

VAT Taxpayer Guide

(Related Persons)

Version 1: June 2023

Disclaimer:

This information is intended to provide a general understanding of the relevant treatment under the Sultanate of Oman's Value Added Tax Law and aims to provide a better general understanding of taxpayers' tax obligations. It is not intended to comprehensively address all possible tax issues that may arise. While the Sultanate of Oman's Tax Authority ("TA") has taken the initiative to ensure that all information contained in this guide is correct, the TA will not be responsible for any mistakes and inaccuracies that may be contained, or any financial loss or other incurred by individuals using the information from this guide. All information is current at the time of preparation and is subject to change when necessary.

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Contents:

1. Introduction.....	3
1.1 About this guide.....	3
1.2 Who should use this guide?	3
1.3 Definitions.....	4-5
2. Registering for VAT.....	6
2.1 VAT Group Registration	6-9
2.2 Mandatory VAT Registration for Related Persons	10-11
3. Related Persons	12-15
4. Application of VAT on Related Persons	16
4.1 Valuation of Supply of Goods and Services.....	16-18
4.2 Accounting for VAT.....	18
4.3 Special Cases - Intercompany Charges.....	19
4.3.1. Management Services	19-20
4.3.2. Other Services within the group	20
4.3.3. Date of Supply	20-21
4.3.4. Transfer Pricing Adjustments	21-22
5. Reporting VAT.....	23
5.1 Issuing Invoices	23
5.2 Filing VAT returns	24
5.3 Keeping records	24-26
5.4 Correcting past errors	26
6. Penalties.....	27
7. Further inquiries	28

7.1.Contact Information	28
7.2.Forms and Publications	28
7.3. VAT News	28

1. Introduction

1.1. About this guide.

The purpose of this guide is to provide guidance regarding the application of VAT on Related Persons in Oman, including clarifications regarding the VAT treatment of the supply of goods and/or services to, from and between Related Persons and the VAT obligations which may arise.

This is strictly a guideline and may not include some relevant legislative provisions from the VAT legislation. This guide is not binding on the TA, or on any taxpayer in respect of any transaction carried out, and it cannot be relied upon in case of dispute.

For further guidance on specific transactions, you may apply for a ruling, or visit the TA's website at www.taxoman.gov.om

1.2. Who should use this guide?

You should read this guide if you provide goods or services to related persons or received goods or services from related persons.

1.3. Definitions

The following defined terms are dealt with in this guide:

- **VAT Law:** The Value Added Tax Law of the Sultanate of Oman issued by Royal Decree No. 121/2020.
- **Executive Regulations:** Regulations to the Value Added Tax Law issued by Tax Authority Decision No. 53/2021, and as amended by Decision No. 456 of 2022.
- **Authority:** The Tax Authority.
- **Related Persons:** Two or more persons, where one has the authority to direct and oversee the others, where he has the managerial authority that enables him to influence the work of the other persons financially, economically and organizationally, and that includes persons that are subject to the authority of a third person that enables him to influence the work of the other persons financially, economically and organizationally. (Refer to section 3 of this guide for further explanation).
- **Taxable Value:** The value used as a base to compute VAT in accordance with the provisions of the VAT Law.
- **Supply:** A supply of Goods or Services for Consideration in accordance with the VAT Law.
- **Supplier:** The person who supplies Goods or Services.
- **Customer:** The person who receives Goods or Services.
- **Person:** Any natural or juristic person, including joint ventures, and partnership agreements signed outside the Sultanate of Oman which do not acquire the form of a company.

- **Taxable Person:** The person who conducts the activity independently for the purpose of generating income and is registered with the Tax Authority or is required to register with it pursuant to the provisions of the VAT Law.
- **Taxable Supplies:** The supplies on which Tax is charged at the standard or zero rate, and the Input Tax related thereto is deductible according to the provision of the VAT Law.
- **Reverse Calculation (Charge) Mechanism:** The mechanism under which the taxable Customer is liable to tax on behalf of the Supplier. (The customer acts as if he were the supplier and recipient of the taxable goods and calculates the tax due).
- **Place of Supply:** The Place of a Supply of a Good or Service determines whether any VAT should be accounted for on the supply in the Sultanate of Oman.
- **Economic Activity:** An activity that is conducted in a continuous and regular manner, particularly commercial, industrial, professional, artisanal, or service activity.
- **Consideration:** Everything collected or to be collected by the Taxable Supplier from the Customer or a third party for the Supply of Goods or Services inclusive of the Tax.

