ESSENTIALS OF

UAE VAT LAW

ANURAG CHATURVEDI

Copyright

ISBN number

Book Cover by [Artist]
Illustrations by [Illustrator]
[Edition Number] edition [Year of Publication]
United Arab Emirates

www.ae.andersen.com

Contents

Preface

The importance of access to recent provisions of the VAT law and regulations is ever increasing in the UAE and those countries which have trade and commercial relationship with it. It has been six years since the introduction of the VAT in the UAE, the Federal Tax Authority (FTA) has been bringing amendments to the laws, regulations and procedures to increase adherence to stature and better compliance. While these amendments bring more clarity and understanding to tax treatment on business transactions, they also bring complexity for businesses to keep track of the latest changes and updates. In light of these factors, I realized the need of a book which compiles the tax laws, regulations, procedures, guides and clarifications from a perspective of business, commerce and trade.

With the passing of time, it becomes more difficult to keep track of interdependent provisions, which have been laid out in law, targeting regulations and concerning procedures laid out in separate legislations. This book brings together inter-dependent provisions from legislations to provide a seamless understanding of tax implications on a transaction and business in overall.

This book is a result of our collective passion, and we will be grateful if it serves its objective of being a crisp and comprehensive source of analysis of provisions of legislation/commentaries on the law.

All suggestions are welcome and I will be obliged if any viewpoints, or unintended errors and deficiencies are pointed out and conveyed through the email, law@ae.andersen.com.

Anurag Chaturvedi
Chief Executive Officer,
Andersen Tax Limited
Former Chairman of the Institute of Chartered Accountant India,
Dubai Chapter.

Acknowledgements

Deepest gratitude to my family, who have always supported me and taught me the true meaning of 'success'; to my team at Andersen in the UAE, specially, Rishi Sundaram and Gaurav Chugani, a friend and colleague who has been with me all these years and who critically reviewed my work and ensures that it is fit for my readers consumption; and, as always, to my wife Deepa Chaturvedi, who has been the inspiration for all my endeavors, and the curator of the idea to write this book. Finally, deepest gratitude to you, my readers that is, to whom I owe all my success and motivation. I grew up professionally seeing my seniors and mentors serving the profession and serving you is the most meaningful thing I can do with my life.

ESSENTIALS OF

UAE VAT LAW

CHAPTER 01

Basics and Principles

1. Basics and Principles

1.1 VAT (Value Added Tax) Basics - An Overview

VAT is a tax imposed on the Import and Supply of Goods and Services at each stage of production and distribution, including the Deemed Supply by VAT-registered businesses.

VAT is a transaction-based indirect tax. Occasionally it is referred to as a type of general consumption tax. In a country which has VAT, it is imposed on most supplies of goods and services that are bought and sold.

VAT is charged and collected at each stage of the supply chain by businesses which meet the requirements to be registered for VAT. Final consumers generally bear the VAT cost, while businesses collect and account for the tax.

Businesses have to register for VAT if their VAT-taxable turnover is more than AED 375,000 in the preceding 12 month period or in the upcoming 30 days. They can also choose to register if their taxable turnover or taxable expense is equal or more than AED 187,500 in the preceding 12 month period or in the upcoming 30 days.

1.1.1 How VAT works?

Businesses that are registered, or required to register, for VAT (known as 'Taxable Persons') charge VAT to their customers on supply of goods or services made in the course of business.

Taxable Persons are then required to collect the VAT, which they have charged to their customers and, on a periodic basis, pay this over to the Federal Tax Authority (FTA), accompanied by the submission of a tax return.

1. Output VAT

VAT, which businesses charge to their customers is also known as 'output tax'. Businesses are also liable to be charged VAT by their suppliers when they acquire goods and services.

2. Input VAT

VAT which is incurred on expenses is also known as 'input tax'. In general terms, Taxable Persons are able to recover the VAT that they have been charged by their suppliers, subject to certain conditions.

3. Net Payable Tax

Where the conditions to allow recovery of input tax are met, the Taxable Person is able to deduct the input tax recoverable from the value of output tax it is due to pay.

This results in the net VAT payable to the FTA in each tax return period. Persons which are not entitled to register for VAT are not able to recover any VAT they incur, except in certain specified cases. As a result, the incurred VAT becomes a cost to the final consumer.

Example

A furniture manufacturer purchases wood from a forester for AED 10,000 + VAT at the rate of 5%. He uses the wood to produce furniture and sells it to a private customer.

The manufacturer pays the forester AED 10,500 in total, of which AED 500 is input tax.

The furniture manufacturer then sells the furniture to an individual customer for AED 30,000 + VAT at the rate of 5%.

The manufacturer receives a total payment of AED 31,500 from the customer, of which AED 1,500 is output tax.

When the furniture manufacturer completes their tax return for the period, they must declare output tax of AED 1,500 to the FTA.

However, they are entitled to deduct the AED 500 of input tax incurred on purchases. This means that the net VAT payable to the FTA is AED 1,000.

The individual customer is not entitled to recover the AED 1,500 charged by the furniture manufacturer. Therefore, the cost of the VAT is borne by the customer.

1.1.2 Taxable Person's responsibilities as a VAT-registered business

As a VAT-registered business one must:

- include VAT in the price of all goods and services at the correct rate;
- keep records of how much VAT one is paying for things that they are buying for their business;
- account for VAT on any goods or services that one is importing into the state;
- report the amount of VAT one has charged from one's customers and the amount of VAT one has paid to other businesses by submitting a VAT return to the Federal Tax Authority - at periodic intervals approved as per one's tax registration certificate;
- pay any VAT one owes to the Federal Tax Authority.

The VAT that the taxpayer must pay to the FTA is usually the difference between any VAT that is paid to other businesses and the VAT that the taxpayer has charged customers.

If the taxpayer has charged more VAT than paid, taxpayer must pay the difference to the Authority.

If taxpayer has paid more VAT than charged, taxpayer may ask FTA to refund the difference through a refund application.

1.2 Scope of VAT[1]

VAT is charged on all supplies, unless they are specifically exempted/zero-rated/excluded from the scope of UAE VAT. Below is a list of few transactions which are subject to VAT:

- Goods and services (a service is anything other than supplying goods);
- Leasing of real estate (real estate are considered as goods for UAE VAT purposes);
- Selling business assets;
- Commission;
- Free supplies - deemed supply;
- Items sold to staff - deemed supply;
- Business goods used/available for personal usage.

Detailed explanations shall be provided in the upcoming topics and chapters.

[1]Section 1.2 - Article (2) of Federal Decree-Law No. 8 of 2017 on Value Added Tax

1.3 Rate of Tax[1]

There will be two VAT rates applicable within the UAE:

- Standard rate of VAT is 5%; and
- Zero rate of VAT is 0%.

In addition, a certain category of supplies will be "exempt" from VAT. Although VAT is not accounted for in respect of both zero-rated and exempt supplies, there is an important distinction between the two.

Zero-rated supplies VAT is not accounted for on zero-rated supplies (since the applicable rate is 0%), but such supplies are still treated as "taxable supplies" in all other respects. As a result, the person making the supply has the right to recover the VAT incurred on their own business expenditure in the same way as they would if they made standard-rated supplies.

Exempt supplies are similar to zero-rated supplies, in which case no VAT is collected in respect to exempt supplies. However, since those supplies are not "taxable supplies", the supplier cannot normally recover any of the VAT on expenses incurred in making exempt supplies. Incurred VAT, therefore, will represent a cost to businesses involved in making supplies which are wholly or partly exempt from VAT.

1.4 Tax Obligation[2]

Taxable Person is required to collect the VAT due (i.e., Output Tax) on his supplies and, pay on a periodic basis, to the FTA, within the due date of tax return submission deadline.

A Taxable Person is required to pay VAT to tax registered suppliers when they acquire goods and/or services. A Taxable Person is able to recover the tax charged by their suppliers, subject to certain conditions.

VAT incurred on expenses is known as 'input tax'. Where the conditions to allow recovery of input tax are met, the Taxable Person is allowed to deduct the input tax recoverable from the value of output tax that is due. This results in the net VAT payable/ recoverable.

[1]Section 1.3 - Article (3) of Federal Decree-Law No. 8 of 2017 on Value Added Tax
[2]Section 1.4 - Article (4) of Federal Decree-Law No. 8 of 2017 on Value Added Tax

A business would be considered to have incurred only Input Tax if all the following conditions are met:

- There has actually been a supply, import or acquisition of Goods or Services.
- The supply took place in the state.
- The transaction on which the tax was incurred was taxable at a standard rate.
- The supply was made to the person claiming the deduction.
- The recipient intends to use the Goods or Services for the purposes of their business.
- The expenditure was not made for private or other non-business purposes.
- The Recipient was a Taxable Person at the time the tax was incurred.
- The Supplier was a Taxable Person at the time of the supply.

A Person who is not entitled to register for VAT is not able to recover VAT they incurred as input tax, except in certain specified cases. As a result, incurred VAT becomes a cost to the final consumer.

1.5 UAE VAT Registration[1]

VAT is a transaction-based tax which is imposed on most supplies of Goods and Services. However, the obligation to charge VAT only extends to persons who are registered for VAT or are required to register for VAT. These persons are known as "Taxable Person".

A Taxable Person who is registered for VAT receives a Tax Registration Number (TRN) and is referred to as a "Registrant". It should be noted that the definition of a 'Person' is interpreted widely to include any person i.e., juridical or natural.

As such, all types of Persons - including individuals, companies, partnerships, clubs, associations, and so forth, may be able, or be required, to register for VAT and charge tax on their supplies. In addition to the obligation to charge VAT on applicable supplies, the Taxable Persons may also be able to recover VAT incurred on their expenses.

This ensures that in the majority of situations, VAT is not a cost to registered businesses. A Person may either be required to register mandatorily, or may do so voluntarily. In addition, two or more legal persons may be registered as a tax group under a single VAT registration.

[1]Section 1.5 - Article (13) of Federal Decree-Law No. 8 of 2017 on Value Added Tax

1.5.1 Other details in respect of UAE VAT Registration

Any person, who has a place of residence in the United Arab Emirates, and is not already registered for tax, shall register for VAT.

A Person may be required to register for VAT and charge tax on their supplies of non-exempt goods or services provided or received within the State.

Registering for VAT is applicable in the following circumstances:

1. Where the total value of all transactions exceeds the Mandatory Registration Threshold (MRT), AED 375,000, over the previous 12-month period;
2. Where it is anticipated that the total value of all supplies referred below will exceed the MRT in the next thirty (30) days.

Value of supply is calculated by adding the following:

1. The value of Taxable Goods and Services;
2. Any goods or services that the person has imported into the UAE that would have been subject to VAT had they been supplied in the UAE;
3. The value of the whole or relevant part of taxable supplies that belong to the said Person if that person has, wholly or partly, acquired a business from another person who made the supplies;
4. The value of taxable supplies made by related parties.

The value of any supplies which are exempt from VAT, thereby not included in the list above, shall not be used in this calculation. The value of any one-off supply of a capital asset should not be considered when calculating the total value of taxable supplies for VAT registration purposes.

Example

A person starts a certain kind of business, let's say, after 1st January, 2018 and the total value of supplies and transactions is expected to exceed the MRT in the month of December 2018. In such a scenario, the FTA may require the concerned person to register for VAT within 30 days.

Such persons shall continuously monitor the value of their supplies and imports in order to estimate and apply for VAT registration, which is, as explained above, Whereas, a non-resident of UAE may be required to register for VAT if the person makes any taxable supplies or imports in the UAE, unless there is another person, resident in the UAE, who takes responsibility (Tax registrant) for accounting for VAT on such activities under the provisions of Law.

Public clarification VATP026 clarifies that the VAT registration obligations of a person in respect of its sole establishments.

The clarification further states that a Person (legal or natural) owning a number of sole establishments should obtain only one VAT registration for all its sole establishments, and it is not necessary to register each sole establishment separately for VAT.

A Person who has made taxable supplies with a value exceeding the MRT over the previous 12 months, must notify the FTA within 30 days of anticipation of exceeding the threshold.

The VAT registration will take effect from the start of the month following the month in which the person is required to register. If a person anticipates making taxable supplies with a value exceeding the MRT in the next 30 days, the person must notify the FTA that they are required to be registered within 30 days starting on the date that the expectation arises.

The VAT registration will take effect from the day on which the person had reasonable grounds for believing that they would exceed the MRT.
Further a non- resident is required to register for VAT, and the registration would be effective from the date on which the person started making supplies in the UAE.

In all of the above situations, the FTA may agree that the registration is effective from an earlier date. However, A person who will be a Taxable Person on the date the Decree-Law comes into force, must apply for Tax Registration prior to the Decree-Law coming into effect. The effective date of registration of the Taxable Person is 1 January 2018, if the person so notifies in advance to the authorities of the liability to Tax Registration.

Where a Person has registered for Tax prior to the Decree-Law coming into effect, the Person shall be subject to the same rights and obligations as if the Tax Registration was processed after the Decree-Law has come into effect.

