EUROPEAN CHAMBER OF COMMERCE
IN THE KINGDOM OF SAUDI ARABIA

TAX WEBINAR

Summary Report

VAT in EU-Saudi Arabia Cross-Border Trade: a Practical Perspective

December 11, 2024
Riyadh, Saudi Arabia

Speakers

هيئة الزكاة والضريبة والجمارك
Zakat, Tax and Customs Authority

European Commission

NAX Law

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Executive Summary and Outcomes

The session "VAT in EU-Saudi Arabia Cross-Border Trade: a Practical Perspective" provided valuable insights into VAT compliance for businesses operating between the EU and Saudi Arabia. Mr. Nawaf Al Shehri detailed the ZATCA's VAT refund process for non-resident companies in Saudi Arabia, focusing on eligibility requirements, and procedural challenges. Ms. Maria Teresa Sutich provided an overview of the EU VAT framework, with emphasis on recent developments. Mr. Xavier Seguí discussed key VAT challenges faced by European companies in Saudi Arabia, proposing practical solutions to mitigate risks.

Key Highlights

1. **Saudi VAT Refund Process**
    - Refund requests must be submitted through ZATCA portal within five years of the relevant tax year.
    - Non-resident companies must meet specific requirements and comprehensive documentation.
    - Common errors include incomplete submissions, incorrect banking details, and late filing.
2. **EU VAT Framework for Cross-Border Trade**
    - VAT on imports and exports of goods and services, rules for services taxation, and mechanisms for VAT recovery.
    - Simplified processes like the One-Stop Shop (OSS) for small consignments.
    - Revised taxation rules (effective January 2025) aim to reduce administrative burdens.
3. **Challenges for European Companies in Saudi Arabia and Practical Recommendations**
    - VAT complexities include non-resident registration delays, fixed establishment obligations, restricted applicability of zero VAT rates, and reciprocity barriers.
    - Effective strategies include engaging local representatives, and restructuring contracts to align with VAT requirements.

Kristijonas Gedvilas
Chief Executive Officer
European Chamber of Commerce in the Kingdom of Saudi Arabia (ECCKSA)

Welcome Remarks

Mr. Kristijonas Gedvilas, CEO of the European Chamber of Commerce in the Kingdom of Saudi Arabia (ECCKSA), opened the webinar by welcoming speakers and attendees, and providing an overview of the chamber's initiatives and achievements. He began by introducing ECCKSA as the first European Chamber of Commerce established in the Kingdom of Saudi Arabia, emphasising its **role in connecting European businesses with the Saudi market**.

He highlighted several **significant milestones accomplished by the ECCKSA in its initial six months of operation**. These include the successful development of a **robust business network,** the organisation of **industry-specific roundtables,** the creation of **sectoral committees** and the establishment of **collaborative relationships with key government authorities**. He also underscored the chamber's mission, which is **to unify the voice of European businesses and provide the Saudi government with relevant policy feedback** to create a mutually beneficial business environment.

Mr. Gedvilas emphasised **ECCKSA's efforts to equip companies with the necessary knowledge and tools to succeed in the Saudi market, such as VAT regulations and cross-border trade.** He elaborated on the critical role of VAT regulations in international business operations, addressing key aspects such as compliance, risk management, financial planning, and operational strategy.

To conclude, Mr. Gedvilas expressed confidence in the **value of the webinar as a platform to foster stronger business relations and deepen the understanding of regulatory frameworks** that impact European companies operating in the region.

Nawaf Al-Shehri
LTP VAT Audit Unit head
Zakat, Tax and Customs Authority (ZATCA)

هيئة الزكاة والضريبة والجمارك
Zakat,Tax and Customs Authority

VAT Registration Requirements for Non-Resident Companies & VAT Refunds to Non-Resident Companies

Mr. Nawaf Al Shehri provided a detailed overview of the VAT refund process for non-resident companies in Saudi Arabia. His presentation covered key definitions, procedures, common errors, and the support offered by ZATCA.