2. Registering for VAT

VAT is a self-assessed tax; therefore, persons are required to continually assess the need to be registered for VAT. Generally, VAT registration falls into two categories: Mandatory registration and Voluntary registration.

If a taxable person's turnover exceeds the annual mandatory registration threshold, the Person is obligated to register; if it exceeds only the voluntary registration threshold, the Person has the option to register.

The following are taken into account for registration:

- Taxable supplies (i.e., standard and zero-rated supplies) less the value of any supplies that are part of the business' capital assets;
- Intra-GCC supplies of Goods and Services; and
- Value of goods and services supplied to the taxable person in the Sultanat of Oman where the Reverse Charge Mechanism is applicable.

Related Persons may carry on activities which are financially, economically or organizationally linked. However, each individual Person has separate legal personality, and must each assess requirements to register for VAT separately (unless VAT group registration is granted, or the TA directs registration or otherwise on another basis).

2.1. VAT Group Registration

A VAT group is administrative simplification which allows related persons to be treated as a single Taxable Person for VAT purposes.

Two or more legal persons are eligible to register as a VAT group if they meet all the following conditions:

1. Each person has a place of residence in the Oman.
2. All members are legal persons.

3. Each person must be registered for VAT under the Law.
4. One person, whether a member of the group or not, has control over all members of the tax group. Control, for the purpose of a tax group, means where a person has the right directly or indirectly to control the activity and commercial affairs of the other Person, or owns more than fifty (50) percent of the voting rights or more than fifty (50) percent of the capital of the legal person.
5. None of the persons is a member of another VAT group.
6. None of the persons is a person registered with and accredited by the body authorized to operate a Special Zone as defined by Article (102) of the Regulations.

For the purposes of VAT Legislation only, a VAT group is treated **as a single person** and one member of the VAT group will become the Representative Member for the VAT group.

Capital refers to the share capital issued in a company incorporated by shares, or equivalent capital in another legal person.

Ownership or control of the voting rights refers to the ability of the owning person to exercise control over the group members' activity through voting. The percentage of capital owned can differ if the share or other capital has different rights attached.

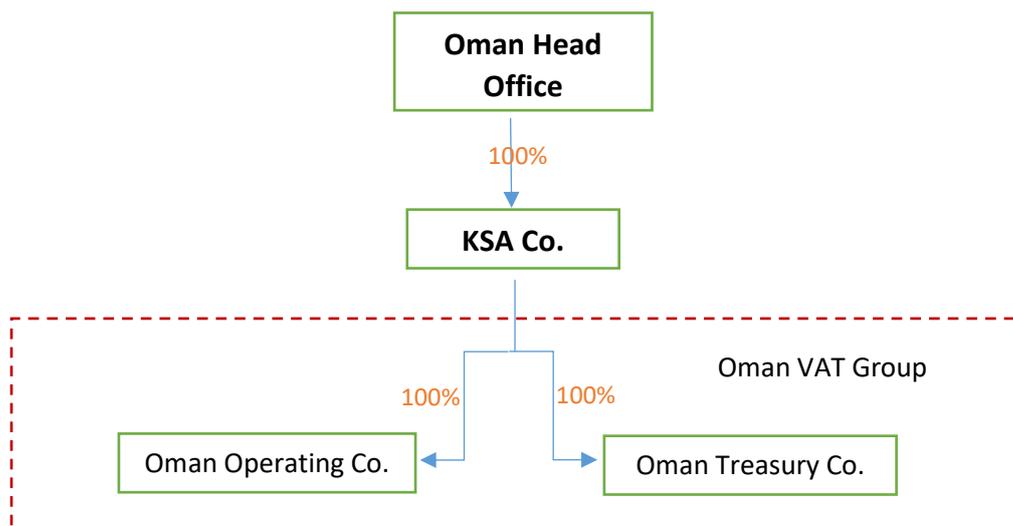
“Ownership” or “control” refers to having effective control over a company, business or set of taxpayers. Section 3 of this guideline includes more details with respect to the definition of Related Persons.

