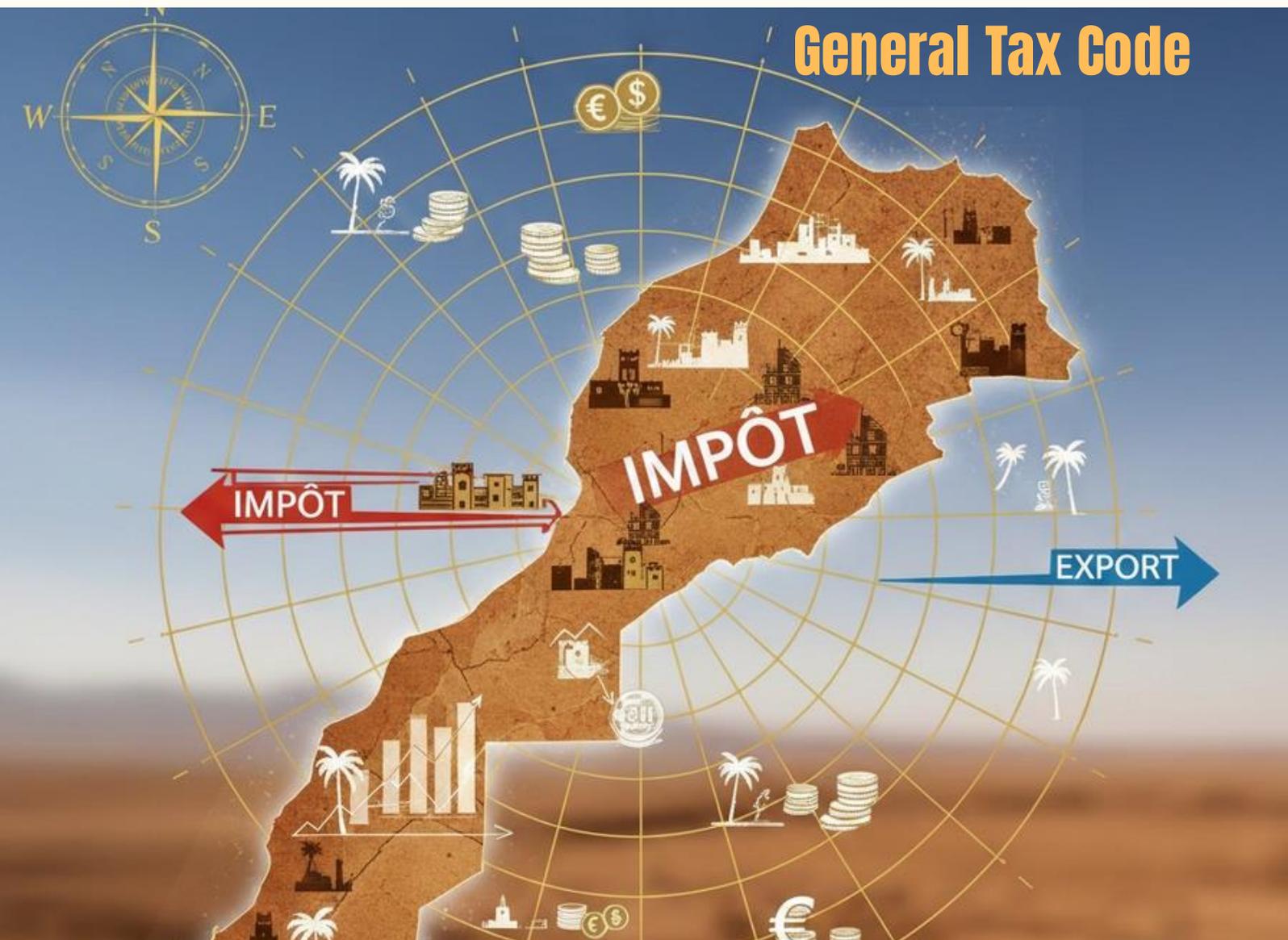


Tax Note

The Concept of Territoriality in Moroccan Taxation (Focus on VAT)

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presented by:

Salaheddine YATIM
Upsilon Consulting

General Introduction

The Foundation of Operational Vigilance

The concept of territoriality in VAT is not merely a geographical rule; it is the essential filter for any accounting entry of international flows.