Key Highlights:

Refund requests for overpaid VAT must be submitted through **ZATCA Portal** within five years from the end of the calendar year, in line with Article 69 of the Saudi VAT Implementing Regulation.

VAT Refund for Non-Resident Companies:

A non-resident company is defined as a business operating outside the GCC that engages in economic activity to generate income and is registered for VAT (or a similar tax) with a competent tax authority in its home country.

Non-resident companies must meet specific requirements to claim VAT refunds:

- Be classified as "eligible persons" or "non-resident subject persons."
- Provide: 1) A commercial registration or certificate of incorporation in their country of residence, 2) Proof of VAT registration in their home country, 3) Evidence of reciprocity, demonstrating that the applicant's home country allows VAT refunds for Saudis, 4) Confirmation of the right to deduct full input tax (or a proportional deduction rate) as per their tax returns, 5) A clear explanation of business activities conducted in Saudi Arabia.

Refund Procedure for Non-Resident Companies:

Non-resident companies can submit VAT refund requests through the ZATCA online portal. The process involves accessing the VAT returns section, completing the tax return form, providing bank account details (IBAN), uploading the required supporting documents, and reviewing the summary before obtaining a reference number to track the application. Additionally, non-resident companies must ensure they have either a local representative or a valid bank account to receive the refund and handle any objections if the claim is denied.

Common Errors:

Mr. Al Shehri highlighted frequent errors, such as filing returns through non-specialised offices, providing insufficient documentation or incorrect bank account details, or claiming import VAT for supplies beyond six months before registration or for duplicate purchases.

Support and Assistance:

Mr. Al Shehri encouraged participants to contact ZATCA through various channels for assistance with VAT refunds. Support is available via ZATCA’s hotline, website, branch visits and account managers.

Maria Teresa SUTICH
International Relation Officer Directorate-General for Taxation and Customs Union
EU Commission - DG Taxud

EU VAT Rules in Cross-Border Trade

Ms. Maria Teresa SUTICH, representing the European Commission's Directorate-General for Taxation and Customs Union (DG Taxud), delivered a detailed presentation on the EU VAT rules governing cross-border trade. Her presentation focused on the import and export of goods, the treatment of services, and the latest developments in EU VAT policy.

Key Highlights:

Importation of Goods: entry of goods into the EU from third territories (Article 30 of the VAT Directive).

- **Point of Entry:** Goods are imported either in the Member State where they first enter the EU or where they are released for free circulation after a customs suspension procedure (Articles 60-61).
- **Taxable Amount:** The VAT taxable amount includes the customs value, import duties, other taxes, and costs such as packaging, transport, and insurance to the final destination (Articles 85-86).
- **Exemptions:** Certain services related to the importation of goods are VAT exempt, provided they are included in the taxable amount and allow for VAT deduction (Article 144).

Importation Scenarios

- **Final Importation:** Goods entering the EU for consumption.
- **Special Procedures:**
  - Temporary importation (e.g., goods for exhibitions).
  - Exempt goods (e.g., natural gas transported via specific systems).
- **VAT Payment Responsibility:** Import VAT is payable by the importer (if established in the EU) or by a tax representative (Article 201).
- **Right to Deduct VAT:** Businesses can deduct import VAT if the goods are used for taxable supplies (Article 168e).

Simplified Processes like the Import One-Stop Shop (IOSS)

- **Purpose:** The IOSS simplifies VAT compliance for small consignments (<€150) and B2C distance sales of imported goods.
- **Benefits:** It reduces administrative burdens by allowing VAT registration and payment in one Member State.

VAT Treatment for Services

- **Rules for Taxation:**
  - B2C services are typically taxed in the country where the supplier operates.
  - B2B services are taxed in the country where the customer is located.
- Revised taxation rules aim to reduce administrative burdens. Upcoming Changes: VAT on virtual services will be taxed based on the customer's location for B2B transactions and the consumer's location for B2C transactions.

