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VAT Audit Report **Date: 05/07/2024**

For the Period: September 2022 to January 2024 (6 Quarters)

Client: **OMX Digital DMCC - Tax Group (Representative – OMX Digital DMCC Member(s) – CDK LLC)**

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1. Executive Summary

1.1. Introduction

This VAT audit report offers an overview of the pre-tax audit conducted for the tax group represented by OMXDIGITAL DMCC, Dubai. The audit covers VAT compliance for the period spanning from September 2022 to January 2024.

1.2. Purpose of the Audit

The primary objective of this audit was to evaluate the tax group's adherence to UAE VAT laws and regulations, with specific focus on their accounting system compliance, tax calculations, VAT returns, and tax payments.

1.3. Key Findings

The audit revealed the following key findings:

- VAT Return Discrepancies: Variances have been identified in figures reported to the FTA as exports. On detailed verification, these transactions must be considered as out of scope of the UAE VAT. The exchange rate used for conversion of these transactions are not according to the rate prescribed by the FTA.

- Exchange Rate used for RCM reporting: The exchange rate used for Reverse Charge Mechanism (Import of services into the UAE) transactions are not according to the rate prescribed by the FTA.

- Determination of Place of Supply: There are no specific methods implemented for determining the place of supply of sales transactions, as the output transactions are through web portal.

- Incompleteness of VAT Filed data: Invoice-Wise details of sales transactions of CDK LLC is not available in excel, it is generated in the system and based on the report from the system the amounts are filed in the VAT return.

- A voucher under UAE Federal Decree-Law No. (8) of 2017 on VAT grants the holder the right to goods, services, or discounts based on its face value. Article (40) stipulates that the taxable supply is the difference between the voucher's sale price and its face value. OMX Digital DMCC should ensure accurate calculation and reporting of voucher supplies to comply with VAT regulations and avoid potential issues.

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2. Review of Accounting System

2.1. Accounting Software Compliance

The accounting system at OMXDIGITAL DMCC relies on is Xero bookkeeping. However, certain compliance issues have been identified:

Transaction Type	Current Process	Recommendations
VAT Reporting	The accounting software (Xero) does not fully comply with generating VAT-related reports. The output does not match the required format, lacking customer TRNs (for local B2B transactions), applied tax rates, and descriptions of goods or services. VAT input details also do not meet requirements.	The reports must be generated according to the specified format, ensuring inclusion of customer TRNs, tax rates, and detailed descriptions of goods/services. Reconfigure the dashboard (online website backend) to extract reports required for VAT and accounting purposes, including IP address, country, tax rates, invoice categories (voucher or services), face value for vouchers, and the applicable forex rate as per CBUAE. Align the report with FTA templates for audit compliance. Additionally, set up tax codes such as RCM, out-of-scope, and exempt supplies to meet UAE VAT compliance requirements, ensuring taxable supply applies to UAE only.
VAT Computation	Client uses pivot tables to arrange data from Xero transaction dumps for VAT filing output and input details.	Reconfigure the accounting software to generate compliant reports, including invoices, credit notes, and tax reports per UAE VAT regulations. Avoid manual Excel processing to minimize errors; use customized software reports.
Tax Invoice	The document issued upon occurrence of transaction does not meet the criteria to be a VAT compliant Tax Invoice.	Ensure that Tax Invoices contain all required details: "Tax Invoice" label, supplier and recipient information (name, address, TRN), sequential or unique invoice number, issue date, supply date (if different), description of goods/services, unit price,

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Transaction Type	Current Process	Recommendations
		quantity, tax rate, amount payable in AED, discounts, gross amount, tax amount in AED, and statement for recipient's tax accounting responsibility if applicable. Comply with Article 59 of the VAT Executive Regulations.
Tax Credit Note	The document issued upon reversal/refund of transaction does not meet the criteria to be a VAT compliant Tax Credit Note.	Ensure Tax Credit Notes contain: "Tax Credit Note" label, supplier and recipient information (name, address, TRN), issue date, original and correct supply values, the difference, and tax charged in AED, a brief explanation of the reason for issuing, and information to identify the related supply. Comply with Article 60 of the Executive Regulations.

2.2. Inconsistencies with Recorded Transactions

Transaction Type	Current Process	Recommendations
VAT Treatment for Electronic Services	Variances were identified in figures reported as exports, but these transactions should be considered out of scope for UAE VAT.	According to Article 23(2) of the Executive Regulation, OMX Digital DMCC's services qualify as 'Electronic services.' As per Article 31 of the Decree Law, the place of supply should be based on the actual use and enjoyment of services, not the place of contract or payment. Transactions should be classified based on the place of supply at the time of the transaction. For electronic services on portable devices, use and enjoyment may be determined by the recipient's location, as per the E-Commerce VAT Guide (VATGEC1).