The requirement to hold 50% or more shares means that where there are two shareholders with 50% ownership rights in a taxpayer entity, that taxpayer could join a VAT group with one of its shareholders (but may not join two VAT groups). It is not necessary that the person or persons holding ownership or control in the group members is part of the group, or even eligible to join the group. The ultimate owner might, for example, be an

individual investor or a non-resident owner – but VAT group status would still be possible, provided the potential VAT group members are themselves eligible to join.

Ownership may be held directly (with the owner himself holding the shares) or indirectly (with an ultimate owner holding effective ownership through an intermediary company). It is not necessary for all eligible entities to join a VAT group. Grouping is an optional election.

Example:



Oman Head Office Co holds 100% ownership in KSA Co. KSA Co. holds 100% ownership in (A) Oman Operating Co and (B) Oman Treasury Co.

Provided that each carries on an economic activity in Oman. Therefore the Omani Head Office Co, (A) Oman Operating Co and (B) Oman Treasury Co are eligible to form a VAT group.

KSA Co. cannot join the group as a nonresident in Oman – but its intermediary ownership does not preclude the other entities from forming a VAT group in Oman.

The consequences of registering as a VAT group are as follows:

- The VAT Group is treated as a Taxable Person which is independent from the members of the VAT Group.
- The Representative Member shall be responsible for all the Tax obligations of the VAT group pursuant to the Law and Regulations, without prejudice to the joint liability of other VAT group members.
- Any activity carried on, or any supply made (whether taxable or not), or any import of goods or services made by a member of the VAT Group shall be deemed to be made by the Representative Member (in its capacity as the representative of the Group).
- Any supply of goods or services made to a member of the VAT group shall be deemed to be made to the Representative Member (in its capacity as the representative of the Group).
- Any Output Tax charged, or any Input Tax incurred, by a member of the VAT group shall be deemed to be charged or incurred by the VAT group.
- All members of the VAT group are jointly and severally liable for any Tax, Additional Tax, administrative penalties, punishments, or other liabilities imposed by the Law and the Regulations due from the VAT Group.
- For the purposes of the VAT Law and Regulations, any transaction of goods and services between members of the same VAT group that would otherwise be treated as a supply, shall not be considered a supply and no VAT will be charged.

2.2. Mandatory VAT Registration for Related Persons

The Authority has the power to register any Related Persons who have similar or correlated activities if the total of their annual supplies exceeded the Mandatory Registration Threshold. This power addresses cases of abuse where Related Persons fragment a single business to maintain turnover below the threshold, and stay unregistered for VAT.

For the purpose of registering related persons engaged in similar or related activities, the following conditions shall be met for the TA to exercise its powers:

- 1) The Persons are related in accordance with Article (39) of the Regulations.
- 2) The nature of the activities they are engaged in are similar or related, so that the activity of each person is necessary or complementary to the activity of the related persons.
- 3) The total annual supplies of the related persons exceed the mandatory registration threshold.

The persons will each be registered separately, as if the combined turnover was their individual turnover. The Related Persons are not registered as a VAT group. The Date of Registration for related persons is the first day of the month following the month in which the conditions for Mandatory Registration are met.

Example: *An Omani businessman carries on a small consultancy business, with turnover of OMR 30,000. He becomes aware of an opportunity for a new annual consultancy contract worth OMR 20,000 per year, services which his business would be well-placed to provide. He instead arranges*

with his brother to enter the contract and provide the services, meaning that neither brother is required to register for VAT.

As the combined annual turnover of the brothers is OMR 50,000 and exceeds the Mandatory Registration threshold, the TA registers both brothers separately from the date the new contract is entered.

3. Related Persons

Related Persons can include both natural persons and legal persons.