Example

i. *On 1 December, a person exceeds the MRT for the prior 12 months period. The person must inform the FTA that they are required to be registered by 30 December. The VAT registration will take effect from 31 December.*
ii. *A person enters into an agreement on 15 August to supply taxable goods worth AED 400,000 to a customer on 1 September. The person must notify the FTA that they are required to be registered by 13 September.*

In such cases the VAT registration will take effect from 15 August.

iii. *On 15 January, ABC LLC, a business resident in the UAE, made AED 275,000 of taxable supplies and AED 135,000 of exempt supplies in the previous 12-month period. Since the total value of their taxable supplies is less than the MRT, they would not be obliged to become VAT registered. On 20 January, ABC LLC sold additional AED 200,000 of taxable supplies. As the combined value of their taxable supplies in the previous 12-month period exceeds the MRT, ABC LLC is required to register for VAT. ABC LLC exceeds the MRT of AED 375,000 and they would be required to notify the FTA of their requirement to register for VAT.*

iv. *On 1 March, XYZ LLC, a business resident in the UAE, is not required to register for VAT since the value of their supplies and imports over the previous 12-month period does not exceed the registration threshold. On 1 March, they enter into a contract to provide AED 5,000,000 of taxable supplies on 15 March. As XYZ LLC expects to receive supplies in excess of the MRT within the next 30 days, they have an obligation to notify the FTA of their requirement to register for VAT.*

1.5.2 Exceptions from Registration[1]

If a person exceeds or anticipates exceeding the MRT, they may request to be excluded from the requirement to register if their taxable supplies are exclusively zero-rated. If any supply is taxable at standard rate, this provision would not apply.

In accordance with the amended clause 15 (1) of the Decree Law, a Tax Registrant (person already registered for VAT) could also request for an exception from VAT registration if all the supplies made by them are exclusively zero-rated supplies.

As per Article 16 of the VAT Executive Regulations, acceptance is at the FTA's discretion and the FTA is not obliged to accept such requests. If a request for exception from registration is accepted, then the Person must inform the FTA if they start making any supplies which are subject to VAT at the standard rate. A Person shall give notice to FTA of making a taxable supply subject to standard rate, within, and not more than 10 business days of making the supply or import.

Where the Person fails to satisfy the requirements for exception from Tax Registration, that person shall be required to register for Tax. A failure to do so could result in the FTA raising a tax assessment and imposing penalties.

[1]Section 1.5.2 - Article (15) of Federal Decree-Law No. 8 of 2017 on Value Added Tax

Article No.	Extract from Federal Decree-Law No. (8) of 2017 on VAT	Extract from Federal Decree-Law No. 18 of 2022	Key Changes
15	1. The Authority may except a Taxable Person from mandatory Tax Registration upon his request if his supplies are only subject to the zero rate. 2. Anyone excepted from Tax Registration according to Clause (1) of this Article shall inform the Authority of any changes to his Business that would make him subject to Tax under this Decree-Law pursuant to the time limits and procedures determined in the Executive Regulation of this Decree-Law. 3. The Authority shall have the right to collect any Due Tax and Administrative Penalties for the period of exception where that Taxable Person was not entitled to the exception.	1. The Authority may except a Taxable Person from Tax Registration whether a Registrant or not, upon his request if his supplies are only subject to the zero rate. 2. Where any changes in the Business of the Taxable Person excepted from Tax Registration according to Clause 1 of this Article, result or may result in the absence of the reason based on which the Taxable Person was excepted, the Taxable Person shall inform the Authority of such changes within the time limits and pursuant to the procedures determined by the Executive Regulation of this Decree-Law. 3. The Authority shall have the right to collect any Due Tax and Administrative Penalties for the period during which the Taxable Person was excepted where it is established by the Authority that the Taxable Person was not entitled to this exception.	▶ A tax registrant (person already registered for VAT) could also request for an exception from VAT registration if all the supplies made by it qualifies for zero-rating.

1.5.3 Process for Application[1]

Process for application:

1. A Taxable Person who wants to apply for an exception from Tax Registration on the basis that all of his supplies are zero rated, shall apply to the FTA in a manner and by means specified by the Authority. Such exceptions can be applied at the time of making registration application. The registration application form has a provision where it asks whether the person applying for registration wishes to apply for exception from Tax registration in case of Zero-rated supplies.
2. The satisfaction of the Authority in determining whether the applicant

[1]Section 1.5.3 - Article (6) of the Executive Regulations

fulfils the requirement for exception is final and thus the person shall be notified of acceptance or rejection of such an application.

1.5.4 Voluntary Registration[1]

A Person who does not have a turnover in excess of the MRT, but would still like to be registered for VAT may voluntarily register to avail the following benefits:

a. To recover VAT on their expense.
b. To obtain the TRN to get cash flow-advantages when purchasing Goods from outside the UAE (by being able to use the reverse charge).

A Person can voluntarily register for VAT if the total value of the Person's taxable supplies and imports, or their expenses which were subject to VAT, in the previous 12 months exceeds the Voluntary Registration Threshold of AED 187,500; or, the total value of the person's taxable supplies and imports, or their expenses which are subject to VAT, in the next 30 days are anticipated to exceed the Voluntary Registration Threshold of AED 187,500. A voluntary registration is effective from the first day of the month following the month in which the application is made, or from such earlier date as may be requested by the person and accepted by the FTA.

Example
XYZ LLC is setting up a business as a sports shoe retailer. They have not yet begun trading but are in the process of fitting out the retail premises and purchasing stock prior to the opening of their first store. They begin incurring costs on 1 February and intend to begin trading on 1 April. They expect to incur VAT-bearing costs of AED 200,000 prior to starting business on 1 April and therefore, may apply to be voluntarily registered. As XYZ LLC's expected taxable expenditure in the following 30 days will exceed the Voluntary Registration Threshold, they may apply to be registered for VAT.

1.6 Tax Group Registration

1.6.1 Tax Group Registration[2]

Two or more Persons carrying on a business are qualified to apply for a single tax group registration, and therefore, be treated as a single Taxable Person by the FTA. In order to be a tax group:

[1]Section 1.5.4 - Article (17) of Federal Decree-Law No. 8 of 2017 on Value Added Tax
[2]Section 1.6.1 - Article (14) of Federal Decree-Law No. 8 of 2017 on Value Added Tax

- each member of the Group must be a legal Person (that is, not a natural person);
- each member must have a place of establishment or a fixed establishment in the UAE;
- the members must be related parties; and
- one or more persons conducting business in a partnership must control the others.

In light of the above, each member must be related to the other to a sufficient extent. In this context, "related" is taken to mean that they share economic, financial and organisational ties (either in law, shareholding or voting rights). The benefits of a tax group registration is that the members of the tax group are treated as a single Taxable Person for VAT purposes. This means in effect:

- supplies made between members of the tax group will be disregarded for VAT purposes and therefore, no VAT would be charged on intra-group transactions;
- only one VAT Tax Registration Number is issued for use by the group. If the individual tax registrants form a tax group after registering individually, they will be issued a new TRN for the newly formed Tax Group and their respective TRN will stand suspended from the date on which the Tax Group approval comes into effect;
- the tax group submits only one tax return which summarises all supplies, and purchases made by group members over the tax period concerned, and
- one member of the tax group shall be appointed as its 'Representative Member'. All the VAT obligations of the tax group, and all the supplies made and received by it, are carried out in the name of this Representative Member.

It may be noted that the members of a tax group are jointly and severally liable for any and all VAT debts and other such obligations of the group for the period during which they were members. This means that even when a legal person/ Taxable Person has left a tax group, they still remain liable for VAT and penalties for the period of membership in the group.

Authority may only register a Person as part of a Tax Group, if the following two conditions are met:

1. The Person's Business includes making Taxable Supplies or importing Concerned Goods or Concerned Services.
2. If all the Taxable Supplies or imports of Concerned Goods or Concerned Services of the Business by Persons carrying on the Business would have exceeded the MRT.

If Related Parties do not apply for Tax Registration as a Tax Group, the Authority may assess their relation based on their economic, financial and regulatory practices in business and register them as a Tax Group, if their relation was proved according to the controls and Conditions specified by the Executive Regulation of this Decree-Law.

The Authority may deregister the Tax Group registration in accordance with the Article as per the conditions specified in the Executive Regulation of the Decree-Law. The Authority may make changes to the Persons registered as a Tax Group by adding or removing Persons as requested by the Taxable Person or in accordance with the instances mentioned in the Executive Regulation.
"For the purposes of Tax Group provisions, the definition of Related Parties shall relate to any two legal persons in instances such as:
a. One Person or more acting in a partnership and having any of the following:
1) Voting interests in each of those legal Persons of 50% or more;
2) Market value interest in each of those legal Persons of 50% or more;
3) Control of each of those legal Persons by any other means.
b. Each of Persons is a Related Party with a third Person."

1.6.2 Failure to notify the requirement to register

If a Taxable Person fails to notify the FTA of a requirement to register for VAT within the specified timeframe, the FTA may register the person from the date they were required to be registered. The Taxable Person will remain liable for any VAT due to be paid on taxable supplies made since the effective date of the registration, and will be subject to applicable penalties in either of the following conditions:

I. The Taxable Person no longer makes taxable supplies and does not intend to make any taxable supplies in the next 12 months.
II. The value of the Taxable Person's taxable supplies or taxable expenses over the previous 12 month period is less than the Voluntary Registration Threshold and the taxable person does not anticipate making taxable supplies or incur taxable expenses in excess of the Voluntary Registration Threshold in the next 30 days.

The Taxable Person will be de-registered with effect from the last day of the tax period during which they fulfilled the conditions for deregistration, or from any other date as may be determined by the FTA. On the other hand, where the FTA is satisfied that the conditions for de-registration are already met, and the Registrant has not applied for deregistration, they shall deregister the Registrant with effect from the last day of the Tax Period on which the conditions for de-registration have been met or from any other date determined by the

Authority.
It is to be noted that with amendment of the Article 21 (2) and (3) of the Decree Law, the FTA has the power to de-register a Registrant where it deems necessary to keep integrity of the tax system in place and also the FTA reserves the right to collect the due tax liabilities or import penalties post de-registration also. In our view, this provision shall come into force in case of the taxpayer using the VAT registration in fraudulent activities

1.6.3 Related Person and Tax Group

Related Persons are two or more persons who are not separated on an economic, financial or regulatory level, where one can control the others either by law, or through the acquisition of shares or voting rights.

It must be noted that all transactions between related persons should be at market value. However, there are certain exceptions to this rule, which have been listed below for easy reference:

- Transactions can be executed below/above market value if the other related person is capable of claiming input tax credit in full.
- Transactions can be executed below/above market value if related persons are members of a tax group.

For the purposes of Tax Group provisions, the definition of 'Related Parties' shall relate to any two legal persons in instances such as:

a. One Person or more acting in a partnership and having any of the following:
   1. More than 50 per cent Voting interests in each of those Legal Person's business.
   2. Market value interest in each of those Legal Person's business amounting to f 50 per cent or more;
   3. Control of each of those Legal Person's business by any other means.

b. Each of the Legal Persons is a Related Party with a third Legal Person.
   - Two or more Persons shall be considered 'Related Parties', if they are associated in economic, financial and regulatory aspects, taking into account the following:

a. Economic practices, which shall include at least one of the following:
   1. Achieving a common commercial objective.
   2. One Person's Business benefiting another Person's Business.
   3. Supplying of Goods or Services by different Businesses to the same customers.
b. Financial practices, which shall include at least one of the following:
   1. Financial support given by one Person's Business to another Person's

Business.

2. One Person's Business not being financially viable without another Person's Business.
3. Common financial interest in the proceeds of different businesses.

c. Regulatory practices, which shall include any one of the following:
   1. Common management.
   2. Common employees, whether or not jointly employed.
   3. Common shareholders or economic ownership.

1.7 De-registration from Tax[1]

1.7.1 Time limit to inform Authority for De-registration

A Taxable Person must apply to the Authority for de-registration in accordance with the cases mentioned in the Decree Law of the requirement to deregister for VAT within 20 business days from the end of the month if any of the following occurs:

- The Taxable Person ceases making taxable supplies referred to in Article (19) of the Decree Law.
- The value of the Taxable Person's taxable supplies in the preceding 12 calendar months is less than the Voluntary Registration Threshold. The FTA will deregister the taxable person if they are satisfied that the threshold is not met.

1.7.2 Voluntary De-registration[2]

Where a Taxable Person is not required to deregister, the person may apply for a voluntary deregistration, if the total value of their taxable supplies in the previous 12 months turns out to be less than the MRT. However, if the Taxable Person has voluntarily registered for VAT, voluntary deregistration will not be possible until 12 months have elapsed since the date of registration.

1.7.3 De-registration due to going concern

Where a Registrant requests to be deregistered from Tax due to the reduction of his Taxable Supplies to less than the MRT, the Authority shall, in agreement with the Registrant, cancel the Tax Registration with effect from:

a) the date requested by the Registrant in the application; or
b) the date on which the request is made if the Registrant did not indicate the preferred de-registration date.

[1]Section 1.7 - Article (21) of Federal Decree-Law No. 8 of 2017 on Value Added Tax
[2]Section 1.7.2 - Article (23) of Federal Decree-Law No. 8 of 2017 on Value Added Tax

Where the Authority has de-registered a Registrant from Tax, it shall notify that Registrant of the date on which de-registration will take effect, within ten business days of taking the decision.