Recovering VAT

- Businesses can reclaim VAT paid on goods and services used for taxable activities.
- Reciprocity agreements simplify VAT refunds and support efficient cross-border trade.

Xavier Seguí
Partner
NAX Law

Nashmi Al Otaibi
Partner
NAX Law

Practical Insights: Key VAT Considerations for European Businesses Operating in Saudi Arabia

Xavier Seguí addressed key VAT-related challenges faced by European businesses operating in Saudi Arabia, alongside potential solutions to mitigate these issues.

Key Risks & Challenges:

1- VAT Charged by Local Suppliers to Non-Resident Companies: Differences in interpretation often arise in respect of the VAT zero rate rules on exports of services from Saudi Arabia to European countries. Typical examples include **services related to real estate or tangible goods located in Saudi Arabia**, the existence of a fixed establishment for VAT purposes in Saudi Arabia, or services consumed in Saudi Arabia where the customer or recipient does not have the right to VAT recovery. While **VAT refund mechanisms are generally available** for non-resident businesses under certain conditions, in certain cases there may be **limitations or procedural challenges,** such as documentation available, representation issues or mandatory deadlines to be honoured.

2- Fixed Establishments and VAT Obligations: Sometimes **EU businesses inadvertently create a fixed establishment for VAT purposes in Saudi Arabia**, such as engineering or construction projects in Saudi Arabia (KSA), **which results in VAT obligations.** EU businesses may also have VAT obligations in Saudi Arabia if they sell certain goods or services subject to VAT and nobody else is required to account for VAT (e.g. electronic services sold to consumers that are used and enjoyed in Saudi Arabia).

3- Payment Delays when Accounting for VAT as a Non-Resident: Non-resident companies registered for VAT in Saudi Arabia may face delays due to the **time that international bank transfers take**, and the time required for ZATCA to **acknowledge receipt** of such payments. This may create practical problems since the deadline to account and pay the VAT is the **end of the month after the end of the relevant VAT period**.

4- Challenges with VAT Refunds for Non-Residents: Non-resident companies often encounter obstacles when applying for VAT refunds in Saudi Arabia, such as:
1) A **local representative** (e.g., a law firm) may be required for discussions with ZATCA;
2) **Comprehensive paperwork is necessary**, including copies of agreements, invoices, payments, tax registrations, and proof of reciprocity (e.g. Spain does not refund VAT to Saudi companies, unlike France).

5- Strict Deadlines for VAT Refund Applications: Non-resident companies must submit **VAT refund applications within six months following the end of the year in which the VAT was incurred.** Delays can occur due to the multi-step registration and application processes. Early preparation is essential to ensure compliance.

6- Reciprocity Issues Between EU Member States: Not all EU Member States grant refunds of VAT to Saudi companies. In cases where a Saudi company has multiple offices across Europe, it is worth considering to change the business model and run business operations in a EU country with reciprocal VAT arrangements with Saudi Arabia. A comprehensive analysis, including not only VAT but several other aspects, is recommended.

7- Challenges in Receiving VAT Refunds: VAT refunds in Saudi Arabia are paid in **riyals** (SAR) and to a **local bank account**, which can be challenging to open without a Commercial Registration in Saudi Arabia. Workarounds include: 1) Using a **Saudi subsidiary** to receive and transfer the refund, and 2) **Engaging suppliers or professional representatives** to facilitate the payments.

8- Limited Knowledge of Reverse Charge Mechanism: Saudi companies often face **difficulties in managing VAT under the reverse charge mechanism when receiving services from European companies**. This creates compliance shortcomings. The fact that in Saudi Arabia the **reverse-charge mechanism is only shown in the input VAT section of the VAT return form**, as opposed to other countries where there are reverse charge mechanism sections in both the output VAT and input VAT sections, may create confusion for some businesses.