The Omani VAT law has defined the Related Persons as:

“Two or more persons, where one has the authority to direct and oversee the others, where he has the managerial authority that enables him to influence the work of the other persons financially, economically and organizationally, and that includes persons that are subject to the authority of a third person that enables him to influence the work of the other persons financially, economically and organizationally.”

The Executive Regulations state cases in which persons will be considered as Related Persons for VAT purposes:

1. Natural Persons, if they have a marital relationship, or if one is third degree relative of the other, or if they have an in-law relationship.

Note: This includes but not limited to husband and wife, parents and children, step-parents and step-children, grandparents and grandchildren, direct siblings, step-siblings, uncles, aunts, nephews, nieces, and cousins. It also includes the spouse of any of the third-degree relatives.

2. Partners in persons' companies.

Note: Partners are natural or juristic persons who are forming a commercial company partnership (general or limited) under the applicable commercial companies law in Oman, and which aims to practice business under a certain trade name.

3. Owners of the activity, employees and partners.

4. A natural Person and a legal Person, if the natural Person is a manager, partner or a Person who has the power to direct the strategic decisions of the legal Person, or owns more than 50% of either the capital or voting rights whether directly or indirectly.

Note: Two or more natural Persons are considered to be related to the legal Person if they own more than 50% of the legal Person's capital or more than 50% of the voting rights whether directly or indirectly.

5. Legal Persons, if one owns more than 50% of either the capital, voting rights or 50% of the value of the other legal Person, directly or indirectly.

6. The trustee in bankruptcy, endowment agent and any beneficiaries.

The basis of control via ownership principle is that control is considered to accompany ownership. If the ownership in a juridical Person is 50% or more, control is deemed to exist.

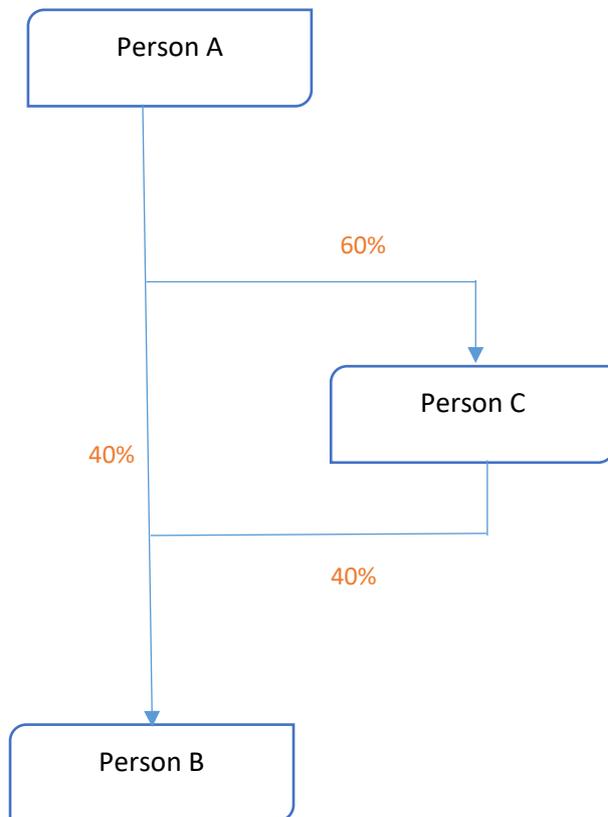
Examples:

1. A non-resident or resident Person that owns directly or indirectly 50% or more in another Person (subsidiary).

2. A non-resident or resident Person (subsidiary), 50% or more of which is owned directly or indirectly by another Person.

3. Two non-resident or resident Persons (sister companies) 50% of each are owned by the same Person (parent) directly or indirectly.

Ownership diagram example:



In principle, there is no direct control over Person B by Person A since the direct ownership in Person B by Person A does not meet or exceed the 50% ownership threshold. However, via the ownership in Person C (related person), the 50% or more threshold is indirectly met. Person A owns (in total 64% in Person B; directly 40% and indirectly 24% ($60\% \times 40\% = 24\%$)). Therefore, Person A, C and B are considered to be Related Persons.

It should be mentioned that the ownership threshold of 50% or more could also be met indirectly via Related Persons.