1.7.4 Pre-Requisites for De-registration

In order to be de-registered, the Person must file their tax returns and settle associated payments/ submit refund application before de-registration request is made to the FTA. It is important to note that any Goods and Services forming part of the assets of the Business carried on by a Registrant shall be deemed to be supplied by him at a time immediately before ceasing to be a Registrant and any tax payable shall be included in the final tax return, unless the Business is carried on by an appointed trustee in the event of bankruptcy, pursuant to the Federal Law No (28) of 2022 on Tax Procedures.

Requests for de-registration should be made via the online portal available on the FTA website.

1.7.5 De-registration of Tax Group[1]

Authority can deregister a Tax Group in case the Persons who are registered as a Tax Group no longer meets the requirements for registration as a Tax Group in accordance with the Decree Law because:

- there is no longer an association based on economic, financial and regulatory practices;
- existence of serious grounds to believe that if the registration as a Tax Group is permitted to continue, it would enable tax evasion or would significantly decrease Tax paid to the Authority.

Additionally, the Authority may amend the composition of a Tax Group in any of the following circumstances:

a. A Person may be removed from a Tax Group, where the conditions in tax grouping are not met for that Person.
b. A Person may be added to a Tax Group, where the Authority establishes that a Person's activities should be regarded as part of the business carried out by a Tax Group.

1.7.6 Time limit for Intimation

The Representative Member of a Tax Group shall notify the Authority if any

[1]Section 1.6.1 - Article (14) of Federal Decree-Law No. 8 of 2017 on Value Added Tax

member of the Tax Group is no longer eligible to be part of the Tax Group within 20 business days of the lapse of eligibility to be part of such a group. However, in the case where the Authority has already decided to either de-register a Tax Group or amend a Tax Group registration, it shall give Notification of that decision and its effective date to the Representative Member of that group within 10 business days of taking the decision.

1.7.7 Imperative amendment in respect of deregistration

Article No.	Extract from Federal Decree-Law No. 8 of 2017 on VAT	Extract from Federal Decree-Law No. 18 of 2022	Key Changes
21	A Registrant shall apply to the Authority for Tax Deregistration in any of the following cases: 1. If he stops making Taxable Supplies. 2. If the value of the Taxable Supplies made over a period of 12 consecutive months is less than the Voluntary Registration Threshold and the said Registrant does not meet the condition stipulated in Clause (2) of Article 17 of this Decree Law.	1. A Registrant shall apply to the Authority for Tax deregistration in any of the following cases: a. If he stops making Taxable Supplies. b. If the value of the Taxable Supplies made over a period of 12 consecutive months is less than the Voluntary Registration Threshold and the Registrant does not meet the condition stipulated in Clause 2 of Article 17 of this Decree Law. 2. The Authority may, in accordance with the controls and conditions specified in the Executive Regulation of this Decree-Law, issue a Tax deregistration decision, if the Authority finds that continuity of such Tax Registration may prejudice the integrity of the Tax system. 3. Tax deregistration shall not result in the relinquishment of the Authority's right to claim any Due Tax or Administrative Penalties.	▶ Tax de-registration does not relinquish the FTA's right to claim the due tax or impose penalties. ▶ The FTA has the right to deregister any registered person if they cause any harm to the tax system.

1.8 Legal Representative[1]

Any Person appointed as a Legal Representative of a Taxable Person or his funds or his inheritance shall inform the Authority within 20 business days from the date of his appointment, and according to the procedures that are specified in the Executive Regulation of this Law. The procedure for appointment of Legal Representative of Taxable Person is stated in Clause 8 of the Executive Regulation of Federal Law No. 28 of 2022 on Tax Procedures, which is as mentioned below:

Any Person appointed as a Legal Representative is required to give a notice of his appointment to the Authority within 20 business days from the date of appointment, and such notice shall be in writing or in the form determined by the Authority, and shall include the following:

a. The type of appointment;
b. The Person's responsibilities;
c. The duration of the appointment, in the case of fixed-term appointment;
d. The name, address, and Tax Registration Number, if applicable, of the Taxable Person, who is being represented by the Legal Representative;
e. The name and address of the Legal Representative;
f. The legal basis of the appointment.

1.9 Residential status[2]

A person may be Resident in a country if:

1. the business is legally established in the country;
2. the business' significant management decisions are taken, and the central management functions conducted in the country; or
3. the business has a fixed place of business in the country through which it regularly or permanently conducts business and where sufficient level of human and technology resources exist to enable the supply or receipt of goods and services (e.g. a branch).

Below are important definitions for residential status:

Place of Establishment: The place where a Business is legally established in a country pursuant to the decision of its establishment, or, in which significant management decisions are taken and central management functions are conducted.

[1]Section 1.8 - Article (6) of Executive Regulations of Federal Law No. 7 on Tax Procedures
[2]Section 1.9 - Article (1) of Federal Decree-Law No. 8 of 2017 on Value Added Tax

Fixed Establishment: Any fixed place of business, other than the Place of

Establishment, in which the Person conducts his business regularly or permanently and where sufficient human and technology resources exist to enable the Person to supply or acquire Goods or Services, including the Person's branches.

Place of Residence: The place where a Person has a Place of Establishment or Fixed Establishment, in accordance with the provisions of this Decree Law.

1.9.1 Place of Establishment[1]

The Place of Residence of the supplier or Recipient of Services shall be as follows:

1. The state in which the Person's Place of Establishment is located or where he has a Fixed Establishment, provided that he does not have a Place of Establishment or owns a Fixed Establishment in any other state;
2. The state in which the Person's Place of Establishment is located or where he has a Fixed Establishment that is closely related to the supply, if he has a Place of Establishment in more than one state or has Fixed Establishments in more than one state;
3. The state in which the usual Place of Residence of the Person is located if he does not have a Place of Establishment or a Fixed Establishment in any state.

Example:

Business carried out through an agency

A fixed establishment can include a branch or agency (provided it satisfies the rules to be regarded as an establishment). An agency is a separate company that acts in the same way as a branch.

The key test for agency, so far as the place of establishment rules are concerned, is one of independence. An agency cannot operate independently of its principal. In deciding independence, what matters is the reality, function and substance, and not any mere label or legal form. One should, therefore, have particular regard for the actual arrangements which exist between the prima facie agency and its principal, rather than any mere wording in contracts. Where there is no independence, agencies may include:

- *a subsidiary acting for its parent principal;*
- *a company acting for its associated principal; and*
- *a company acting for an unrelated principal.*

[1]Section 1.9.1 - Article (32) of Federal Decree-Law No. 8 of 2017 on Value Added Tax

A non-UAE company can operate through a branch or agency as either a supplier or a recipient of services. Any charge for its services made by a branch or agency in the UAE to its non-UAE parent or principal may be regarded as supplied in the UAE, since such services are used most directly at the UAE establishment created by the agency itself.

1.9.2 New Residence[1]

1. Where a Person owns or acquires land in the State on which he builds, or commissions the construction of, his own residence, he shall be entitled to make a claim to the Authority to repay the Tax on the expenses of constructing the residence.
2. For the purposes of Clause 1 of this Article:
   a. The claim may only be made by a Natural Person who is a national of the State.
   b. The claim must relate to a newly constructed building to be used solely as residence of the Person or the Person's family.
   c. The claim may not be made in connection with a building that will not be used solely as a residence by the Person or the Person's family, for example, if it is to be used as a hotel, guest house, hospital or for any other purpose not consistent with it being used as a residence.
3. The refund claim under this Article must be lodged within 12 months from the date of completion of the newly built residence. For the purposes of this Clause, a newly built residence is considered completed at the earlier of the date the residence becomes occupied, or the date when it is certified as completed by a competent authority in the State, or as may otherwise be stipulated by the Authority.
4. A refund claim must be submitted to the Authority in such manner and containing such details as the Authority may stipulate.
5. Where the Authority has repaid Tax in accordance with this Article, and following the receipt of such repayment the Person breached the condition in paragraph (c) of Clause 2 of this Article, the Authority may require the Person to repay the amount of Tax that was recovered by him.
6. The categories of expenses on which the Person may claim a repayment of Tax under this Article are:
   a. Services provided by contractors, including services of builders, architects, engineers, and other similar services necessary for the successful construction of residence.
   b. Building materials, being goods of a type normally incorporated by builders in a residential building or its site, but not including furniture or electrical appliances.

[1]Section 1.9.2 - Article 66 of the Executive Regulations

1.9.3 Place of Residence and Reporting of Due tax

As per the definition of 'Fixed Establishment', a place of residence may include branches, warehouses, factories, kiosks, etc.

The Person registered for tax purposes, who makes a taxable supply of goods or services in the State, must keep records of the transactions, to prove the Emirate in which the fixed establishment related to this supply is located.

As an exception to the paragraph above, if the Taxable Person who makes a taxable supply of goods or services does not have a fixed establishment in the State, that person

The Taxable Person must keep records of the transaction to prove the Emirate in which the Supply is received

As per the VAT Return Guide, the net value of standard rated supplies made, and the VAT due, on all such supplies should be identified by the Emirate in which that supply was made. The supply should be reported in the Emirate where the fixed establishment, closely connected to the said supply, is located. For non-established businesses, the supplies should be reported in the Emirate where they were received.

1.10 Non-Resident Tax Obligation

A person, who does not have a place of residence in the State or an Implementing State and is not already registered for VAT, shall register for tax, if he makes supplies of goods or services, and where no other Person is obligated to pay the tax due on these supplies in the State.

A non-resident person shall not take the value of goods and services imported into the UAE to determine his obligation to apply for tax registration, if such goods or services are provided to a Tax Registrant in the state.

A non-resident person requires to register for VAT should he conduct economic activities on regular basis in the UAE with persons (including businesses) who are non-registered entities under the UAE VAT rules:

1. Goods sold under special arrangement (e.g., Consignment sales) through e-commerce directly to non-registered entities in UAE.
2. Supply of real estate or real estate related transactions (e.g., brokerage on UAE properties, consultancy in relation to properties located in the UAE).
3. Installation of Goods in UAE by Non-resident, where recipient is

unregistered under UAE VAT.

4. Performance of any cultural, artistic, sporting, educational or any similar services within UAE.
5. Provision of services to non-registered person.

In view of evolving e-commerce business, the FTA has issued detailed guidelines on the VAT treatment of supply of goods and services through electronic means, i.e., supplies made through agent.

"Electronic Services" mean services which are automatically delivered over the internet, an electronic network, or an electronic marketplace, including:

- supply of domain names, web-hosting and remote maintenance of programs and equipment;
- supply and updating of software;
- supply of images, text, and information provided electronically, such as photos, screensavers, electronic books and other digitised documents and files;
- supply of music, films and games on demand;
- supply of online magazines;
- supply of advertising space on a website and any rights associated with such advertising;
- supply of political, cultural, artistic, sporting, scientific, educational or entertainment broadcasts, including broadcasts of events;
- live streaming via the internet;
- supply of distance learning; and,
- services of an equivalent type which have a similar purpose and function.

For a supply to fall under the special VAT rules for electronic services, the supply must, therefore, meet two conditions:

- The service in question must be one of the services mentioned in the above list of services.
- The service must be automatically delivered over the internet, an electronic network, or an electronic marketplace.

The first of these requirements means that a service will not be an electronic service where it is not one of the services listed above, even if the service is supplied using the internet or an electronic network. For example, a supply of legal or financial advice, transport services, or hotel accommodation will not constitute an electronic service simply because the parties use the internet to communicate with each other or to facilitate bookings.

The second requirement means that an electronic service should be automatically delivered over the internet, an electronic network, or an electronic marketplace

with minimal or no human intervention. Thus, although a small degree of human intervention is acceptable to enable or complete a supply, this intervention should not change the nature of the delivery of a service as being essentially automated. For example, where a recipient receives a manually generated email with a download link for the software which he has picked from the supplier's website, the software can be still considered automatically delivered - the human intervention of sending an email with a download link is too insignificant to change the nature of the supply.

1.11 Supply

1.11.1 Supply of Goods and Services[1]

The scope of VAT is defined in Section 2 of the UAE VAT Decree Law.
VAT shall be imposed on the import and supply of Goods and Services at each stage of production and distribution, including the Deemed Supply. A transaction is within the scope of UAE VAT, if the following four conditions are met:

- It is a supply of Goods or Services.
- It takes place in the UAE.
- It is made by a Taxable Person (someone who is, or is required to be, registered).
- It is made in the course or furtherance of any business carried on or to be carried on by that Person.

To decide whether a transaction is within the scope of UAE VAT, you should be satisfied that it meets all these conditions.

When a transaction does not meet all of the conditions, that is, the transaction:

- is neither a supply of goods or services;
- does not take place in the UAE;
- is not made by a Taxable Person, or
- is not made in the course or furtherance of business,

It is outside the scope of UAE VAT.

Without prejudice to the provisions of Title Six of this Decree-Law, a standard rate of 5 per cent shall be imposed on any supply or Import pursuant to Article (2) of this Decree Law on the value of the supply or Import specified in the provisions of this Decree Law.

[1] Section 1.11.1 - Article (2) of Federal Decree-Law No. 8 of 2017 on Value Added Tax

1.12 Basic principles and underlying law: Taxable Supply[17]

Taxable Supply is defined in the VAT legislation as a "supply of Goods or Services for a Consideration by a Person conducting business in the UAE, and does not include an exempt supply". As a consequence, for a supply to be a taxable supply, the following conditions would generally need to be met:

- There needs to be supply of goods or services;
- the supply has to be for a consideration; and,
- the supply has to be made by the person who is conducting business in the UAE. Taxable supplies may either be subject to the standard rate or zero rate of VAT.