Xavier Seguí
Partner
NAX Law

Nashmi Al Otaibi
Partner
NAX Law

<u>From a practical standpoint, NAX Law discussed the following concrete solutions:</u>

1. Invest resources in **understanding better the VAT implications** in cross-border trade.
2. Keep an **active collaboration** with local vendors, customers and shareholders to address VAT concerns and explore solutions.
3. In case of uncertainty, it is possible to seek a **tax ruling from ZATCA** on VAT matters.
4. Sometimes a **minor adjustment to the agreements** (e.g. changing Incoterms) may be sufficient.
5. Other times, a **change of the business model is advised.** Example: from a consignment model to a true sale model, or vice versa; from a disclosed agency model to an undisclosed agency model, or vice versa.
6. It is also recommended to **analyse changing the business operations** (either the supplier or customer entity) **to other countries with favourable VAT reciprocity** treatment, to enhance VAT refunds as a non-resident.
7. In most cases is also **worth exploring to localise a business model in a local subsidiary or branch,** so that such local entity incurs the local VAT. In most cases, but not always, local VAT should be recoverable by such local entity.
8. Lastly, before implementing any changes, businesses should also **consider other implications, such as direct taxes** (e.g. income tax, consequences of double tax treaties, etc.), as well as **contractual, regulatory or legal limitations** that may affect the business or proposed changes.

Q&A Session

The ECCKSA Webinar concluded with a Q&A session, where the speakers addressed questions from attendees regarding VAT regulations and their practical implications for businesses. Below are some questions and responses:

VAT Implications for Consignment Sales

- **Question:** An attendee asked about the VAT implications of the consignment model, where goods are sent to a third party for sale on behalf of the supplier, and the true sales model, where goods are sold directly.
- **Response:** The speakers explained that VAT liability for consignment sales depends on the specific contractual arrangements and the flow of goods. They emphasised the importance of understanding VAT rules in both the EU and Saudi Arabia and recommended seeking professional advice to ensure compliance. Additionally, they highlighted the need to carefully analyse contractual terms and the ownership of goods to determine the correct VAT treatment. From a VAT perspective, the situation is complex, as some disputes remain unresolved, and there is no definitive answer as to which model is more advantageous.

Difference Between VAT Zero-Rated and Exempt supplies

- **Question:** An attendee asked for clarification on the distinction between VAT zero-rated and exempt supplies, specifically in the context of services.
- **Response:** The speakers clarified that under Saudi VAT law, services exported to Europe are not categorised as exempt; they are either zero-rated or subject to standard VAT rates. It is necessary to refer to Article 33 of Saudi VAT law, which outlines the rules for services exported. They also highlighted differences between Saudi and European VAT laws regarding deductions and exemptions. In European law, the term "place of supply is not in Europe" is often used instead of "zero-rated," but the concept is effectively the same. This terminology indicates that businesses supplying such services retain the right to recover input VAT. The distinction is largely a matter of phrasing rather than substance.

VAT for Financial Consultancy Services abroad

- **Question:** A question was raised regarding whether a Saudi-based company providing financial consultancy services to a client in the UK would qualify for the zero-rate VAT.
- **Response:** It was explained that, in general, the export of a service is zero-rated if the supplier is based in Saudi Arabia and the client is not registered for VAT in Saudi Arabia.

Conclusion: *The speakers provided further clarification on these topics, reiterating the importance of staying informed about the latest VAT regulations, maintaining proper documentation, and seeking expert advice to mitigate risks and ensure successful cross-border business activities.*

PHOTOS


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ONLINE WEBINAR
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a Practical Perspective
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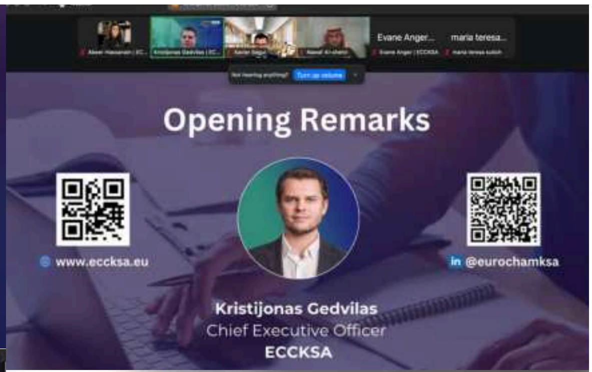
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Kristijonas Gedvilas
Chief Executive Officer
ECCKSA