Note that besides the actual ownership, control via ownership includes also the right to use and dispose of as an owner, or the ability to own with reasonable certainty the (voting rights) to the income or capital of a Person.

The intention is to capture all forms of control via ownership. For example, the situation where the voting rights are not in line with the ownership interest. In such a case the voting rights should also be considered in determining the ownership percentage.

4. Application of VAT on Related Persons

4.1. Valuation of Supply of Goods and Services

If a transaction takes place between related persons, and the value of supply based on the consideration is less than the market value, VAT is must be calculated based on the market value.

Market Value means the value of the Consideration without Tax for the Supply as if it took place between two Persons independent from each other and within fair competitive conditions, compared to similar supplies' values occurring on the date of that supply.

Similar Supplies mean other Supplies either of the same type of Goods or Services supplied, or that are either identical to, or resemble the same characteristics, quality, reputation, quantity, place and date of supply.

The Fair Market Value should be based on the price that could be obtained by unrelated third-party Customers in the normal course of events:

- for those goods and services
- at that time; and
- with those conditions of sale.

In the event that the market value cannot be determined based on similar supplies, then the Taxable Person or the Authority may determine the value based on other similar supplies on the cost of supplying the Goods or Services adding any appropriate Profit Margin or according to any other mechanism approved by The Authority, whichever is higher. In such cases, the decision of the Authority is to prevail in the event of a difference in valuation.

Valuation of Goods or Services provided to employees:

An employer and his employee are related persons for the purposes of the VAT law and its Executive Regulations. This means that any supplies from the employer to the employee are subject to special valuation rules.

Accordingly, goods or services provided to employees by an employer must be subject to market value rules, where the Consideration for the Supply is less than the Market Value of the Supply. Taking into account that an employee does not carry on an Economic Activity and is not considered as a Taxable Person, so will not be entitled to any Input VAT deduction.

The Fair Market Value should be based on the price which could be obtained by third party customers (not related) in the normal course of events. This may therefore take into account discounts which would normally be offered to customers. It is not strictly necessary to base the Fair Market Value on the quoted retail price.

Example: Sports equipment store offers a discount of 40% to its employees from the quoted retail price. The maximum discount the store usually offers to the public is a 20% discount. An employee purchases a treadmill with a retail price of OMR 250 (including VAT) and pays OMR 150. Earlier that year, the store had offered a similar treadmill for OMR 120 in a special clearance sale.

In this case, the similar supply would be the value which would be offered to the public at that time (being a 20% discount, or a VAT inclusive price of OMR 200). This makes the Market Value OMR 190.47: the VAT exclusive value. The treadmill offered during a clearance sale, whilst being similar in quality, is not a contemporaneous supply as it takes place under different circumstances.

The store must calculate, and report VAT based on the Market Value, being 5% x 190.47 or OMR 9.524. The employee still pays the cash amount of OMR 150 (the store will bear the tax difference or charge on the employee).

4.2 Accounting for VAT

VAT is calculated on standard-rated taxable supplies by applying the 5% rate to the taxable value of the supply.

The taxable value of a supply includes all monetary consideration and non-monetary consideration payable for the supply, and includes any expenses, fees or taxes charged by the supplier.

In the case of a supply valued at Fair Market Value, the taxable value is the Fair Market Value (less the Tax). For supplies taxable at 5% this can be calculated as: Tax Inclusive Fair Market Value x (5/105).

Where a sales price is agreed to be VAT-exclusive, the supplier multiplies this taxable base by 5% to calculate the VAT, and if the sales price is agreed to be VAT-inclusive, the supplier must multiply the full consideration payable by (5/105).

4.3 Special Cases - Intercompany Charges

4.3.1. Management Services

In many organizations, the management of one or many group companies is carried out on a central level. Management services can consist of a broad range of activities, including but not limited to management and coordination of legal and tax affairs of the group and management of the cash position of the group.

In order to receive a (proper) remuneration for the activities, the entity or person that provides the management services will ask for payment for its activities. Generally, management services are formalized in an agreement which determines which activities will be carried out by which party and who will be receiving the services and for which price.

