUCTION: ATTRIBUTION OF INPUT VAT

VAT incurred which relates to a taxpayer's VAT exempt activities, such as exempt financial services or residential rental, is not deductible as Input VAT. A person making both taxable and exempted supplies, can only deduct the Input VAT related to the taxable supplies. If a taxable person incurs general costs or expenses (overheads) in the making of taxable supplies, and others that are exempt from VAT, he must in that event split the costs and expenses precisely so as to specify those costs that relate to the taxable supplies. The input tax will be determined in accordance with the following rules⁽²⁶⁾:

Input VAT directly attributed to taxpayer's taxable sales	Deduct in full
Input VAT directly attributed to taxpayer's exempt sales	No deduction
Overheads, intra-group transactions and all other input VAT that cannot be directly attributed	Partial deduction based on apportionment

(24) A detailed list of the blocked expenditures is listed under article 50, Goods and services deemed to be received outside of Economic Activity, Implementing Regulations

(25) Article 49(7), Input Tax Deduction, Implementing Regulations

(26) Article 51, Proportional deduction of Input Tax, Implementing Regulations

The overhead costs/expenses incurred by the Taxable Person for making both taxable and exempted supplies must be apportioned to most accurately reflect the use of those costs in the taxable portion of the taxpayer's activities.

A prescribed default method of proportional deduction is calculated on the values of supplies made in the year, using of the following fraction:

$$\frac{\text{The value of Taxable Supplies made by the Taxable Person in the last calendar year}}{\text{The total value of Taxable Supplies and Exempt Supplies made by the Taxable Person during the last calendar year}}$$

The fraction for the default method does not include supplies of Capital Assets made by the taxpayer, as these distort the use of input VAT.

Alternative attribution methods, using other calculation approaches than the value of supplies, may be approved with GAZT in cases where these better reflect the actual use of VAT incurred. Further information about deduction of VAT and proportional VAT recovery will be provided in a separate guideline.

8. VAT REPORTING

8.1. DATE OF SUPPLY

VAT becomes due on the supply of investment metals as goods on the date on which metals are put at the disposal of the customer⁽²⁷⁾. In the case of investment metal kept at a warehouse or other location for security, this will be the date on which ownership transfers and the purchaser is able to access the metal. However, VAT can become due earlier if:

- A tax invoice is issued by the supplier before the transfer date; or
- The recipient pays a deposit or any other amount to the supplier

VAT becomes due on that earlier date of supplying of goods or services, or of issuing the tax invoice, or of receiving all or part of the consideration, to the extent that payment is made⁽²⁸⁾.

Some services are regarded as a continuous supply – such as storage or warehousing fees, or the lease of metals for industrial use. In these cases, VAT becomes due on continuous supplies across the period the goods and services are provided, in line with the invoicing and payment arrangements.

Instalment rental agreements: Where the rental agreement requires payment of periodic instalments with the dates and values of each instalment agreed upfront, each instalment is viewed as a separate supply. VAT becomes due on each supply at **the earlier of the instalment due date or actual payment**.⁽²⁹⁾

All other continuous agreements: if no periodic instalments are specified in the agreement, a separate invoice will generally be issued for each supply of goods provided during a period. Each successive amount invoiced or paid is viewed as a separate supply. VAT becomes due at either **the invoice date or actual payment, whichever comes first**.⁽³⁰⁾

8.2. RESIDENCE OF SUPPLIER

The application of VAT may depend on whether a supplier or customer is resident in the KSA or not. A resident includes a resident company if it is formed under the Saudi Arabian Regulations or if its central management is located in the KSA. If a company or other legal person is incorporated outside of the KSA, but has a branch, place of business or other type of fixed establishment in the KSA, that company is also a Resident.⁽³¹⁾

8.3. CHARGING VAT

Where a supply is made by a resident supplier, that supplier is responsible for registering for VAT (in accordance with the registration rules) and charging VAT at the appropriate rate. The supplier must issue a tax invoice for a supply on which VAT is charged .

If a supply of goods or services is made by a non-resident supplier to a recipient who is resident in the KSA and registered for VAT, the supplier should not charge VAT. The recipient is responsible for reporting VAT (at the appropriate rate) on their VAT return through the reverse charge mechanism. The non-resident supplier would not need to register with GAZT to report these supplies, and is not subject to the requirements for issuing tax invoices. Further information on the reverse charge mechanism is provided in the VAT Manual.