Unlike Corporate Income Tax (CIT), which is based on the company's establishment, VAT is based on a destination principle: the place of delivery of the good or use of the service.

A fundamental question: Does Morocco have the right to tax?

Every time an invoice crosses the border (import or export), the staff member must ask: **Where is this service actually used? The answer to this question defines the boundary between sound management and a major reassessment risk.**

Immediate financial and legal stakes: A misinterpretation of articles 88, 115 or 115 bis of the GTC leads to serious consequences, including:

- A risk of tax recall (generally 20%) on foreign services where the reverse charge was omitted.
- Professional liability exposure. Our role (CFO, accounting department, firm...) is to detect the anomaly at the time of entry, not during the tax audit.

2025 Compliance:

With the opening to dematerialized services (B2C), the "alert reflex" must extend to digital flows (IP, phone code, bank card).

The expected approach: It is not about knowing every case by heart, but about developing "detection" reflexes. Territoriality should change the way you read an invoice, analyze a contract or handle transactions on a foreign supplier account.

The firm's golden rule: Analyze the place of use, verify the presence of a tax representative, and in case of doubt, escalate the note before any VAT return.

Salaheddine YATIM
Managing Partner

Objectives of the Note: VAT Territoriality

Objective of this note:

Move from a mechanical accounting entry/review to a real-time territoriality audit.

By the end of this module, the staff member should be able to identify whether a transaction "crosses the border" of Moroccan tax jurisdiction.

Who is concerned?



- Any staff member (Junior, Senior, Manager) responsible for maintaining or reviewing a file with international flows.
 - Moroccan companies carrying out export or import operations. Special focus on clients who have purchased dematerialized services abroad.
 - All foreign suppliers of our clients (particularly in the case of service provision).
 - Foreign companies operating in Morocco via export of services (particularly clients for whom we provide tax representation).

When should the question be raised?



- At Onboarding (Critical Moment): It is during the client discovery phase (tax KYC) that we must map their flows: Does the client have contracts abroad? Are they planning to send employees outside Morocco or to host foreign consultants?
- The challenge: analyze flows and define reporting obligations from the first month (reverse charge, VAT payment to a tax representative, etc.).
- Have an immediate "alert reflex" when an invoice bears a foreign label or a currency other than MAD.

What must we master?



- The legal framework: Understanding Articles 88, 115 and 117-III of the GTC.
- The concept of the place of use of a service.
- Taxation mechanisms: distinguishing cases where a reverse charge is necessary

How to proceed in practice?



- Diagnostic method: Apply the decision flowchart (Place of activity ==> place of use of a service ==> nature of the transaction).
- Documentary review: Require supporting evidence (Contracts, existence of a branch with a tax ID, existence of a tax representative..) to validate territoriality.
- Reporting & Alert: Know when a situation falls outside common law and requires arbitration by the "Tax" partner.

PROFESSIONAL APPROACH



Never rely on the currency (Euro/MAD) or the place of contract signature to determine VAT. Only the actual flow and its use matter.

There are cases where invoicing in foreign currency does not require a reverse charge and vice versa.

Territoriality of Sales (Tangible Goods)

The fundamental principle: Delivery in Morocco

According to article 88-1° of the GTC, a sale is deemed to be made in Morocco when it is carried out under conditions of delivery of the goods in Morocco.

The definition of "Effective Delivery"

Circular 717 specifies that delivery means the transfer of the sold item into the enjoyment and possession of the buyer (the effective handover).



The "Noise" to ignore (False indicators)

PE = Permanent Establishment

The place of contract execution



- Signing a contract in Paris for goods delivered to Casablanca = Moroccan VAT.

The place of payment



- A Swift transfer abroad does not mean "VAT exempt" if the goods are in Morocco.