Determination of Place of Supply	Sales (B2C and B2B) within the UAE are reported under Dubai Emirates, while sales outside the UAE are recorded as zero-rated or out of scope. The system lacks a process to determine the actual place of enjoyment of services.	**B2C:** According to the E-Commerce VAT Guide (VATGEC1), the recipient's location can be determined using factors such as the IP address of the device used to receive the electronic service. Implement a process to identify the actual place of enjoyment of services based on these indicators. **B2B (including affiliates):** According to UAE VAT law, if the recipient is outside the UAE, does not have a PE in the UAE, and the supplies are made for the purpose of reselling, then the VAT treatment should be export of services and the VAT should be charged at 0%. On the contrary, if such services are provided within the UAE, then VAT is chargeable at standard rate of 5%.
Reverse Charge Mechanism	RCM is applied on the imports of services based on the rates pulled from the internet.	RCM, when applied on imports of services should be converted at the rates prescribed by the Central Bank of the UAE as per the UAE VAT law.
Online Purchase Tax Invoicing	Tax Invoices are not generated at the time of an online purchase; instead, a receipt is generated from the portal.	Generate a fully compliant tax invoice at the time of online purchase as per Article (59) of the Executive Regulations. Ensure the invoice is accessible to the customer.
Online Sales Return Tax Credit Note	Tax Credit Notes are not generated at the time of an online return by the customer.	Generate a fully compliant tax credit note at the time of online sales return as per Article (60) of the Executive Regulations. Ensure the credit note is accessible to the customer.
Sale of vouchers	In the current format of the report, voucher sales are not distinguishable.	It is recommended that all voucher sales be accurately identified and

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	Voucher sales must be identified separately to accurately determine their taxability.	clearly described to determine if the supply is subject to VAT. The report should be amended to include the necessary details. While we assume that a 5% VAT has been charged on all voucher sales, transactions involving amount up to the transfer of the face value may be out of scope in certain cases. Additionally, if the amount charged exceeds the face value of the voucher, the difference should be taxed at the applicable rate.

3. Review of VAT Returns

3.1. Accuracy of VAT Return Preparation

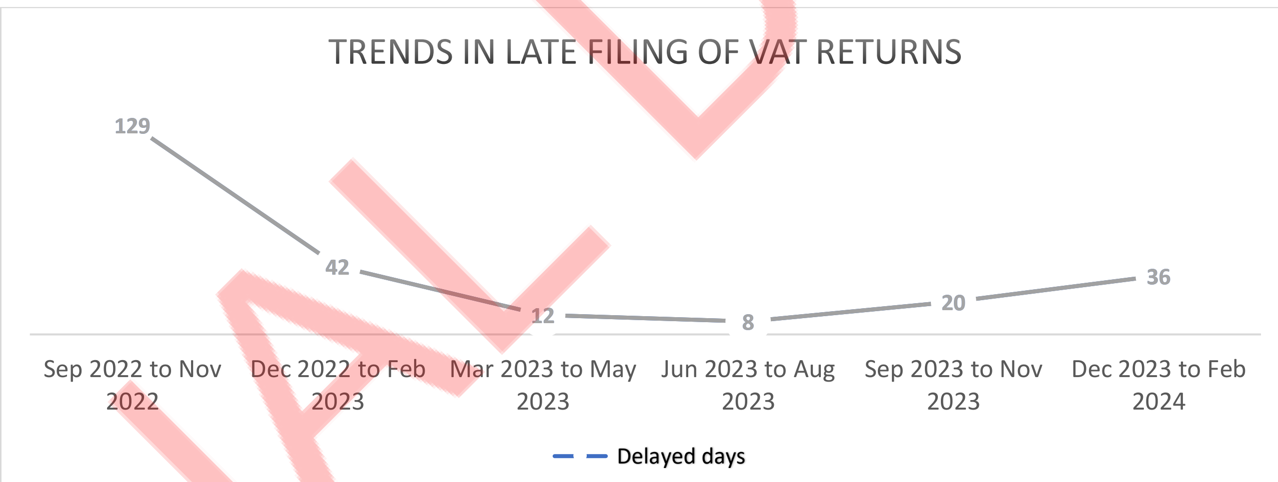
Supplies that have been reported as zero-rated in the VAT returns

Period	Books	FTA	Correct Calculation	Difference
Sep 22 to Nov 22	176,825,329,10	176,825,329,10	25,314,130.41	151,511,198.69
Dec 22 to Feb 23	259,713,672.35	259,713,672.35	25,897,303.96	233,816,368.39
Mar 23 to May 23	165,634,292.34	165,634,292.34	23,488,281.96	142,146,010.38
Jun 23 to Aug 23	211,593,999.08	211,593,999.08	17,278,681.37	194,315,317.71
Sep 23 to Nov 23	-	-	38,119,892.29	(38,119,892.29)
Dec 23 to Feb 24	-	-	20,693,608.72	(20,693,608.72)

Observations:

1. From September 2022 to August 2023, the zero-rated supply was overvalued. Since the service was provided outside the UAE, and based on the extent to which it was used and enjoyed outside the UAE, as outlined in Article 31(1) of the Federal Decree-Law and Article 23(3) of the Executive Regulations, these supplies should not have been reported in the VAT Return. Such supplies are outside the scope of UAE VAT and should not be included in the VAT returns.
2. For the quarters from September 2023 to February 2024, zero-rated supplies have been underreported. These supplies involve B2B transactions where the purchased goods or services are not consumed by the buying business. Therefore, these supplies should be zero-rated, but this has not been reflected in the reporting for these quarters.