(27) Article 23(2), Date of Tax Due on Supplies of Goods and Services, Unified VAT Agreement

(28) Article 23(1), Date of Tax Due on Supplies of Goods and Services, Unified VAT Agreement

(29) Article 20(1), Date of Supply in Specific Circumstances, Implementing Regulations

(30) Article 23(4), Date of Tax Due on Supplies of Goods and Services, Unified VAT Agreement

(31) Article 1, Definitions, Unified VAT Agreement

8.4. ISSUING INVOICES

A supplier must issue a tax invoice for each taxable supply made to any VAT-registered person or to any other legal person, or issue a simplified invoice in the event that the value of the supply is less than SAR 1,000, or for supplies made to the end consumer, by no later than fifteen days following the end of the month in which the supply is made.

The tax invoice must clearly detail information such as the invoice date, supplier's tax identification number, taxable amount, tax rate applied, and the amount of VAT charged⁽³²⁾. If different rates have been applied to supplies, the value of each supplies at each rate must be separately specified, as well as the VAT applicable to each rate. A tax invoice may be issued in the form of a commercial document, provided that that document contains all of the requirements for the issuing of tax invoices as set out in the Implementing Regulations to the Law.⁽³³⁾

Further information on the requirements for tax invoicing can be found in the VAT manual or at vat.gov.sa.

8.5. FILING VAT RETURNS

Each VAT registered person must file a VAT return with GAZT for each monthly or quarterly tax period. The VAT return is considered the taxable person's self-assessment of tax due for that period.

Monthly VAT periods are mandatory for businesses with an annual turnover exceeding SAR 40 million. For all other VAT registered persons, the standard tax period is three months.⁽³⁴⁾

The VAT return must be filed, and the corresponding payment of net tax due made, no later than the last day of the month following the end of the tax period to which the VAT return relates.

If the VAT return results in VAT due to the taxpayer, or if the taxpayer has a credit balance for any reason a request for a refund of this VAT may be made with the filing of the VAT return, or at any later time during the next five years. GAZT will review these requests and will make payment of on approved refund requests directly to the taxpayer.⁽³⁵⁾

More information on filing of VAT returns is provided in the VAT Manual or at vat.gov.sa.

8.6. KEEPING RECORDS

All taxpayers are required by law to keep appropriate VAT records relating to their calculation of VAT for audit purposes. This includes any documents used to determine the VAT payable on a transaction and in a VAT return. This will generally include:

- Tax invoices issued and received;
- Books and accounting documents;
- Contracts or agreements for large sales and purchases;
- Bank statements and other financial records;
- Import, export and shipment documents; and
- Other records relating to the calculation of VAT

Records may be kept in physical copy or electronically where the conditions specified in Regulations are met to do so, but in all cases records must be made available to GAZT on request.

(32) For more details on the requirements for issuing tax invoices, refer to Article 53, Tax Invoices, Implementing Regulations

(33) Article 53, Tax Invoices, Implementing Regulations

(34) Article 58, Tax Period, Implementing Regulations

(35) Article 69, Refund of overpaid Tax, Implementing Regulations

All records must be kept for at least the standard retention period of 6 years. A longer minimum retention period is required for invoices or records that relate to Capital Assets.⁽³⁶⁾

8.7. YOUR OBLIGATIONS

As a Taxable Person, you have an obligation to assess your own VAT liability, and to comply with your VAT obligations. This includes registering for VAT when required, correctly calculating the amount of net tax you have to pay, paying tax on time, keeping all necessary records, and cooperating with officers of GAZT upon request.

If you are not sure of your obligations, you should contact GAZT or other communication channels through vat.gov.sa.

8.8. REQUESTING A RULING

If, having consulted the relevant law and guidance, you are unsure on how VAT applies to a particular activity or transaction that you carry out or intend to carry out, you may apply to GAZT for a ruling⁽³⁷⁾. Requesting a ruling allows you to present the full facts of a particular activity or transaction to GAZT for consideration.

Rulings may be requested as:

- **Public:** in which case GAZT will publish details of the ruling, without any taxpayer-specific information; or
- **Private:** in which case GAZT will not publish the ruling

The ruling request should include all information on the activity or transaction that you request a ruling for, and a description of the specific area of uncertainty in the law or guidance which you have considered. You may choose to describe the alternatives and what you consider to be the correct treatment.

GAZT is not obliged to respond to all requests for rulings. It will consider and prioritize requests based on factors such as:

- The level of information presented by the taxpayer in the request;
- The benefit to the wider taxpayer community in issuing a public ruling on the transaction or activity; and
- Whether there is existing law or guidance which addresses the request

A public or private ruling issued by GAZT is not binding on GAZT or on any taxpayer in respect of any transaction carried out and it cannot be relied upon in any way.