The currency used



- Invoicing in Euros (with approval from the Exchange Office) does not exempt from VAT.

The nationality of the parties



- A sale between two foreigners for goods located in Tangier is taxable in Morocco.

The Export / Import Framework

To validate the tax treatment, territoriality must be combined with specific regimes:

- **On Importation:** VAT applies to goods crossing customs (subject to economic regimes).
- **On Exportation:** The law provides an express exemption for products delivered outside the national territory.

Vigilance (case of physical goods)



Alert reflex: If you see a sales invoice marked "Tax Exempt" while the delivery address is in Morocco, there is an anomaly.

Conversely, any export sale (VAT 0%) must be supported by a customs document proving the physical exit from the territory.

Territoriality of Services (Use & Exploitation)

Unlike goods, services are intangible (there is no customs): the place of physical performance is not the determining criterion.

The fundamental principle: The Place of Consumption

According to article 88-2° of the GTC, a service is deemed to be provided in Morocco when the service rendered, the right assigned or the object leased are used or exploited in Morocco.

Place of performance not determinative:

Regardless of where the provider works (in Paris, Casablanca or online), only the place where the client benefits from the service matters.

Residence has no bearing:

Regardless of where the provider works (in Paris, Casablanca or online), only the place where the client benefits from the service matters.

Burden of proof:

For a 0% invoice (Export), it is up to the provider to prove that the use took place outside Morocco.



PRACTICAL CASES & ADMINISTRATIVE CASE LAW

Nature du Service	Analyse de la Territorialité	Traitement TVA
Sous-traitance industrielle (Façonnage)	Même si le façonnage est fait en Espagne, il sert à valoriser un produit facturé par le Maroc.	Taxable au Maroc
Logiciels & Licences	Le droit d'usage est considéré comme une prestation utilisée localement par l'entreprise marocaine.	Taxable à 20%
Centres d'appel	Services rendus depuis le Maroc mais destinés à des clients étrangers pour leurs besoins hors-Maroc.	Non taxable (Export)
note à l'étranger	Investissement immatériel visant à améliorer le rendement des employés	Taxable au Maroc



Alert reflex: concept of value creation

If a Moroccan company pays for a service abroad (e.g.: Facebook advertising, market research, consulting), ask yourself: "Does this help the client sell or produce in Morocco?". If yes, Moroccan VAT is due through reverse charge.

WHT/CIT and reverse charge are not necessarily linked.

Representation and Payment Procedures (B2B vs B2C)

Who bears the responsibility for payment to the Treasury?

The GTC distinguishes two regimes based on the status of the Moroccan client. This distinction is the first filter the staff member must apply when reviewing a file with foreign flows.

1. B2B Flow (VAT-registered client)

- This is the most common case at the firm.
- The client is a company (LLC, PLC) that carries out taxable transactions.
 - The Rule (Art. 115): The foreign provider must appoint a tax representative in Morocco.
 - The Reality: In 95% of cases, there is no representative. **Consequence:** The responsibility shifts to our Moroccan client through the Reverse Charge mechanism.
 - Accounting treatment: We declare the VAT collected (on behalf of the foreign entity) and deduct it simultaneously. It is a cash-neutral transaction, but mandatory in the return.
- **Warning:** If the client carries out an exempt or out-of-scope transaction. Also pay attention in the case of a VAT credit.

2. B2C & Out-of-Scope Flow (Individual client or non-taxable person)

Here, the client cannot collect/deduct VAT
(e.g.: Individual, Association, Public Administration).

- **Case of Digital Services (Art. 115 bis):**
 - The foreign provider (e.g. Netflix, Adobe, Google) must register on the DGI electronic platform.
 - It pays its VAT directly in Morocco without going through the client.

Type de Client	Nature du Service	Mécanisme	Responsable final
Entreprise (B2B)	Tout service	Autoliquidation	Le client marocain
Particulier (B2C)	Digital / Distance	Enregistrement direct	Le fournisseur étranger
Hors Champ (Admin/Asso)	Tout service	Retenue à la Source	Le client marocain

The Reflex:



If a Moroccan company pays a foreign invoice: is it VAT-registered? If yes, does the supplier have a tax representative? If not, I apply the reverse charge.