Condition 1 - It is necessary to establish whether a person is supplying goods or services. This determination is important because provisions of the VAT law apply differently to goods and services.

Broadly, a supply will be of goods if there is a transfer of the ownership of any property or assets, or the transfer or granting of the right to use the property or assets as the owner. Some supplies are expressly treated in the legislation as a supply of goods. For example, a supply of water, energy or real estate will be treated as a supply of goods.

A supply of services is the supply of anything other than a supply of goods.

Condition 2 - A supply has to be for "consideration". For a taxable supply to exist, the supply must be made in return for consideration. "Consideration" is a defined term in the VAT legislation and includes anything that is received or expected to be received for the supply of goods or services, whether in money or other forms of payment. As a consequence, the supplier of any goods and services has to carefully consider what it receives in return for any supply made by it. In doing so, the supplier should not only consider any monetary benefit being received, but also any goods or services that that it may be receiving in exchange.

Condition 3 - A supply has to be by a person conducting business in the UAE. The next requirement for a taxable supply is that the supply has to be made by the person who is conducting business in the UAE. It is important to understand the difference between business and non-business activities. The definition of "business" is very broad and includes any regular or ongoing activity conducted independently by a person. As such, a person may be conducting business irrespective of the industry or location of the activities, as long as the activity has a degree of independence and recurrence or continuity. Due to the requirement

that a business must be an independent activity, activities of employees will not be treated as being in the course of business. As such, employees will not charge VAT in respect of their employment. In contrast, activities of independent contractors would be in the course of business and therefore, can give rise to the requirement to charge VAT.

1.12.1 Supply of Goods[1]

The following shall be considered as a supply of Goods:

1. Transfer of ownership of the Goods, or the right to use them by another Person according to what is specified in the Executive Regulation of this Decree Law.
2. Entry into a contract between two parties entailing the transfer of Goods at a later time, pursuant to the conditions specified in the Executive Regulation of this Decree Law.

1.12.2 Supply of Goods[2]

1. A transfer of ownership of Goods or of the right to use them from one Person to another, shall include for instance the following:
   a. A transfer of ownership of Goods under a written or verbal agreement for any sale.
   b. A transfer of ownership for a Consideration in a compulsory manner pursuant to the applicable legislations.
2. For the purposes of Clause (1) of this Article, a transfer of the right to use any asset shall not be treated as a supply of Goods unless the other Person is able to dispose them off as owner.
3. Entry into a contract between two parties causing the transfer of Goods at a later time shall be considered a supply of Goods, where the agreement mentions a transfer or intention to transfer the ownership of Goods, or a future transfer of ownership of Goods.
4. The following shall be considered a supply of Goods:
   a. Supply of water.
   b. Supply of real estate, including sale and tenancy contracts.
   c. A supply of all forms of energy, which includes electricity and gas, including biogas, coal gas, liquefied petroleum gas, natural gas, oil gas, producer gas, refinery gas, reformed natural gas, and tempered liquefied petroleum gas, and any mixture of gases, whether used for lighting, or heating, or cooling, or air conditioning or any other purpose.

[1]Section 1.12.1 - Article (5) of Federal Decree-Law No. 8 of 2017 on Value Added Tax
[2]Section 1.12.2 - Article (2) of the Executive Regulations

1.13 Compensation type payments

VAT is a tax on supplies of goods and services. Therefore, no VAT is due if no supply takes place. As part of business arrangements, businesses will often make payments to compensate each other for any loss, omissions, or other wrongdoings.

In determining whether or not a payment is consideration for any supply, it is necessary to consider the contractual and legal arrangements in totality to determine the reason for the payment. Thus, it may be necessary to consider whether:

- the payment is consideration for any previously agreed goods or services;
- the payment is consideration for any newly created supply of goods or services;
- the purpose of the payment is to adjust a previously agreed consideration for a supply;
- a party is granting a right to another party in return for payment;
- a party promising not to exercise a right in return of payment;
- a party giving something up in return for a payment.

In considering whether a payment is consideration for a supply or is in the nature of compensation, it is important to ignore the labels or titles the parties give to a payment. For example, a description of an administrative payment as a "penalty" or a "compensation" will not prevent the nature of the payment from being consideration for a supply.

1.14 VAT Treatment on Disbursements and Reimbursements[1]

The following principles will help to determine whether the recovery of an expense from 3rd party satisfies the conditions for being classified as a disbursement which is out of scope:

- The other party should be the recipient of the goods or services;
- The other party should be responsible for making payment to the supplier;
- The other party should have received an invoice or tax invoice, as the case may be, in its own name from the supplier;
- The other party should have authorised the entity to make the payment on its behalf;
- The goods or services paid for should clearly be additional to the supplies it makes to the other party;

[1]Section 1.14 - Public Clarification VATP013 on Disbursements and Reimbursements

- The payment should separately be shown on the invoice, and it should recover the exact amount paid from the supplier, without a mark-up.

The following principles will help you determine when a recovery of expense amounts to a reimbursement which could be deemed taxable supply:

- You should have contracted for the supply of Goods or Services in your own name and capacity;
- You should have received the Goods or Services from the supplier;
- The supplier should have issued the invoice in your name, and you are under the legal obligation to make payment for it;
- In case of Goods, you should own the Goods prior to making the onward supply to the other party.

Example; Company A entered into a contract with Company B to provide marketing services. The contract stipulated that Company A would be eligible to reimburse the expenses from Company B. Company A incurred the expenses in its own name and subsequently recovered the amounts from Company B as per the terms of the contract. The recovery of expenses from Company B would follow the same VAT treatment as that of the main supply.

The principles stated above should be used as indicators to analyse whether a recovery of expense amounts to a reimbursement or disbursement.

1.15 Deemed Supply[1]

As per Deemed Supply provisions, the UAE Decree Law allows certain transactions made for no consideration (i.e., free), but are treated as supplies for VAT purposes. These include:

1. A supply of Goods or Services, which constituted the whole assets of a Taxable Person or a part thereof, but are no longer considered to be as such, provided that the supply was made without Consideration. For example, the permanent transfer/disposal of business assets or the temporary application of business assets to a non-business use.
2. The transfer by a Taxable Person of Goods that constituted a part of its business assets from the State to another Implementing State, or from the Taxable Person's business in an Implementing State to its Business in the State, except in the case where such transfer:
   a. Is considered as temporary under the Customs Legislation (e.g., Stock transfer on returnable basis, consignment sales, machine transfer for short-term, etc.);
   b. Is made as part of another Taxable Supply of these Goods (e.g., bundled products).

[1]Section 1.15 - Chapter (2) of Federal Decree-Law No. 8 of 2017 on Value Added Tax

3. A supply of Goods or Services for which Input Tax may be recovered but the Goods or Services were used, in part or whole, for purposes other than Business, and such supply shall be considered as deemed only to the extent of the use for non-business purposes, e.g., the self-supply of goods or services.
4. Goods and Services that a Taxable Person owns at the date of Tax Deregistration.

A supply also takes place where services are put to a private or other non-business use.

Example
A furniture distributor purchases a dining table with the intention of selling it on to a customer. The distributor is charged VAT on the purchase of the dining table, which they recover as input tax.

At a later date, the furniture distributor decides to give the dining table away to a staff member for free in recognition of good service from the said member. This is a deemed supply and the distributor is required to account for output tax on the deemed value of the supply and pay the output tax over to the FTA.

1.15.1 Exceptions to Deemed Supply[1]

A supply is not considered as deemed in the following cases:
1. If no Input Tax was recovered for the related Goods and Services.
2. If the supply is an Exempt Supply.
3. If the recovered Input Tax has been adjusted for the Goods and Services pursuant to the Capital Assets Scheme.
4. If the value of the supply of the Goods, for each Recipient of the Goods within a 12-month period, does not exceed AED 500, and the Goods were supplied as samples or commercial gifts.
5. If the total Output Tax due for all the Deemed Supplies per Person for a 12-month period is less than AED 2000.

It is important to note that this limit of amount specified in clause 4 and 5 above are for a tax year.

1.15.2 Goods which are business assets on hand at deregistration[2]

[1]Section 1.15.1 - Article (12) of Federal Decree-Law No. 8 of 2017 on Value Added Tax
[2]Section 1.15.2 - Article (11) of Federal Decree-Law No. 8 of 2017 on Value Added Tax

A deemed supply of goods to take place when a person ceases to be a Taxable Person and has goods on hand which form part of the business assets and on which input tax has been availed. This is to prevent a deregistered person obtaining an unfair advantage over other unregistered persons by continuing to have the use of VAT-free goods. The goods would exist in circulation without any possibility of tax due on any final sale being received. Assets include those goods purchased where title has not yet passed on to the Taxable Person, but where input tax on the purchase has been availed. For example, goods like hire purchase (HP), lease purchase, etc. Also included are goods manufactured by the Taxable Person where input tax has been allowed on the component parts of the finished product.

1.15.3 There is no Deemed Supply if:

- the business is transferred as a going concern to another Taxable Person;
- the business is carried on after the death of the legal person by a person who can be treated as a legal representative under the definition of Taxable Person.

1.15.4 Supply in Special Cases[1]

As an exception to what is stated in Articles 5 and 6 of this Decree-Law, the following shall not be considered a supply:

1. The sale or issuance of any Voucher unless the received Consideration exceeds its advertised monetary value, as specified in the Executive Regulation of this Decree Law.
2. The transfer of whole or an independent part of a Business from a Person to a Taxable Person for the purposes of continuing the Business that was transferred.

The following shall not be considered a supply:

1. Voucher:
The sale or issuance of any Voucher shall not be construed as supply unless the received Consideration exceeds its advertised monetary value.

As per Article 28 of Executive Regulation:

1. The State shall not be treated as providing a subsidy to the supplier if the subsidy or part of it is a Consideration for a supply of Goods or Services to

[1]Section 1.15.4 - Article (7) of Federal Decree-Law No. 8 of 2017 on Value Added Tax

the State.

2. The value of supply may be reduced in the case of a discount if the following conditions are met:
   a. The customer has benefited from the reduction in price.
   b. The supplier funded the discount.
3. The value of a discount shall be the amount by which the Consideration is reduced.
4. The value of a discount shall not include the value of any Voucher used, and any such reduction will be ignored unless that **Voucher was provided for no consideration**.
5. Where the Voucher was issued and sold by the Supplier for Consideration that is less than the value stated on the Voucher, the value of a discount shall be the difference between the value of the Voucher and the Consideration paid for that Voucher.
6. "Voucher" shall not include an instrument that gives the right to receive Goods or Services or the right to receive a discount on the prices of the Goods or Services, unless the monetary value for which the Voucher may be redeemed is **identifiable at the time the Voucher is issued**.

This discussion excludes discount vouchers. Vouchers could be subdivided into two types:

i. credit vouchers, where the issuer is not generally the redeemer, and
ii. retailer vouchers, where the retailer does both issue and redeem.

*With single purpose vouchers, any VAT due is paid when the **voucher is issued or subsequently transferred** (but not when it is redeemed). With credit vouchers, any VAT due is paid when the voucher is redeemed, whereas with retailer vouchers, any VAT due is paid, when the voucher is transferred after issue and when it is redeemed.*

***A voucher** will be one where, at the time of issue, both the liability to VAT and the place of supply of the underlying goods or services are known. Any VAT due on those underlying goods or services is paid at the point of issue of the voucher and at the point of each transfer of the voucher, where these are done for consideration. Additionally, VAT is not payable when the voucher is redeemed, but if the business redeeming the voucher in exchange for taxable goods or services is different from the business which issued it, there is also a supply of those goods or services from the former business to the latter.*

This reference is drawn based combining Article 2 of the Executive Regulations and Article 25 of the Decree Law.
Clause 3 of Article 7 of the Decree Law has been added stating any other

supply specified in the Executive Regulations of the Decree Law. With this addition, we can expect further clarifications on out-of-scope supplies.

1.16 Supply of Services[1]

Anything which is not a supply of goods but is done for a consideration (including, if so done, the granting, assignment or surrender of any rights) is a supply of Services.

As per Article 3 of the Executive Regulations, supply of Services shall be every supply that is not considered a supply of Goods including any of the following:

a. The granting, assignment, cessation, or surrender of a right.
b. Making available a facility or advantage.
c. Not to participate in any activity, or not to allow its occurrence, or agree to perform any activity.
d. The transfer of an indivisible share in a good.
e. The transfer or licensing of intangible rights, for example, rights of authors, inventors, artists, and rights in trademarks, and rights which the legislation of the State deems to be within such category.

Explanation:
A supply of Services is made when a person does something or agrees to do something for a consideration. Certain supplies may at first appear to be vague enough not to be thought of as supplies of Services. For example, someone may agree to refrain from doing something or may give up a right. However, if the person has agreed to carry out an act of this nature for a consideration then there is a supply of services.

1.16.1 Supply of more than one component[2]

Multiple supplies versus a simple composite supply
In some situations, a supplier may make a supply of a number of goods and services as part of the same transaction. Where there is such a supply of different goods and/or services, the supplier has to determine whether they are making a single composite supply of those goods and/or services, or multiple supplies of goods and/or services.