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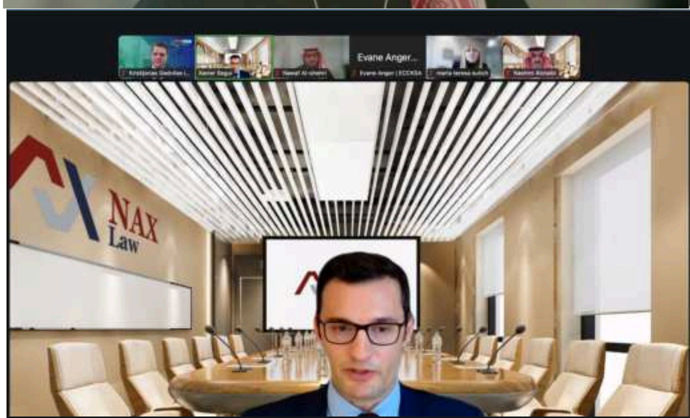
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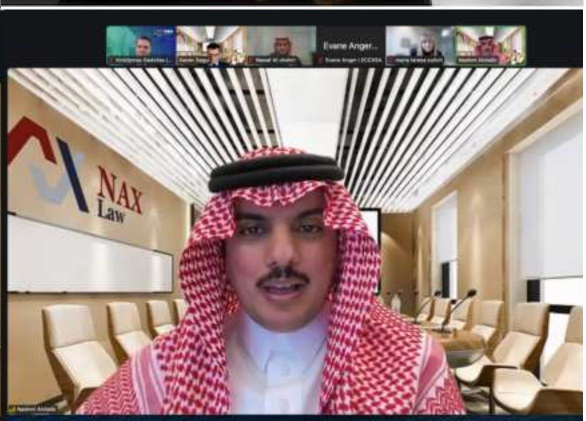
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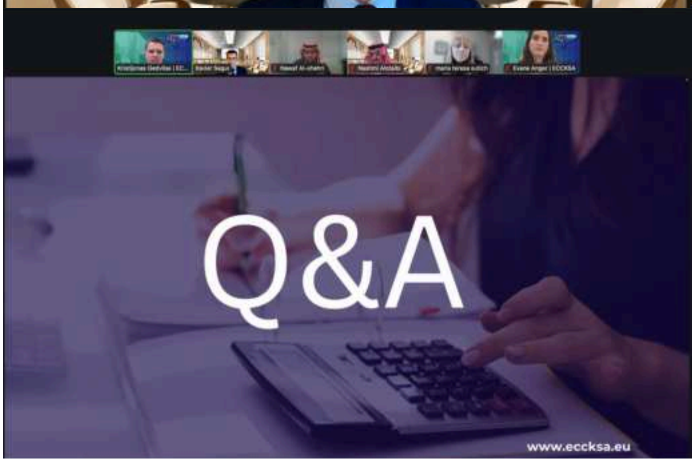
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ABOUT US

The European Chamber of Commerce in the Kingdom of Saudi Arabia (ECCKSA) is the pivotal bilateral chamber advocating for European business interests in Saudi Arabia. With strong government ties, ECCKSA provides a dynamic business network and facilitates key meetings and seminars with top-tier speakers from Saudi Arabia, the GCC, and Europe. It collaborates with leading Saudi and European trade associations and the EU Delegation in Saudi Arabia. ECCKSA offers essential services to support European business in Saudi Arabia, including connecting with potential clients, suppliers, and partners, and offering market intelligence and research.

As the preferred Chamber of Choice for European Business representation, ECCKSA is committed to representing and advancing the European business community in the Kingdom of Saudi Arabia.

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