If not, have I checked whether a WHT was applied or if the supplier has a tax ID in Morocco? Escalate complex cases to the manager.

Tax Representation

Representation and Payment Procedures

Who bears the responsibility for payment to the Treasury?

The tax representation mechanism is a territoriality requirement:

- it allows collecting VAT on services
- which, unlike goods, do not physically cross customs.

The client pays only the pre-tax amount to the foreign supplier. It pays the VAT to the representative.

The tax representative collects the VAT and remits it to the Treasury.

The "Foreign Entity / Representative" Pair (Art. 115)

To operate in Morocco, any foreign entity without a permanent establishment must appoint a local tax representative.

Failing this, the entity's client must apply the reverse charge.

- **Representative's Obligations:** They undertake to fulfill all formalities (monthly returns) and to pay the tax as well as penalties on behalf of their principal.
- **The Compliance "Kit":** The appointment requires a strict file (Authenticated mandate, Articles of incorporation, Registration certificate, service contract, Passports of representatives).
- **Warning:** at the end of the contract, the representation tax ID must be closed. **Alert the manager.**

Beware of Mixed Contracts:

- On a "Supply + Installation" contract, the representative only handles the Service portion.
- The Goods portion is paid at customs.

The Shift to the Client (Strict Liability)

In the absence of a tax representative (the majority of B2B cases), the law provides for an automatic transfer of liability:

- **Tax joint liability:** The foreign provider's omission makes the Moroccan client liable for the tax. The tax authority may require the client to pay the duties and penalties.

The reverse charge consists of substituting for the foreign supplier to collect Moroccan VAT.

- **The accounting flow:** VAT is recorded as if the entity had invoiced itself.
- **Neutrality:** For a fully taxable person, the transaction is cash-neutral: VAT is collected (due) and deducted on the same return. But in case of credit, payment despite existing credit.
- **Evidence:** The tax authority does not issue a separate receipt; the client's VAT return serves as proof of payment.



The cascade of liability:

Never assume that a foreign invoice is "Tax Exempt" by default.

If the foreign entity has no representative, your client becomes the substitute taxpayer.

An error or omission here is a direct exposure of the client to late payment penalties.

What is often forgotten: current account interest.

Key Takeaways

- **Immediate alert reflex:** Any flow crossing the border (foreign currency invoice, foreign wording, service outside Morocco, current account interest) must trigger a territoriality analysis before any entry.
- **Is there a tax representative:** When a foreign service is consumed/used in Morocco, VAT is due in Morocco. In this case, (1) check whether there is a tax representative (2) if not, consider the reverse charge.
- **VAT reverse charge is not linked to WHT:** One may benefit from a WHT exemption under a tax treaty, but a service used in Morocco must pay VAT in Morocco.
- **The transaction is not always neutral:** If our client has a VAT credit, the reverse charge may generate a payment and a worsening of the VAT credit.
- **Vigilance on Withholding Tax (WHT):**
 - Any service paid to a foreign company without a permanent establishment in Morocco is subject to VAT.
 - **Also pay attention and raise alerts in the following cases:**
 - Rent paid abroad on property located in Morocco (if the rent is taxable)
 - Interest paid abroad
 - Software royalties
- If the foreign company has a representative or makes automatic payment, this must be proven.

Warning

- Always verify the nature of the service to apply the correct rate (20% by default).
- Ensure that VAT has been calculated on the gross amount of the foreign invoice.
- Do not confuse VAT paid at customs on the physical medium with VAT due on the license (the service).
- Even in the absence of payment, offsetting (and not mere booking to account) becomes a taxable event.
- Request a tax ruling from the manager / partner (at least at year-end), before the end of January on the following items:
 - Accrued expenses on foreign services or invoices received and outstanding for more than 6 months without payment
 - Accrued and unmatured interest on foreign debts or shareholder current accounts.

An error identified late is better than an error not identified at all.