8.9. CORRECTING PAST ERRORS

If a taxable person becomes aware of an error or an incorrect amount in a filed VAT Return, or of any other non-compliance with the VAT obligation, he should notify GAZT and correct the error by amending VAT the tax return. Errors resulting in a net understatement of VAT (exceeding SAR 5,000) must be made known to GAZT within twenty (20) days of detecting the error or incorrect amount, and the previous return must be amended. In connection with minor errors resulting in a difference of less than SAR 5,000, the error may be corrected by amending the net tax in the subsequent tax return.⁽³⁸⁾

Further information on correcting errors can be found through vat.gov.sa.

⁽³⁶⁾ Article 66, Records, Implementing Regulations. And Article 59, retention period for Tax Invoices, Records, and Accounting Documents, Unified VAT Agreement

⁽³⁷⁾ Article 75, Rulings, Implementing Regulations

⁽³⁸⁾ Article 63 [Correction of Returns], Implementing Regulations

9. TRANSITIONAL RULES APPLYING TO INVESTMENT METALS

VAT applies in principle on all transactions taking place from 1 January 2018, based on the date of supply rules described in section 8.1, and all imports of goods made on or after 1 January 2018.

Transitional rules will apply to ensure VAT applies equally on transactions made close to the transition date. Further information on the transitional provisions is detailed in a separate guideline. Three rules of high relevance to the investment metals sector are set out below.

9.1. ACTUAL DATE OF SUPPLY

Any supplier who issues an invoice or receives consideration before 1 January 2018 where the actual supply of goods or services takes place on or after 1 January 2018 must charge VAT based on the actual date of the supply⁽³⁹⁾.

This overcomes the rules to move the date of supply forward for a tax invoice or pre-payment, and prevents VAT being avoided by early payment or invoicing.

Supplies which actually take place in full before 1 January 2018 are not subject to VAT, regardless of whether an invoice is issued or the consideration is received in 2018.

9.2. RELIEF FOR CONTRACTS NOT ANTICIPATING THE APPLICATION OF VAT ('GRANDFATHERING')

A relief (often referred to as 'grandfathering') allows for supplies made under certain existing long-term contracts to be zero-rated for a transitional period until the earlier of the time the contract expires, is renewed or up to 31 December 2018.⁽⁴⁰⁾

This allows suppliers and customers who had entered into longstanding contractual commitments without VAT, an additional year to review the contracts and agree the correct price. Grandfathering relief only applies to those supplies that would have otherwise been taxable, such as metals used for industrial purposes. It will not be relevant for any supplies of Qualifying metals discussed in section 4, as these are already zero-rated.

9.2.1. Contracts eligible for grandfathering

Many contracts clearly state that the price is inclusive or exclusive of VAT, or have terms and conditions setting out how taxes will affect the price payable. These contracts anticipate the application of VAT to the supplies of goods and services.

Agreements where the contract and its associated terms and conditions do not anticipate the application of VAT to a supply of goods and services may be eligible for application of the grandfathering rules. These are contract which:

- State a price which does not indicate if it is inclusive or exclusive of VAT (or taxes); and
- Have no mechanism to adjust the price for a change to VAT (or taxes) applying to the goods and services provided under the contract;

(39) Article 79(1), Implementing Regulations

(40) Article 79(3), Transitional provisions, Implementing Regulations

In these cases, supplies made in respect of contracts for taxable supplies may be treated as zero rated by the supplier until the earlier of the time the contract expires, is renewed, or 31 December 2018, provided that all of the following conditions are met:

1. The contract was entered into before 30 May 2017,
2. The customer is entitled to deduct Input VAT **in relation to that supply** in full and
3. The customer provides a written certification to the supplier that he is able to deduct/refund the Input VAT in relation to that supply in full⁽⁴¹⁾

9.2.2. Certification

Key points relevant for the certification are:

- The customer should provide a response to a supplier on request, without unreasonable delay.
- Certification should relate to the customer's ability to recover VAT on that particular supply (or those particular supplies), and is not a confirmation that the customer can deduct VAT in full on all supplies received
- A written certification can be made over any means (including electronic communication) from the customer, provided it confirms on behalf of the customer of his right to deduct input VAT in relation to that supply or those supplies

9.3. GCC TRADE: SUPPLIES OF GOODS TO AND FROM GCC STATES

Transitional provisions will apply to the movement of goods to and from KSA from all other GCC States, until an Electronic Service System is fully implemented. These rules will apply regardless of whether other GCC States have a domestic VAT system in place.