1. Multiple supplies

Where a person makes multiple supplies, the person must determine the correct VAT treatment of each of the supplies that it makes. This means that potentially different supplies made as part of the same transaction can be subject to

[1]Section 1.16 - Article (6) of Federal Decree-Law No. 8 of 2017 on Value Added Tax
[2]Section 1.16.1 - Article (8) of Federal Decree-Law No. 8 of 2017 on Value Added Tax

different VAT treatments. In such circumstances, where a single consideration was paid for multiple supplies that are subject to different VAT rates, the supplier must determine the value of each supply and apply the correct VAT treatment to that value.

2. A single composite supply

A single composite supply is a single indivisible supply of a mixture of goods and/or services. By being treated as a single supply, all of the goods and/or

services which form part of the supply will be subject to the same VAT treatment. A single composite supply may exist, for example, where there is a principal component and incidental components in a supply for which a single rate is appicable.

'The Executive Regulation of this Decree Law shall specify the conditions for treating a supply made of more than one component for one price, whether such components are Goods or Services or both.'

1.16.2 Supply of More Than One Component[1]

1. Where a Person has made a supply consisting of more than one component for one price, the Person shall determine whether the supply constitutes a single composite supply or multiple supplies.
2. The phrase "single composite supply" means a supply of Goods or Services, where there is more than one component to the supply, and taking into account the contract and the wider circumstance of the supply.
3. A single composite supply shall exist in the following cases:
   a. Where there is supply of all of the following:
      1. A principal component.
      2. A component or components which either are necessary or essential to the making of the supply, including incidental elements which normally accompany the supply, but are not a significant part of it; or do not constitute an aim in itself, but are instead a means of better enjoying the principal supply.
   b. Where there is a supply which has two or more elements so closely linked as to form a single supply, which it would be impossible or unnatural to split.
4. A single composite supply may exist under Clause (2) of this Article if all of the following conditions are met:
   a. The price of the different components of the supply is not separately identified or charged by the supplier.
   b. All components of the supply are supplied by a single supplier.

[1]Section 1.16.2 - Article (4) of the Executive Regulations

5. Where a Taxable Person supplies more than one component for one price and the supply is not a single composite supply, then the supply of the components shall be treated as multiple supplies.

1.17 Supply via Agent

1. The Supply of Goods and Services through an agent acting in the name of and on behalf of a principal is considered to be a Supply by the principal and for his benefit.
2. The Supply of Goods and Services through an agent acting in his name is considered to be a direct supply by the agent and for his benefit.

1.17.1 Place of Residence of The Agent[1]

Article No.	Extract from Federal Decree-Law No. 8 of 2017 on VAT	Extract from Federal Decree-Law No. 18 of 2022	Key Changes
33	The Place of Residence of an agent shall be regarded as the Place of Residence of the Principal in the following two cases: 1. If the agent regularly exercises the right of negotiation and enters into agreements in favor of the principal. 2. If the agent maintains a stock of Goods to fulfil supply agreements for the principal regularly.	The Place of Residence of the **Principal** shall be considered as being the Place of Residence of the **agent in any of the following cases**: 1. If the agent regularly exercises the right of negotiation and enters into agreements in favor of the principal. 2. If the agent maintains a stock of Goods to fulfil supply agreements for the principal regularly.	The amended Article outlines the instances wherein the place of residence of Principal shall be considered as the place of residence of the agent.

The Place of Residence of a Principal shall be regarded as the Place of Residence of the agent in the following two cases:

1. If the agent regularly exercises the right of negotiation and enters into agreements in favor of the principal, and
2. if the agent maintains a stock of Goods to fulfil supply agreements for the principal regularly.

[1]Section 1.17.1 - Article (33) of Federal Decree-Law No. 8 of 2017 on Value Added Tax
[2]Section 1.17.1a - Article (59) Clause (11) of the Executive Regulations

1.17.1a Issuance of Tax Invoices in cases of Agents[2]

Where an agent who is a Registrant makes a supply of Goods and Services for and on behalf of the principal of that agent, that agent may issue a Tax Invoice in relation to that supply as if that agent had made the supply, and provided that the principal shall not issue a Tax Invoice.

1.17.1b Issuance of Tax Credit Notes in cases of Agents[1]

Where an agent who is a Registrant makes a supply of Goods and Services for and on behalf of the principal of that agent, that agent may issue a Tax Credit Note in relation to that supply as if that agent had made the supply, and provided that the principal shall not issue a Tax Credit Note.

1.17.2 VAT treatment in case of Principal and Agent relationship

The VAT treatment of supplies using intermediaries will depend on the arrangement between the supplier, the intermediary, and the recipient of the supply:

- where the intermediary is acting as a disclosed agent between the supplier and the recipient of the supply, then the supply is treated as made directly by the supplier to the recipient;
- where the intermediary is acting as an undisclosed agent between the supplier and the recipient of the supply, then there are two supplies for VAT purposes - from the supplier to the intermediary, and from the intermediary to the recipient.

From a VAT perspective, a different VAT treatment applies to supplies made through disclosed and undisclosed agents. As a result, it is important to be able to determine whether or not an intermediary is acting as a disclosed or an undisclosed agent.

- A disclosed agent is an agent who acts on behalf and in the name of a principal. In disclosed agency situations, the recipient of the supply knows that it is dealing with an agent of a principal, even if when the recipient may not have any direct communication with the principal.
- An undisclosed agent is an agent acting in its own name, where the customer has no knowledge, and cannot be reasonably expected to have knowledge, that the agent is acting on behalf of a principal. It should be

[1]Section 1.17.1b - Article (60) Clause (6) of the Executive Regulations

noted that this situation is different from situations where no other principal is involved at all and the "intermediary" is a principal itself, where as - in a disclosed agency situation, the agent is still acting on behalf of a principal.

In order to determine the existence and the disclosed / undisclosed nature of an agency relationship, the starting point is to analyse contractual arrangements between parties.
As a default rule, a VAT-registered supplier of a taxable supply of goods or services is required to issue an original tax invoice and deliver it to the recipient of the supply. This condition applies irrespective of whether the goods are sold directly or through an electronic marketplace.

As an exception to the default rule, where a VAT-registered agent makes a supply of goods or services on behalf of a principal, the agent may issue a tax invoice in relation to that supply as if that agent had made the supply.

A tax invoice issued by the agent must contain all the usual particulars required under Article 59 of the Executive Regulation, but may include the agent's, rather than the supplier's, details - in which case, the invoice should, however, contain a reference to the principal supplier (including the supplier's name and Tax Registration Number (TRN) on the invoice).

Only one tax invoice may be issued for any supply of goods or services. Therefore, this option is not available where the principal supplier has already issued a tax invoice. Similarly, where an agent has issued a tax invoice in respect of a supply made by the principal, the agent must ensure that the principal receives a copy of that tax invoice, and the principal should not issue its own tax invoice in respect of the same supply.

It is important to note that where the invoice is issued by the agent, the supply is still treated as being made by the principal supplier to the recipient of the supply. As a consequence, the supplier has to account for the relevant VAT and must comply with all the record-keeping requirements in respect of the supply.

Finally, it should be noted that where an agent is an undisclosed agent, who is treated as making the supply under Article 9(2) of the Decree-Law, the undisclosed agent has the responsibility to issue a tax invoice in its own name.

1.18 Outcomes of Registration as a Tax Group

Registration of Legal Persons as a Tax Group shall result in the following:

a. Any Business carried on by a member of the Tax Group shall be deemed to be carried on by the Representative Member and not by any other member of the Tax Group.
b. Any supply made by a member of the Tax Group to another member of the same Tax Group may be disregarded for tax purposes.
c. Any supply, taxable or otherwise, by a member of the Tax Group shall be deemed to be made by the Representative Member.
d. Any Import of Concerned Goods or Concerned Services by a member of the Tax Group shall be deemed to be an import by the Representative Member.
e. Any supply of Goods or Services to a member of the Tax Group from a Person who is not a member of the Tax Group, would be considered as a supply to the Representative Member.
f. Any Output Tax charged by a member of the Tax Group shall be deemed to be charged by the Representative Member.
g. Any Input Tax incurred by a member of the Tax Group shall be deemed to be incurred by the Representative Member.

Additionally, it is important to note that all members of the Tax Group shall remain personally and jointly liable for any Payable Tax or penalty levied on the Representative Member.

ESSENTIALS OF

UAE VAT LAW

CHAPTER 02

Places of Supply (PoS)

Places of Supply (PoS)

A taxable supply needs to take place in the UAE in order to fall within the scope of UAE VAT laws. If a supply takes place outside the UAE, the supply is treated as outside the scope of UAE VAT and, therefore, UAE VAT will not apply.

In order to determine whether a supply takes place in UAE, the VAT laws provide a number of "Place of Supply" rules. Such rules are different for Goods and Services, and may vary depending on a set of specific facts. We have summarized the rules to enable the reader to ensure that the VAT is accounted for in the correct jurisdiction.

For the purpose of this chapter, it is assumed that there are no implementing states. All supplies made to, and from, implementing states shall be considered as if the supplies are made to a non-implementing state. Once all implementing states, implement VAT and become a part of the Electronic Service System (ESS), provisions in respect of the implementing state shall become applicable.

2.1 Place of Supply of Goods[1]

With respect to goods, the basic rule is that if the goods are located in the UAE when supplied, then they are treated as supplied in the UAE. Similarly, if the goods are located outside the UAE when they are supplied, the place of supply is considered to be outside the UAE.

The rules, however, are modified when the supply of goods involves transportation, or installation, or assembly of the goods.

Article 27 of the Decree Law, specifying the Place of Supply of Goods has been reproduced below:

1. The Place of Supply of Goods shall be considered to be in the State if the supply was made in the State, and does not include Export from or Import into the State.
2. The Place of Supply of installed or assembled Goods, if exported from or imported into the State, shall be:
   a. in the State, if assembly or installation of the Goods was done in the State;
   b. outside the State, if assembly or installation of the Goods was done outside the State.

[1]Section 2.1 - Article (27) of Federal Decree-Law No. 8 of 2017 on Value Added Tax

3. The Place of Supply of Goods that includes Export or Import shall be as follows:
   a. Inside the State in the following instances:
      1. If the supply includes exporting to a place outside the Implementing States;
      2. If the Recipient of Goods in an Implementing State is not registered for Tax in the State of destination, and the total exports from the same supplier to this State does not exceed the MRT for the said State;
      3. The Recipient of Goods does not have a Tax Registration Number in the State, and the total exports from the same supplier in an Implementing State to importing State exceed the MRT.
   b. Outside the State in the following instances:
      1. The Supply includes an Export to a customer registered for Tax purposes in one of the Implementing States;
      2. The Recipient of Goods is not registered for Tax in the Implementing State to which export is made, and the total exports from the same supplier to this Implementing State exceeds the MRT for the said state.
      3. The Recipient of Goods does not have a Tax Registration Number and the Goods are imported from a supplier registered for Tax in any of the Implementing States from which import is made, and the total imports from the same supplier to the State do not exceed the MRT.
4. Goods shall not be treated as exported outside the State and then reimported, if such Goods are supplied in the State and this supply required that the Goods exit and then re-enter the State according to the instances specified in the Executive Regulation of this Decree Law.

2.1.1 Place of Supply in the case of goods exiting and re-entering the State

There may be a scenario where, in the course of a supply of Goods, the Goods are required to exit and re-enter UAE in the course of being delivered from one location to another within the State. In such cases, the Goods shall not be treated as exported or imported where all of the following conditions are met:

a. Where, in course of the journey, the exit from and re-entry into the State takes place between two points within the State;
b. Where there is no significant break in transportation whilst outside the State, and any breakage is limited to what is reasonably expected in the course of physically transporting Goods;
c. Where the Goods are not unloaded from the relevant means of transport

whilst outside the State.

d. Where the Goods are not consumed, supplied or subjected to any process whilst outside the State;
e. Where the nature, quantity or quality of the Goods do not change as a result of exiting and re-entering the State.

2.2 Place of Supply of Water and Energy[1]

Supply of water and all other forms of energy, through a distribution system, shall be considered as done in the Place of Residence of the Taxable Trader in case the distribution was conducted by a Taxable Person having a Place of Residence in the State to a Taxable Trader having a Place of Residence in the State.

The supply of water and all other forms of energy, through a distribution system, shall be considered to have occurred at the place of actual consumption, if distribution was conducted by a Taxable Person to a Non-Taxable Person.

Summary

Where	Then the supply takes place
the supply is of installed or assembled goods	in the place where the assembly or installation of goods takes place
the supply involves export of goods from the UAE to a place outside UAE	in the UAE
the supply is of water or energy through a distribution system by a taxable person who is resident in the UAE to a taxable person resident in UAE whose main activity is the distribution of water or energy	in the place where the recipient has their place of residence
the supply is of water or energy through a distribution system by a taxable person to a person who is not a taxable person	in the place of actual consumption

The table below provides an overview of the special Place of Supply rules for goods:

It should be noted that there is no special Place of Supply rules for goods imported into the UAE from outside the GCC Implementing States. Such imports will be subject to UAE VAT on importation.

[1]Section 2.2 - Article (28) of Federal Decree-Law No. 8 of 2017 on Value Added Tax

2.3 Place of Supply for Services[1]

The default rule for the Place of Supply for Services is that Services are deemed to take place where the supplier has their place of residence.