Unless any exception applies, management services supplied between two Omani entities will be subject to VAT at the standard rate. If an Omani entity supplies management services to a non-Omani entity, the rules to determine place of supply and application of the zero-rate should be examined, depending on the exact nature of the services being provided.

The general place of supply rules are generally expected to apply for management services. Generally, management services are not expected to fall within any of the Special Cases for place of supply prescribed in the VAT Unified Agreement. This means that an Omani company, receiving management services from a non-resident group company, would be required to self-account for VAT on receipt of the services.

In accordance with the rules for Tax Groups, the Tax Group is deemed to act as a single taxable Person – please refer to Registration section of this guideline. Any supplies between members of a Tax Group, including

management services, are not within the scope of Tax for VAT purposes (i.e. no VAT is charged on any consideration paid for goods or services supplied).

4.3.2. Other Services within the group

The VAT treatment of intercompany services is in principle equivalent to the VAT treatment of services rendered to entities outside the company, unless the service provider and recipient are part of the same VAT group.

4.3.3. Date of Supply

Where services are supplied as part of a continuous supply of services over a period of time, then the due date for VAT will be either a payment date or date of settlement mentioned in the tax invoice – whichever is earlier, and at least once every twelve (12) consecutive months.

Generally, the time of supply is due on the earlier of the following dates:

1. The date of supply (in most cases being the date on which the goods are delivered or put at the disposal of the customer, or the date the services are accepted as completed)
2. The date the tax invoice is issued
3. The date of partial or full receipt of the Consideration, to the extent of the amount received.

Management services or other group services are typically provided across a set period and are considered to be continuous supplies of services.

For group services, physical payment and invoicing may occur at different times to the provision of the underlying services. In the event that no payment is received – nor any invoice is issued – in respect of a continuous supply, the time of supply will be either a payment date or date of settlement

mentioned in the tax invoice – whichever is earlier, and at least once every twelve (12) consecutive months.

In case the recipient entity receives an invoice and is legally obligated to pay but has not made a physical payment (for example, the expense is booked in the intercompany balance), the recipient entity can still be eligible for input tax deduction provided that other tax deductions rules and conditions are met.

It is important to note that if a Taxable Person makes a Supply of management services or other services to a Related Person, and the Consideration is not collected, then the Taxable Supplier is prevented from adjusting the value of the Output Tax Due (i.e., “bad debt relief” cannot apply to amounts due from Related Persons).

4.3.4. Transfer Pricing Adjustments

Many multinational group companies review the pricing of intercompany charges, in particular those concerning international transfers of goods, services, capital and intangibles (intellectual property).

This aligns with transfer pricing guidelines and regulations which have been established at a global level, to ensure that related parties set their intercompany pricing in a similar way that independent third parties would deal with each other at an “arm’s length” price.

As a result, group companies may make transfer pricing adjustments, which adjust the consideration payable for intercompany transactions to be in accordance with rules of transfer pricing.

If a transfer pricing adjustment is made in respect of a supply of goods or services, the effect of this is to adjust the previously agreed consideration.

For VAT purposes, an adjustment to consideration for a taxable supply requires the supplier to adjust the VAT Output Tax payable, and the customer to adjust the VAT Input Tax deducted on the transaction. The Supplier must also issue a credit note or debit note to reflect the adjustment.

If Oman VAT is not due on the underlying supply of goods or services, or if the adjustment does not relate to a specific underlying supply, the transfer pricing adjustment would not require adjustment of Output Tax or Input Tax in principle. However, it is recommended that correct documentation is held to evidence the position.

5. Reporting VAT

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, filing tax returns, correctly calculating the amount of net tax you have to pay, paying tax on time, keeping all necessary records, and cooperating with officers of the TA upon request.

5.1. Issuing Invoices

A taxable supplier must issue a tax invoice for each taxable supply made in the course of its economic activities to any person. A taxable person may issue a simplified tax invoice in the event that the value of the supply is less than OMR 500, or any other case specified by the Authority.