3.2. Timely filing compliance



Observations:

The company has consistently filed its VAT returns after the due date, resulting in a pattern of delayed submissions. As depicted in the graph, the number of delayed days has varied across the different periods:

- **September 2022 to November 2022:** The returns were delayed by 129 days.
- **December 2022 to February 2023:** Delays reduced to 42 days.
- **March 2023 to May 2023:** Delays further decreased to 12 days.

- **June 2023 to August 2023:** The lowest delay of 8 days was recorded during this period.
- **September 2023 to November 2023:** Delays began to rise again, reaching 20 days.
- **December 2023 to February 2024:** The delay increased significantly to 36 days.

This pattern of consistent late filing has resulted in penalties totaling over AED 12,000, which have been deducted from the available excess input credit.

4. Review of Tax Payments

4.1. Timely payment of tax due

The client consistently maintains excess input credit, which places the company in a refundable position. As mentioned earlier, these credits are further diminished due to the late filing of VAT returns. Consequently, the timely payment of tax due cannot be accurately assessed, as the company has never been in a payable position.

5. Conclusion

In conclusion, the VAT audit for OMX Digital DMCC, covering the period from September 2022 to January 2024, has uncovered several critical areas of concern that need to be addressed to ensure compliance with UAE VAT regulations. The audit revealed discrepancies in the reported VAT figures, particularly in relation to exports reported as zero-rated supplies for member companies. Additionally, there were issues with determining the place of supply for transactions, leading to incorrect VAT reporting. The current accounting system, based on Xero software, is not fully compliant with VAT reporting requirements, resulting in manual processes that are prone to errors. Furthermore, inconsistencies were identified in the classification and recording of electronic services, along with a pattern of late VAT return filings, which has resulted in penalties and diminished excess input credit. Although the company has consistently maintained a refundable position due to excess input credit, these financial advantages have been eroded by penalties.

Starting from 1 July 2023, qualifying registrants must report e-commerce supplies in box 1 of their VAT return, based on the Emirate where the customer receives the goods or services. Registrants qualify if their e-commerce supplies exceeded AED 100 million in the calendar year ending 31 December 2022. Non-qualifying registrants, or those making non-e-commerce supplies, must report based on the Emirate where their fixed establishment is located. While this may not be applicable to OMX Digital DMCC at present, it is recommended that the company closely monitor its e-commerce supply values and ensure compliance with the relevant reporting and record-keeping requirements once the threshold is met.

Additionally, under Federal Decree-Law No. (8) of 2017 on Value Added Tax (VAT), a voucher is defined as any instrument granting the recipient the right to receive goods or services, or a discount, based on the value stated on the voucher. According to Article (40), the value of a voucher supply is determined as the difference between the consideration received by the supplier and the advertised monetary value of the voucher.

If a voucher is sold at a higher price than its face value, the taxable supply is the difference between the sale price and the face value.

For example,

1. **Amazon Vouchers**
   - If an Amazon voucher has a face value of AED 100 and is sold at exactly AED 100, there is **no VAT** due at the time of sale, because it is treated as a **multi-purpose voucher**. The actual VAT liability arises at redemption when the recipient uses the voucher to purchase goods or services.
   - However, if the same voucher with a face value of AED 100 is sold for AED 105, the **taxable amount** is the AED 5 markup (i.e., AED 105 – AED 100 = AED 5). That difference is subject to VAT and must be taxed at the appropriate rate.

2. **PUBG Vouchers**
   - If a PUBG voucher has a face value of AED 100 and is sold at AED 100, it is considered a **single-purpose voucher**—it can only be used for in-game purchases, which will be subject to UAE VAT.
   - Under UAE VAT rules, for single-purpose vouchers, VAT is charged (if applicable) **upon sale** rather than upon redemption. Hence, the seller must account for VAT immediately on the full-face value of AED 100 at the time of sale.

3. **Foreign Currency Exchange Implications**
   - If a voucher is sold for USD 100, the value of supply in terms of UAE VAT must be calculated using the **UAE Central Bank exchange rate** at the time of supply. For instance, at an exchange rate of 3.6725, the VAT valuation becomes AED 367.25.
   - If the actual bank payment later reflects a higher rate (e.g., 3.69), the **difference** of AED 0.0175 (3.69 – 3.6725) per USD is considered additional consideration and becomes **taxable**. However, if the amount received is lower than 3.6725, **no additional VAT** is due on that exchange difference.

It is recommended that OMX Digital DMCC closely monitors both the **face value** of vouchers and the **price at which they are sold** and **any exchange rate differences** to ensure the supply value is accurately calculated and reported in line with the law's provisions. Compliance with these reporting requirements will help avoid any potential issues related to VAT on voucher supplies.

It is imperative that OMX Digital DMCC take immediate action to rectify these issues by enhancing their accounting system, ensuring timely and accurate VAT filings, and revising their transaction classification processes to align with UAE VAT regulations. These steps are crucial for mitigating compliance risks and optimizing the company's overall tax position.