Where the supplier has multiple potential places of residence (e.g., the business is incorporated in one country and has branches in other countries), the place of residence will be the place that is most closely connected with the supply being made. For example, where a UAE branch of a UK company provides services under the contract signed by the branch, the supply will be most closely connected with the UAE.

We have reproduced below Article 30 from the ER that mentions the Place of Supply in special cases:

As an exception to what is stipulated in Article 29 of Decree-Law, the place of supply in special cases shall be as follows:

1. Where the Recipient of Services has a Place of Residence in another Implementing State and is registered for Tax therein, the place of supply shall be the Place of Residence of the Recipient of Services.
2. Where the Recipient of Services is in Business and has a Place of Residence in the State, and the Supplier does not have a Place of Residence in the State, the place of supply shall be in the State.
3. For the Supply of Services related to Goods, such as installation of Goods supplied by others, the place shall be where said Services were performed.
4. For the Supply of means of transport to a lessee who is not a Taxable Person in the State and does not have a TRN in an Implementing State, the place shall be where such means of transport were placed at the disposal of the lessee.
5. For the Supply of restaurant, hotel, and food and drink catering Services, the place shall be where such Services are actually performed.
6. For the Supply of any cultural, artistic, sporting, educational or any similar services, the place shall be where such Services were performed.
7. For the Supply of Services related to real estate as specified in the Executive Regulation of this Decree-Law, the place of supply shall be where the real estate is located.
8. For the Supply of transportation Services, the place of supply shall be where transportation starts. The Executive Regulation of this Decree-Law shall specify the place of supply for transportation Services if the trip includes more than one stop.

[1]Section 2.3 - Article (29) & (30) of Federal Decree-Law No. 8 of 2017 on Value Added Tax

2.3.1 Place of Supply for Telecommunication and Electronic Services

The Place of Supply for Electronic Services is:

- in the UAE, to the extent of the use and enjoyment of the supply in the UAE;

  and
- outside the UAE, to the extent of the use and enjoyment of the supply outside the UAE.

The actual use and enjoyment of electronic services should be determined on the basis of where such services are consumed by the recipient, regardless of the place of contract or payment.

2.3.2 Place of Supply for Services Related to Real Estate

As mentioned above, the Place of Supply for Services related to Real Estate shall be where the real estate is located.

'Real Estate' includes:

a. Any area of land over which rights or interests or services can be created;
b. Any building, structure or engineering work permanently attached to the land;
c. Any fixture or equipment, which makes up a permanent part of the land or is permanently attached to the building, structure or engineering work.

A supply of Services is deemed to relate to a real estate where the supply of Services is directly connected with the real estate, or where it is the grant of a right to use the real estate. A supply of Services directly connected with real estate includes:

a. The grant, assignment or surrender of any interest in or right over real estate;
b. The grant, assignment or surrender of a personal right to be granted any interest in or right over real estate;
c. The grant, assignment or surrender of a license to occupy land or any other contractual right exercisable over or in relation to real estate, including the provision, lease and rental of sleeping accommodation in a hotel or similar establishment;
d. A supply of Services by real estate experts or estate agents;
e. A supply of Services involving the preparation, coordination and performance of construction, destruction, maintenance, conversion and similar work.

2.3.3 Place of Supply of Certain Transport Services

For the Supply of Transportation Services, the Place of Supply shall be where transportation starts.

Where a trip includes more than one stop and consists of multiple supplies, the Place of the Supply of each Transportation Service is the place where the supply of that transportation service commences.

The Place of Supply of Transport-related Services is considered to be the same as the place of supply of the transportation service to which they relate.

2.3.4 Supply of Services within Designated Zones

The Place of Supply of Services is considered to be within the UAE if, under the normal rules, the Place of Supply would be the Designated Zone. This override to the normal Place of Supply of Services rules means that, in all circumstances, the Place of Supply of Services supplied in Designated Zones reverts to being in the UAE. Such supplies are then taxed in accordance with the general VAT rules

Nature of Transaction	Place of Supply	VAT Treatment
Supply of services within DZ	UAE	Standard rated**
Supply of services outside DZ	Outside UAE	Zero rated

for supplies of such services. This means that most services will be liable to VAT at the standard rate, as would be the case were they performed within the UAE. Equally, where services are exported (i.e., made to a person who is resident and located outside the GCC Implementing States), then the services may be zero-rated.

2.4 Supply of Goods within Designated Zones

As per the default rule, the Place of Supply of Goods generally follows the location of the goods, a supply of goods within a Designated Zone is treated as made outside UAE. This means that the default position is such that supplies are out of scope from the purview of VAT.

Nature of Transaction	Place of Supply	VAT Treatment
Supply of goods within DZ	Outside UAE	Out of scope
Supply of goods within DZ to be consumed by another person	UAE	Standard rated

This default position is overridden where a supply of goods is made within a Designated Zone to a person to be consumed by him or another person - in such a situation, the Place of Supply will be treated in the UAE and VAT will be applicable under the normal rules.

The Table below provides an overview of the Special Place of Supply rules for Services:

Where	Then the supply takes place
services are supplied by a supplier who is resident outside the GCC Implementing States to a business recipient who is resident in the UAE	in the UAE
services are supplied that relate to goods, such as the installation of goods	where the services are performed
there is supply of a means of transport to a lessee who is not a taxable person in the UAE and is not registered for VAT in any GCC Implementing State	where the means of transport are placed at the disposal of the lessee
there is a supply of restaurant, hotel, and catering services	where the services are performed
there is a supply of any cultural, artistic, sporting, educational or similar services	where the services are performed
there is a supply of services related to real estate	where the real estate is located
there is a supply of transportation services	Where is the transportation starts
there is a supply of telecommunications services or electronic services	where the use and enjoyment takes place, to the extent of such use and enjoyment

ESSENTIALS OF

UAE VAT LAW

CHAPTER 03

Date of Supply (DoS)

3. Date of Supply (DoS)

Date of Supply (also known as the 'Time of Supply' or a 'Tax Point' or 'DoS') rules dictate the time when the liability to charge and account for VAT arises in respect to any Supply of Goods and Services. It may be noted that there could be a 14-day time to issue tax invoice, but the due date is to be paid as per the Date of Supply, irrespective of issuance of the tax invoice.

There are various Tax Point permutations. Most are dictated according to the timing of the various events that occur with a typical supply, for example, delivery, invoicing and payment. Therefore, in order to identify the Tax Point, it is essential to first establish the chronology of these events.

Tax Points are also dependent on identifying what is being supplied and the contractual arrangements that apply. For example, in the construction industry, Article 26 of the Decree Law provides the option of stage payments for supplying construction services under a contract. Whereas the normal Tax Point rules apply to a single payment contract. It is, therefore, not enough to conclude that the Supply comprises construction services.

It is also necessary to examine the contractual arrangements for payment for the work. Similarly, different Tax Point rules apply to a single Supply of Services undertaken over a period of time as opposed to a continuous supply.

Obligation to account for Output Tax arises at the tax point for the supply, i.e. at the Date of Supply. Once the Date of Supply has taken place, the Taxable Person must account for the Output Tax in the tax return covering that tax period.

As a first step, it is necessary to establish whether a person is supplying Goods or Services. This determination is important because some VAT rules -- e.g., the Date of Supply and the Place of Supply rules -- apply differently to Goods and Services. Different set of rules may apply to Supply of Goods and Supply of Services.

If a person supply	Date of supply
...Goods...	DoS is the earlier of the date of: ▶ Transfer, if goods are transferred under the supervision of the supplier ▶ the recipient taking possession of the goods, if transfer is not under the supervision of the supplier ▶ assembly or installation being completed (if applicable)

	▶ import, where the goods arrive from outside the UAE ▶ the recipient's acceptance of the supply or a date no later than 12 months after the date on which the goods were transferred or placed at the client's disposal if the supply was on a returnable basis ▶ receipt of payment ▶ issue of a tax invoice
.... Services...	DoS is the earlier of the date of: ▶ completion of the service ▶ receipt of payment ▶ issue of a tax invoice

3.1 Timing for Issuing Tax Invoices

A tax invoice must be issued within 14 calendar days of the Date of Supply.

Only exception to this rule is a summary tax invoice that may be issued by a Taxable Person. When a Taxable Person makes more than one supply of Goods or Services to the same recipient in the course of one calendar month, the Taxable Person may issue one single tax invoice for that same calendar month in which the supplies took place. In such circumstances, the summary tax invoice will be treated as issued on time, even if it is issued more than 14 day from the Date of Supply of any supply covered by the tax invoice.

Example
ABC Co. sells goods to BCD Co. and the following events occur:

- *ABC Co. raises a tax invoice for the sale of the goods on 14 March, 2018.*
- *ABC Co. delivers the goods at BCD Co's premises on 1 April, 2018.*
- *BCD Co. pays for the goods on 2 April, 2018.*

Date of Supply for the sale of the goods is 14 March, 2018 as this is the earlier of the events which trigger the time of supply. ABC Co. must account for the VAT on the supply in the tax return that relates to the tax period that covers the month of March 2018.

For better understanding, we have provided below the text from Article 25 of UAE VAT law on Date of Supply:

"Tax shall be calculated on the date of supply of Goods or Services, which shall be the earliest of any of the following dates:

1. The date on which Goods were transferred, if such transfer was under the supervision of the supplier.
2. The date on which the Recipient of Goods took possession of the Goods, if

the transfer was not supervised by the supplier.

3. Where goods are supplied with assembly and installation, the date on which the assembly or installation of the Goods was completed.
4. The date on which the Goods are Imported under the Customs Legislation.
5. The date on which the Recipient of Goods accepted the supply, or a date no later than (12) months after the date on which the Goods were transferred or placed under the Recipient of Goods disposal, if the supply was made on a returnable basis.
6. The date on which the provision of Services was completed.
7. The date of receipt of payment or the date on which the Tax Invoice was issued."

Further, since every business/industry is different, there could be instances where the specific nature of the industry may find it difficult to apply Article 25 of the UAE VAT Law. The FTA has specified certain instances for certain industries.

It is necessary to consider whether the supply is covered by any of the specialised Time of Supply rules such as:

- Continuous supplies of Goods and Services;
- Supplies made using vending machines;
- Deemed supplies of Goods and Services;
- Supply of vouchers;
- Supplies subject to Reverse Charge Mechanism;
- Supply under transition provisions.

We have detailed the instances in this chapter for the reader's ready reference.

3.2 Date of Supply for Continuous Supply

Date of Supply of Goods or Services for any contract that includes periodic payments or consecutive invoices shall be the earliest of any of the following dates, provided that it does not exceed one year from the date of the provision of such Goods and Services:

1. The date of issuance of any tax invoice.
2. The date payment is due as shown on the tax invoice.
3. The date of receipt of payment.

We have provided the amendment in Article 26 of the UAE VAT law, for the reader's reference.

Article No.	Extract from Federal Decree-Law No. 18 of 2022	Key Changes
26	1. The date of supply of Goods or Services for any contract that includes periodic payments or consecutive invoices shall be the earliest of any of the following dates: a) The date of issuance of any Tax Invoice. b) The date payment is due as specified on the Tax Invoice. c) The date of receipt of payment. d) **The date of expiration of one year from the date the Goods or Services were provided.** 2. The date of supply, in cases where payment is made through vending machines, shall be the date on which funds are collected from the machine. 3. The date of Deemed Supply of Goods or Services shall be the date of their supply, disposal, change of usage or the date of deregistration, as the case may be. 4. The date of a supply of a Voucher shall be the date of issuance or supply thereafter.	▶ It is now more explicitly clear that in the case where the date of supply was not triggered earlier (i.e. by the date of tax invoice, or date of payment, or payment's due date), the date of supply will be determined maximum on the date on which one year has passed from the date on which the goods or services are provided.

3.3 Date of Supply for Supplies made through Vending Machine

Date of Supply, in cases where payment is made through vending machines, is considered to be the date on which funds are collected from the machine.

3.4 Date of Supply for Deemed Supplies

Date of Deemed Supply of Goods or Services is considered to be the date of their supply, disposal, change of usage or the date of deregistration, as the case may be.

3.5 Date of Supply for Vouchers

Date of Supply of a voucher shall be the date of issuance or supply thereafter.

3.6 Date of Supply for Reverse Charge Mechanism

3.6.1 Import of Services

- The FTA has not specifically clarified the Date of Supply in case of import of Services. Therefore, it may be prudent to apply similar provisions as applicable in case of forward charge to reverse charge mechanism as well
- However, VAT Public clarification on Exchange rate stipulates that a

foreign supplier, not VAT registered in the UAE, is likely to issue an invoice which is not a tax invoice for UAE VAT purposes. It is acceptable to use the date of the invoice as the Date of Supply of the imported service and use the exchange rate applying as per that date.

3.6.2 Import of Goods

- For import of Goods, the date is considered to be when goods enter into the UAE (as per customs legislation).

In a nutshell, we have provided details in respect of date of supply for your ready reference:

If a person supplies	Date of supply
...goods or services under a contract that includes periodic payments or consecutive invoices...	DoS is the earlier of the date of: ▸ issue of a tax invoice ▸ the due date of payment as shown on the invoice ▸ receipt of payment Date of supply cannot be more than one year from the date the goods or services were provided
...vouchers...	DoS is the date of issuance or supply thereafter.
...goods where payment is made through a vending machine...	DoS is the when the funds are collected from the machine
...a deemed supply of goods or services...	DoS is the supply, disposal, change of usage or deregistration, as the case may be.
...Import of goods...	DoS is date when goods have entered into UAE (as per Customs legislation).
...Import of services...	General rules as supply of service.