The special rules will apply from 1 January 2018 until GAZT releases an Order to certify that the Electronic Service System is in place. Until this time, as a transitional measure⁽⁴²⁾:

- Investment metals and other goods moved from the KSA to another GCC State will be considered as **an export of those goods** from the KSA for KSA VAT purposes. These supplies will qualify for the zero-rating applying for exports to a non-GCC destination, provided the usual criteria for zero-rating of exports applies. A separate guideline provides further details on exports
- Investment metals and other goods moved into the KSA from another GCC State will be considered as an import of those goods into the KSA. Import VAT will be charged in the **same manner as for imports from a non-GCC destination**. This will not affect the status of the goods for customs duty purposes. A separate guideline provides further details on the application of VAT to imports

Example (11): A KSA metals trader (not a producer or refiner) sells silver to an industrial producer of pharmaceutical goods in Kuwait on 20 March 2018, and ships these goods to the customer on the same day. If the Electronic Service System is not yet in place, this will be considered as an export of goods, and zero-rated in the same way as for a non-GCC export.

(41) Article 79(3), Transitional provisions, Implementing Regulations

(42) Article 79(7), Transitional provisions, Implementing Regulations

10. PENALTIES

Penalties or fines may be imposed on taxpayers for violations of VAT requirements set out by the Law or Implementing Regulations.⁽⁴³⁾

Description of offence	Associated fine
Submit false documents with the intent of evading the payment of the VAT due or to reducing its value or unlawfully obtaining refunds for tax	<ul style="list-style-type: none"> • At least the amount of the VAT due • Up to three times the value of the goods or service
Move or attempt to move goods in or out of the Kingdom without paying the VAT due	<ul style="list-style-type: none"> • At least the amount of the VAT due • Up to three times the value of the Goods or service
Failure to register for the VAT in the allotted timeframe	SAR 10,000
Filing incorrect tax return, amend a tax return after submission or filing any VAT document with the Authority resulting in a lower amount due	Equal to 50% of the value of the difference between the calculated Tax and Tax due
Failure to file VAT return in time	5-25% of the VAT in respect of which the return should have been filed
Failure to pay the VAT in time	5% of the VAT due for each month or part thereof
Issuing a VAT invoice without being registered	Up to SAR 100,000
Failure to not maintain books and records as stipulated in the regulations	Up to SAR 50,000
Preventing GAZT employees from performing their duties	Up to SAR 50,000
Violation of any other provision of the VAT regulations or the VAT law	Up to SAR 50,000

In all cases, if a violation is repeated within three years from the date of issuing the final decision of the penalty, the fine for the second offence may be doubled.

The level of the penalty or fine imposed is set by GAZT with regard to the taxpayer's behaviour and compliance record (including taxpayers meeting their requirements to notify GAZT of any errors and provide co-operation to rectify mistakes).

(43) Chapter 16: Articles (41), (42), (43), (44), (45) and (47) of VAT Law – Tax Evasion and Penalties

11. FREQUENTLY ASKED QUESTIONS

(1) My business buys and sells high-quality 22 carat gold jewellery. Can I apply the zero-rate?

No, jewellery and artefacts are not investment metals. Under Saudi Implementing Regulations, 22 carat gold jewellery is only 916.6 portions per mill of pure gold. Therefore, supplies of jewellery are subject to VAT at 5%.

(2) Palladium has many similar attributes to platinum. May this be zero-rated as a Qualifying metal?

No, the zero-rate may only apply to gold, silver or platinum.

(3) How can I tell if metal is investment form Qualifying metal?

Qualifying metal in an investment form must have a stamp on the metal itself guaranteeing its authenticity. The supplier may also provide a certificate of authenticity. For further characteristics, see section 2 of this guideline.

(4) My business buys a stock of precious metals over the NYMEX exchange as an investment. Does VAT apply?

Metals traded on NYMEX are usually held in an approved warehouse facility in the US. KSA VAT will not apply to the purchase of metals outside the KSA.

(5) I enter into a financial swap transaction based on the price of bullion gold. Does this qualify for the zero-rate?

No, this is a financial transaction which does not involve a supply of the underlying gold. Therefore no VAT is charged. Any explicit fee relating to this transaction will be subject to VAT at the standard rate.

(6) Can I import pure precious metals without VAT, if I intend to use these for making jewellery?

Yes, provided the metal is in investment form and zero-rated at the time of import. The import of precious metals is regulated by the Ministry of Commerce and Investment and you must be licensed to do so.

(7) My business is a service provider who receives gold from companies for no charge, to smelt this to remove impurities, then provide an identical quantity of gold back to the same company. I charge the company only for the value of smelting gold and removing impurities.

If you are providing a service in respect of the gold, and not taking full ownership (the right to dispose) to the metal, you will charge VAT on the value of your service only. In this case your customer retains ownership of the gold for VAT purposes.



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