The tax invoice, or simplified tax invoice, must clearly detail information specified in the Executive Regulations, including the invoice date, supplier's tax identification number, taxable amount, tax rate applied, and the amount of VAT charged. The taxable supplier should also be aware of requirements for electronic invoicing, which is required in the cases specified by the Authority. Electronic invoicing requires the taxable supplier to issue tax invoices or simplified tax invoices in a prescribed electronic format (Electronic Invoices), and to ensure the authenticity of the origin, the integrity of the content and the legibility of the invoice. The Authority shall specify further requirements for the issue and content of Electronic Invoices.

The Tax invoice must be issued at the latest within fifteen (15) days following the date on which any of the events requires the taxable person to issue a tax invoice occurred.

In the context of transactions between related persons, Tax Invoices are still required for all supplies between related persons.

5.2. Filing VAT returns

Each VAT registered person must file a VAT return with the TA for each monthly or quarterly tax period. The VAT return is considered the Taxable Person's self-assessment of tax due for that period. For VAT groups, the VAT return is filed by the Representative Member on behalf of all group members' activities during the period.

The VAT return must be filed, and the corresponding payment of net tax due made, no later than the 30th 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 of more than OMR 100 and the taxpayer has requested a refund on the specified form then the TA is required to make payment of said amount within 45 days of filing the return or the due date of the return, whichever is later. The TA will carry out a process of due diligence of the validity of the return. In some cases, this may result in an inspection before payment.

For more details, please refer to the published guideline on VAT Return Filing.

5.3. 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:

1. Daily Record in which the daily transactions related to the Taxable Person's activity are recorded according to their chronological and sequential manner and keep all the

documents that enable the control of the validity of these activities.

2. The Master Record which monitors the opening of accounts and the transactions based on this account, provided that there is a separate account for each type of supplies (taxable or exempt).
3. The inventory record, where the inventory items, the budget and the total/result count are recorded.
4. Records and documents related to the supplies of imported and exported goods and services.
5. Records and documents related to intra GCC supplies of goods and services
6. Records and documents related to all customs transactions
7. All documents evidencing taxable supplies at the zero percent (0%) rate according to the provisions of Executive Regulations
8. All tax invoices and other documents issued by the Taxable Person.
9. All tax invoices and other documents received by the Taxable Person.

The taxpayers should be able to provide the TA with information about any transactions they had and include all details and information that is necessary to determine the correct treatment of the supplies

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

All records must be kept for at least the standard retention period of ten (10) years. A longer minimum retention period is required for invoices or records that relate to assets that are deemed capital assets for the purpose of VAT and this can be up to 15 years.

In the event of a breach of this provision, the person shall be liable to the penalties provided for in the VAT Law.

5.4 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, the TA should be notified immediately, and action taken to correct the error by amending the VAT return. Errors resulting in a net understatement of VAT must be made known to the TA within 30 days of detecting the error or incorrect amount, and the previous return must be amended.

6. Penalties

The TA may impose penalties or fines on taxpayers for violations of VAT requirements set out by the Law or Executive Regulations.

The TA may impose administrative penalties which range from a fine of OMR 500 to OMR 10,000 depending on the nature of the offence. In addition, the TA may impose a penalty in the region of 1% to 25% of any tax incorrectly declared on the tax return (this includes an understatement of output tax or an overstatement of input tax).

In the cases of tax evasion, the TA may impose a fine of 300% of the tax evaded or attempted to evade.

In more serious cases the TA may request a prosecution of the taxpayer which can result in fines ranging from 1,000 OMR to 20,000 OMR and possible imprisonment of between two months and three years depending on the offence committed. These penalties can be doubled in the case of recurrence.

7. Further inquiries

7.1. Contact Information

For more information, please contact the TA:

- Al Mawaleh South, Seeb
- P.O. Box: 285, P.C. 100
- Hours: Sunday – Thursday | 07:30-14:30
- Telephone: +968 2474 6996 / Call Center:1020
- Email: info@taxoman.gov.om

7.2. Forms and Publications

Further guidance, forms and publications will be issued by the TA and available to the public in due course.

7.3. VAT News

For current VAT news and updates, please visit the TA Taxpayer Portal:

www.taxoman.gov.om