3.7 Date of Supply in Case of Transition

VAT law came into force in the UAE on 1 January, 2018. In order to avoid confusion in respect of VAT treatment on supplies involving part execution in pre-VAT regime and part execution in the post-VAT regime, the FTA provided guidance outlining situations in the transitional provision. We have outlined notes and illustrations for the reader's ready reference:

3.7.1 Transitional Provisions for Supply of Goods and Services

Case 1: Supply of Goods and Services on or after 1 January, 2018

If the supply of Goods and Services takes place on or after 1 January, 2018 but the payment for the supply had been received before 1 January, 2018, VAT is applicable on the supply.

Supplier should collect and pay the said VAT for the transaction despite the payment being made before the VAT regime. Date of supply for goods and services will be 1 January 2018, if the following instances take place on or after 1 January 2018:

- Transfer of Goods under the supplier's supervision
- Completion of the installation or assembly of Goods
- Placing of the Goods to the recipient's location
- Issuing the customs declaration
- The acceptance by the Recipient of Goods of the supply.

Case 2: Supply of Goods/Services in instalments on or after 1 January, 2018

If a supply is partially made before 1 January, 2018, and the remaining part of the supply is made on or after 1 January, 2018, the portion of the supply made after the implementation of the VAT regime is taxable.

The same principle is applicable on supply delivered in parts or installments. Parts or installments delivered before 1 January, 2018 are not taxed. However, VAT is levied on the parts or installments supplied on or after 1 January 2018. Detailed analysis needs to be conducted on the respective supplies.

Case 3: Issuing invoice for Supply of Goods and Services

If an invoice is issued on or before 1 January, 2018 for Goods or Services to be supplied after 1 January, 2018, the supplier should make sure VAT is collected and paid for the supply.

In this case, since the payment was already made, an additional invoice showing the tax charged on the transaction needs to be issued.

For instance, Company X and Y have signed an agreement with the following terms:

- X is supposed to supply goods to Y.
- Supply is scheduled to take place on 2 January, 2018, but to facilitate the process, an invoice is issued, and payment is completed by December 5,

2017.

In this case, the date of supply would be 1 January, 2018 and VAT would be payable as supply is completed in the VAT regime.

3.7.2 Transitional Provisions for Contracts

If two businesses have a contract that concludes before 1 January, 2018 and Goods or Services are to be supplied on or after 1 January, 2018, the contract will be considered inclusive of VAT. This means, the company supplying Goods or Services should levy VAT on the supply made on or after 1 January, 2018.

3.7.3 Transitional Provision Records to be Maintained

The consideration amount paid for the supply will be treated as exclusive of VAT, and the recipient of Goods or Services will be obligated to pay VAT along with the consideration amount, provided any of the following applies:

- the recipient is registered under VAT; or
- the recipient is right to recover the input VAT incurred on the supply (either completely or partially).

To avoid complications, the supplier should confirm beforehand if the recipient is a VAT registrant or if they are in the process of registering under VAT. They should also confirm the liability of the recipient to claim Input Tax incurred on the supply. The recipient is mandated by law to reply to the supplier in writing within 20 business days of receiving the request for confirmation.

Based on the information provided by the recipient, the following is applicable:

- If the recipient furnishes false information, they will not be able to claim input tax on the supply;
- If the recipient fails to provide information, the supplier will treat the consideration amount paid for the supply as tax exclusive, and the recipient should pay VAT on the supply.

It may be noted that in all cases, supplier will remain responsible for the calculation and payments of tax. As per our experience FTA reviews transitional provisions in depth during audit.

Industry type	Dos under transitional provision
Trading companies	VAT is applicable on the goods delivered to the recipient or made available (the supply is ready but hasn't been delivered to the recipient yet) on or after 1 January 2018.
Businesses dealing with call off stock (consignment / sale on approval)	Goods delivered to potential customer's premises, the ownership still belongs to the supplier until the recipient claims the stock, which is termed 'call off stock'. In this case, VAT is applicable on the goods sold or taken from the stockpile after 1 January 2018. For example, a trader supplies goods to a potential customer's warehouse on 2 February 2017. If certain goods are taken or sold from this supply on 20 January 2018, VAT will be applicable on such goods, and tax invoice should be issued to record the sales transaction.
Real estate	VAT is applicable on all supplies where delivery of real estate was made after 1 January 2018 but payment was received prior to 1 January 2018.
Insurance firms	VAT is applicable on the insurance policies spilling over to VAT regime as on 1 January 2018.

3.8 Identifying a Tax Point – Supplies by those Not Registered for VAT or just Registered

While you are working on your business model, it is essential to determine when you are about to meet the tax registration threshold. It is critical for you to understand how the Time of Supply rules apply to supplies made by you while you are not registered for VAT. When calculating turnover for VAT registration purposes, or for determining whether supplies made by you, just after being newly registered for VAT, occurred before or after the effective date of registration.

A person who is not registered for VAT, cannot charge VAT on an invoice or issue a VAT invoice. Regardless of such fact, other provisions of the Time of Supply rules (Article 25 of Decree Law on Value Added Tax) apply equally to supplies made by non-VAT registered persons.

The only exception is in the case of some continuous supplies that fall within the scope of Article 26 of the Decree Law. Where a supplier is not registered for VAT, the time of supply does not occur until a payment is received. This means that any payments received after the supplier has registered will be liable to VAT despite the fact that the work may have been performed before the effective date of registration.

Payments in these circumstances may exceptionally be treated as not being liable to VAT, provided:

- They are received for a continuous supply of Services;
- Made to a specific customer; and
- Relates to supplies which have wholly ceased prior to registration.

It must be emphasised that this does not extend to payments for supplies that are to continue following registration. The normal rules apply in those circumstances and payments received after registration remain liable to VAT regardless of the time of performance of work.

Illustration for better understanding the DoS

Date of issuance of Tax invoice	Completion of services/ delivery of goods	Payment received	Date of Supply
3 January 2018	13 January 2018	1 January 2018	1 January 2018
25 January 2018	13 January 2018	31 January 2018	13 January 2018
1 December 2018	19 December 2018	21 December 2018	1 December 2018
31 December 2017	1 January 2022	10 January 2017	1 January 2018 - Transitional provision

ESSENTIALS OF

UAE VAT LAW

CHAPTER 04

Designated Zone (DZ)

4. Designated Zone (DZ)

VAT has been introduced with effect from 1 January, 2018 in the UAE. As a general consumption tax on the Supply of Goods and Services, it applies to those supplies which take place within the territorial area of the UAE.

Historically, Free Zones have been excluded from the territorial scope of the UAE. For VAT purposes, though, this is not automatically the case. Only the Free Zones, listed in a Cabinet Decision, qualify for a special VAT treatment. However, that special VAT treatment too has certain limitations. For VAT purposes, these nominated Free Zones are known as Designated Zones (DZ).
Designated Zones are:

- subject to strict control criteria;
- required to have security procedures in place to control the movement of Goods and People to and from the Designated Zone;
- required to have Customs procedures to control the movement of Goods into and out of the Designated Zone; and
- treated as being outside the territory of the UAE for VAT purposes for certain supplies of Goods.

The effect on businesses operating in Designated Zones is that many supplies of Goods will be outside the scope of UAE VAT, and will be subject to strict criteria and detailed record keeping. However, supplies of Services are subject to normal UAE VAT rules.

Strict qualifying criteria are applied to limit the use of Designated Zones by businesses for which they are designed, i.e., it is a measure to facilitate international trade on a VAT neutral basis and is not one designed to enable tax avoidance at any level.

4.1 VAT treatment of Free Zones

VAT is a general consumption tax, imposed on most supplies of Goods and Services in the UAE. By default, it is chargeable on supplies of Goods and Services throughout the territorial area of the UAE.

This territorial area also includes those areas currently defined as both fenced and non-fenced Free Zones. For VAT purposes, both fenced and non-fenced Free Zones are considered to be within the territorial scope of the UAE - and therefore, subject to normal UAE VAT rules - unless they fulfil the criteria to be treated as a Designated Zone, as defined by the Federal Decree-Law on VAT and Executive Regulations.

These Free Zones, which are Designated Zones, are considered to be outside the territory of the UAE for VAT purposes for specific supplies of Goods. In addition, there are special VAT rules in respect to VAT treatment of certain supplies made within Designated Zones. Consequently, certain supplies of Goods, made within Designated Zones, are not subject to UAE VAT. In contrast, supplies of Services, made within Designated Zones, are treated in the same way as supplies of Services in the rest of the UAE.

Point to Note

Free Zones that meet the criteria of having been specifically identified by a Cabinet Decision, are termed as Designated Zones. Where a Free Zone is not a Designated Zone, it is treated like any other part of the UAE territory.

4.2 Definition and tax treatment of a VAT DZ

Any area, specified by a Cabinet Decision and issued at the suggestion of the Minister as a Designated Zone for the purpose of this Decree-Law shall be considered so.

As per Article 51 of UAE VAT Executive Regulations:

1. Any Designated Zone specified by a decision of the Cabinet shall be treated as being outside the State and outside the Implementing States, subject to the following conditions:
   a. The Designated Zone is a specific fenced geographic area and has security measures and Customs controls in place to monitor entry and exit of individuals and movement of Goods to and from the area.
   b. The Designated Zone shall have internal procedures regarding the method of keeping, storing and processing of Goods therein.
   c. The operator of the Designated Zone complies with the procedures set forth by the Authority.

2. Where the Designated Zone changes the manner of operating, or breaches any of the conditions imposed on it that could lead up to it not being specified as a Designated Zone under the Cabinet Decision, it shall be treated as being inside the State.

3. The transfer of Goods between Designated Zones shall not be subject to Tax if the following two conditions are met:
   a. Where the Goods, or part thereof, are not released, and are not in any way used or altered during the transfer between the Designated Zones.
   b. Where the transfer is undertaken in accordance with the rules for customs suspension according to GCC Common Customs Law.

4. Where Goods are moved between Designated Zones, the Authority may require the owner of the Goods to provide a financial guarantee for the payment of Tax, which that Person may become liable for should the conditions for movement of Goods are not met.
5. Where a supply of Goods is made within a Designated Zone to a Person to be consumed by him or another person, then the place of supply of these Goods shall be in the State, except in any of the following circumstances:
   a. The purpose was to incorporate the Goods into, attach the Goods to, or that the Goods become part of or are used in the production of another Good in the same Designated Zone and such Good is not consumed therein.
   b. The Goods were delivered to a place outside the State, and the Supplier retains supporting commercial or official evidence proving that, and customs evidence proving that the Goods were removed from the Designated Zone.
   c. The Goods were moved from the Designated Zone to a place inside the State, and the Supplier retains official evidence establishing that VAT had been applied on that import.
6. The place of supply of any Services is considered to be inside the State if the place of supply is in the Designated Zone.
7. As an exception to Clause (6) of this Article, the place of supply of any Services shall be outside the State, where shipping or delivery services are supplied directly in connection with the Goods that have a place of supply outside the State according to paragraphs (b) and (c) of Clause (5) of this Article, and all of the following conditions are met:
   a. Shipping or delivery services are supplied by the same supplier of the Goods;
   b. The supplier of the Goods is a Non-Resident, and not registered for Tax;
   c. These Goods are sold via an Electronic Sales Platform; wherein an Electronic Sales Platform refers to any type of online sales platform, including websites and electronic applications, which brings together third-party sellers and buyers, and through which Goods may be sold and purchased with or without shipping or delivery services;
   d. The person owning the Electronic Sales Platform is not the supplier of the Goods.
8. The Place of supply of water, or any form of energy, shall be considered to be inside the State if the place of supply is in a Designated Zone.
9. Goods located in a Designated Zone on which the owner has not paid Tax will be treated as Imported into the State if:
   a. The Goods are consumed by the owner unless they are incorporated into, attached to or otherwise form part of or are used in the production of another Good located in a Designated Zone which itself is not consumed.

b. There is a shortage of such Goods.

10. Any Person established, registered or which has a Place of Residence in a Designated Zone shall be deemed to have a Place of Residence in the State for the purposes of the Decree-Law.

We have provided our interpretation and analysis in respect of VAT DZ in this chapter.

In addition, there are special VAT rules in respect of VAT treatment of certain supplies made within Designated Zones. The effect of these rules is that certain supplies of Goods made within Designated Zones are not subject to UAE VAT. In contrast, supplies of Services made within Designated Zones are treated in the same way as supplies of Services in the rest of the UAE. For VAT Registration purpose, 'Designated Zone businesses are considered to be established 'onshore' in the UAE for VAT purposes. This means that they have the same obligations as non-Designated Zone businesses and have to register, report and account for VAT under the normal rules. It also means that they can join a tax group (VAT group) provided they meet the required conditions.

4.3 Supply of Services within Designated Zones

Place of Supply of Services is considered to be within the UAE if, under the normal rules, the Place of Supply would be the Designated Zone. This override to the normal Place of Supply of Services rules means that, in all circumstances, the Place of Supply of Services in Designated Zones reverts to being in the UAE. Such supplies are then taxed in accordance with the general VAT rules for supplies of such Services. This means that most Services will be liable to VAT at the standard rate, as would be the case were they performed within the UAE. Equally, where Services are exported (i.e., made to a person who is a resident and located outside the GCC Implementing States), then the Services may be zero-rated.

