

# Manpower versus Visa facilitation services

VAT & Transfer Pricing considerations

*August 2024*



## Background

On 31 May 2024, the Federal Tax Authority (FTA) released a VAT public clarification No. VATP038 detailing the treatment of Manpower versus Visa facilitation services (the clarification). Although the clarification discusses VAT-related matters specifically, there could be certain Transfer Pricing (TP) implications around the same. This publication provides insights on the interplay of VAT and TP relevant to the aspects discussed in the clarification.

Seconding employees and providing visa sponsorship services are prevalent practices within groups across the UAE and the wider GCC region purely due to restrictions on the number of visas issued under each licence. Historically, such arrangements were not formalised by way of inter-company agreements and, accordingly, were conducted without due consideration. With the implementation of the TP regime, any transaction with related parties must be done at an arm's length basis, which translates into cross-charging costs, along with reasonable mark-up.

## VAT considerations

Type of supply	Within VAT Group	Outside of the VAT group but within same corporate group			
		With value		Without value	
		<i>Less than market value &amp; no input VAT is allowed to customer</i>	<i>At market value</i>	<i>Input VAT recovered</i>	<i>Input VAT not recovered</i>
Manpower Service	Outside the scope of VAT	Not discussed but should be subject to VAT on employees' salaries, benefits and any additional amounts charged, as well as other recharges	Subject to VAT on employees' salaries, benefits and any additional amounts charged, as well as other recharges	Not discussed but should be subject to VAT on employees' salaries, benefits and any additional amounts charged, as well as other recharges	Not discussed but should not trigger deemed supply
Visa facilitation Service		Subject to VAT at market value - or fees equal to market value - irrespective of the consideration	Subject to VAT on market value equivalent consideration charged	Deemed supply if input VAT is recovered.  The value of the deemed supply shall be all direct and indirect costs. If facilitator is not able to determine cost, then market value.	No deemed supply

## TP considerations



UAE TP Rules prescribe that any transaction with related parties must be done at market value. As per the TP rules, the onus on delineation of the transaction between manpower services (human resource services) and visa facilitation services (administrative support services) lies with the taxpayer. The factual circumstances listed in the VAT public clarification will be helpful in undertaking functional analysis for determining the actual nature of services and eventually conducting TP benchmarking to ascertain the arm's length price.

## Interplay of VAT and TP



If TP considerations are triggered, then the question of concluding a related party transaction anything lesser than the market value does not arise, even if prescribed for VAT purposes. That said, it would be relevant to note that TP considerations are focused on mark-up than the cost aspect.

### How BDO can help assess impact on businesses

Our team of tax experts is committed to supporting you through a range of services tailored to address the impacts of this clarification under VAT and TP:

- ▶ **Review of positions:** Depending on the establishment of VAT and / or CT Group, we can evaluate the impact of this clarification and of applying TP principles to your business respectively. We can validate / revisit historical technical positions to identify gaps, if any, and suggest avenues to optimise keeping in mind compliance with VAT and CT/TP Laws. More importantly, we focus on identifying transactions which were concluded with related parties / connected persons without any consideration or conducted at higher or lower than the market value of such transaction.
- ▶ **Process improvements & identifying compliance requirements:** Once the impacted transactions are identified, we can assist with developing TP policy with due care on VAT considerations, as detailed in this clarification. This includes identifying the need to put formal agreements in place, conducting benchmarking and highlighting the need to maintain TP documentation such as master file and local file. Last but not the least, if any mis-compliance around VAT is observed, we can then assist in filing voluntary disclosures (VD) or providing guidance on similar one-time corrective actions.
- ▶ **Compliance handholding:** Once updated policies are put in place, we can assist in handholding on VAT and TP compliances, such as return filing, preparing TP disclosure forms, preparing master file / local file and updating it from time to time.

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