Nature of Transaction	Place of Supply	VAT Treatment
Supply of services within DZ	UAE	Standard rated**
Supply of services outside DZ	Outside UAE	Zero rated

4.4 Supply of Goods within Designated Zones

As per the default rule, the Place of Supply for Goods generally follows the location of the Goods. A supply of Goods within a Designated Zone is treated *as made outside the UAE*. This means that the default position is that such supplies are out of scope from the purview of VAT.

This default position is overridden where a supply of Goods is made within a Designated Zone to a person *to be consumed by him or another person*. In these situations, the Place of Supply will be considered to be in the UAE and VAT will be applicable under normal rules.

Nature of Transaction	Place of Supply	VAT Treatment
Supply of goods within DZ	Outside UAE	Out of scope
Supply of goods within DZ to be consumed by another person	UAE	Standard rated

Transaction	Location of the Supplier/ Service Provider	Location of customer/ Service Recipient	VAT	Conditions
Sale of goods (excluding water and energy)	UAE Mainland	UAE Designated Zone	5%	Not Applicable
Sale of goods (excluding water and energy)	UAE Designated Zone	UAE Mainland	5% (RCM)	The liability to account for VAT under RCM is on UAE mainland recipient. Out of scope supplies provided official evidence has been retained by supplier
Sale of goods (excluding water and energy)	UAE Designated Zone	Outside UAE	Out of scope	Commercial and official evidence for movement of goods"
Sale of goods (excluding water and energy)	Outside UAE	UAE Designated Zone	Out of scope	Not Applicable

4.5 Amendment to Place of Supply of Service[1]

Article 51(7) of the Executive Regulations states that: As an exception to Clause (6) of this Article, the Place of Supply of any Services shall be outside the State, where shipping or delivery Services are supplied directly in connection with Goods that have a Place of Supply outside the State according to paragraphs (b) and (c) of Clause (5) of this Article, and all of the following conditions are met:

a. Shipping or delivery services are supplied by the same supplier of the goods;
b. The supplier of the goods is a non-resident, and not registered for tax;
c. These goods are sold via an Electronic Sales Platform (an Electronic Sales Platform refers to any type of online sales platform, including websites and electronic applications, which brings together third-party sellers and buyers, and through which goods may be sold and purchased with or without shipping or delivery services);
d. The person owning the Electronic Sales Platform is not the supplier of the goods.

4.6 Exceptions for Designated Zone[2]

4.6.1 Definition of "consumed"

In the above context, the term "consumed" should be interpreted broadly as including any utilization, application, employment, deployment or exploitation of the Goods.

For the purpose of provision, the resale of purchased Goods is not treated as consumption of the Goods. Therefore, a supply of Goods in such circumstances would still be outside the scope of VAT if the purchaser intends to sell them.
For example:

a. A business buys trading stock for the purpose of resale within the Designated Zone and accordingly shall be out of scope from the purview of VAT.
b. An oil equipment manufacturer in the Designated Zone buys steel which will be used in production of equipment. The manufactured equipment is then sold by the manufacturer. Although steel will be "consumed" by the manufacturer, this steel will form part of the manufactured equipment, which itself will not be consumed by the manufacturer.
c. A manufacturer in the Designated Zone buys work tools which are used in manufacturing goods. The manufactured goods are then sold by the manufacturer. Although the tools will be "consumed" by the manufacturer,

[1]Section 4.5 - Article (51)(7) of the Executive Regulations
[2]Section 4.6 - Article (52) of Federal Decree Law No. 8 of 2017 on Value Added Tax

these tools will be applied directly in the process of manufacturing other goods, which are not consumed by the manufacturer.

4.7 Conditions governing the applicability of the VAT Treatment

Transaction	Location of the Supplier/ Service Provider	Location of customer/ Service Recipient	VAT	Conditions
Sale of goods (Within Designated Zones)	UAE Designated Zone (e.g. JAFZA)	UAE Designated Zone (e.g. JAFZA)	Out of scope	This VAT Treatment shall be applicable only if any of the following conditions are satisfied-: 1. The goods are supplied for incorporating, attaching or forming a part of another good in the Designated Zone which itself is not consumed within the Designated Zone (e.g. Supply of spare parts to be incorporated into machines destined for export or import into UAE Mainland) 2. Production or sale of another good in the Designated Zone which itself is not consumed within the Designated Zone.
Sale of goods (Between Designated Zones)	UAE Designated Zone (e.g. JAFZA)	UAE Designated Zone (e.g. DAFZA)	Out of scope	This VAT Treatment shall be applicable only if the following conditions are satisfied-: 1. If the goods or part of the goods are not released into the UAE Mainland during the transfer between the designated zones. 2. If the goods or part of goods are not altered during the transfer between the designated zones. 3. If the transfer between the designated zones are undertaken as per the customs duty suspension rules of the GCC Common Customs Law. The Authority may require the owner to provide a financial guarantee for the payment of VAT. The Company would be liable to pay the applicable 5% VAT if the aforesaid conditions are not satisfied.

Article 51(5) of the UAE VAT Executive Regulations states: Where a supply of goods is made within a Designated Zone to a Person to be used by him or a third person, then the Place of Supply shall be the State unless the Goods are to be incorporated into, attached to or otherwise form part of, or, are used in the production or sale of another Good located in the same Designated Zone, which itself is not consumed.

This has been amended by issuing of public clarification VATP027 and certain exceptions have been added to consider supply as 'out of scope supply' in the event of following instances:

a. The purpose was to incorporate the Goods into, attach the Goods to, or that the Goods become part of, or are used in the production of another Good in the same designated zone and such a Good is not consumed.
b. The Goods were delivered to a place outside the State, and the supplier retains supporting commercial or official evidence proving that and the Customs evidence proving that the Goods were removed from the Designated Zone.
c. The Goods were moved from the Designated Zone to a place inside the State, and the supplier retains official evidence establishing that VAT had been applied on that import.

4.8 Import of Goods from Designated Zones

A movement of Goods from a Designated Zone into the mainland UAE is treated as an import of Goods into the UAE. Therefore, import VAT is payable by the importer of the Goods and VAT shall be accounted for under the Reverse Charge Mechanism.

Points to Note

It should be noted that there may be situations when Goods were subject to VAT when purchased within the Designated Zone, and then subject to VAT again when imported by the same Person into mainland UAE.

For example:

Where Goods where purchased within a Designated Zone for the purpose of consumption the supplier of these Goods will charge VAT on the supply. Subsequently, when these Goods are cleared with Customs for movement into mainland, then these Goods will be considered as imported into the State.

Where a VAT-registered Person has incurred VAT on both, purchase of Goods and then again on import of the same Goods from the Designated Zone into the mainland in situations as said above, the FTA has clarified that the VAT-registered Person will be able to recover VAT incurred on the importation of

the Goods into the mainland in full (irrespective of the Person's normal input tax recovery percentage) on its tax return. It is pertinent to note that recovery under the special rule above will be permitted where no intervening transactions have taken place in respect to the Goods between the time of purchase by the importer and the actual import into mainland. The importer is required to retain evidence (and provide it to the Authority, if requested) of the VAT incurred in respect of the purchase and import.

4.9 Specific Cases - Supplies of Water and Energy

Supplies of water or any form of energy are considered as supplies of Goods. Therefore, similar to supplies of other Goods within Designated Zones, such supplies may be treated as being outside the scope of the UAE if they meet the conditions discussed above.

However, where water or energy is supplied for consumption (e.g., water and electricity provided by a water and electricity authority), then the place of supply of such water and energy reverts to being treated as being within the UAE and the supply is subject to the normal VAT treatment. This override applies even if the water or energy is used in the process of production of other goods in the Designated Zone. This means that suppliers of water and energy shall charge VAT without the need to distinguish between the potential uses of that water and energy.

4.9.1 Definition of the term "Energy"

The term "energy" includes electricity and gas, including biogas, coal gas, liquefied petroleum gas, natural gas, oil gas, producer gas, refinery gas, reformed natural gas, tempered liquefied petroleum gas and any mixture of gases, whether used for lighting, or heating, or cooling, or air conditioning or any other purpose.

Points to Note

- Normal VAT treatment shall be applicable only if water and energy is sold for the purpose of consumption.
- Supplies of oil, gas and other similar goods traded by businesses within designated Zones may still be considered to be outside the scope of UAE VAT.

4.10 Specific Cases - Supplies of Real Estate

A supply of Real Estate, which includes the sale and lease of real estate is considered as supplies of Goods.

The Place of Supply of such supplies is where the real estate is located. It should be noted that real estate is not treated as consumed when sold or leased within a Designated Zone and, therefore, such supplies of real estate are not brought into the scope of UAE VAT by Article 51(5) of the Executive Regulations. As such, supplies of real estate made within Designated Zones are outside the scope of VAT. In light of the above, raw materials purchased within a Designated Zone for the purpose of constructing real estate in the Designated Zone are also outside the scope of VAT. This is because the raw materials will be used in the production of another good (the real estate) located in the same Designated Zone, which itself is not consumed.

Where real estate is not supplied by way of sale or a lease but is a supply of Services related to real estate. This includes, but is not limited to, the following:

a. Granting a personal right to use real estate.
b. Licenses to occupy real estate.
c. The provision of contractual rights exercisable over or in relation to real estate.
d. The right to use accommodation in a hotel or in a similar establishment.

Place of Supply of Real Estate-related Services
As mentioned earlier, the Place of Supply of **all** Services shall be considered to be within the UAE even if such Services are supplied within Designated Zones. As a result, supplies of Services related to real estate will be taxable even if supplied within a Designated Zone.

4.11 Specific Cases - Tax Grouping

For tax grouping purposes, a business established within a Designated Zone is able to form a tax group with a Mainland company or another Designated Zone company, subject to meeting the normal control criteria as defined in Article 9 of the Executive Regulations.

The usual consequences of tax grouping follow, such as supplies between members being disregarded for VAT purposes, and there being joint and several liabilities of the members of the tax group. It should be noted, however, that where a supply of Goods between the tax group members results in the Goods being moved from a Designated Zone into the UAE mainland, this importation of

the Goods would trigger the obligation to pay import VAT. The payment of import VAT will be done using the normal process for such payments that is, a VAT-registered tax group will be able to defer accounting for the VAT to its VAT return.

Points to Note
Where a supply of Goods between the tax group members results in the goods being moved from a Designated Zone to UAE mainland, this importation of the Goods would trigger the obligation to account for VAT under Reverse Charge Mechanism for registered suppliers and payment of import VAT before clearance for unregistered suppliers.

4.12 Specific Cases - Branches

A single entity may have a branch or head office located in a Designated Zone and a branch or head office located in the UAE mainland. Supplies between different parts of the same legal entity, for example, between the head office and the branch, are treated as intra-entity supplies for VAT purposes and, therefore, disregarded for VAT purposes.

Similar to the tax groups, it should be noted that a movement of goods from a Designated Zone into the mainland UAE may trigger the obligation to pay import VAT (e.g., when transferring goods from the branch in the Designated Zone to the head office in the mainland) for unregistered suppliers. In contrast, an unregistered entity would be required to make a payment of import VAT before the goods are released from the Designated Zone.

4.13 Specific Cases - VAT Recovery

Businesses operating in Designated Zones will be subject to normal VAT rules of VAT recovery on their expenses:

- If a business makes only supplies which are liable to VAT (or which would be liable to VAT if they were taking place in the UAE), it should be able to recover its VAT on expenses (input tax) in full.
- Where the business makes supplies which do not give right to the VAT recovery (e.g., exempt supplies), the business is unable to recover VAT on expenses directly attributable to making such supplies.
- Where an expense relates to both supplies that give right to the VAT recovery and those that do not, the business would be required to apportion the Input Tax in order to identify the recoverable part.

In order to recover any VAT under the normal VAT rules, the businesses must be registered for VAT with the FTA.

Provided below is the updated list of Designated Zones in the UAE

No.	Designated Zone	Location
1	Free Trade Zone of Khalifa Port	Abu Dhabi
2	Abu Dhabi Airport Free Zone	
3	Khalifa Industrial Zone	
4	Al Ain International Airport Free Zone	
5	Al Butain Executive Airport Free Zone	
1	Jebel Ali Free Zone (North-South)	Dubai
2	Dubai Cars and Automotive Zone (DUCAMZ)	
3	Dubai Textile City (*effective from 1 January 2018 till 4 April 2021)	
4	Free Zone Area in Al Quoz (*effective from 1 January 2018 till 1 July 2021)	
5	DAFZA Industrial Park Free Zone- Al Qusais	
6	Dubai Aviation City	
7	Dubai Airport Free Zone	
8	International Humanitarian City - Jebel Ali (New)	
9	Dubai CommerCity (* included and effective from 1 January 2021)	
1	Hamriyah Free Zone	Sharjah
2	Sharjah Airport International Free Zone	
1	Ajman Free Zone	Ajman
1	Umm Al Quwain Free Trade Zone (Ahmed Bin Rashid Port)	Umm Al Quwain
2	Umm Al Quwain Free Trade Zone (Sheikh Md Bin Zayed Road)	
1	RAK Port Free Zone	Ras Al Khaimah
2	RAK Maritime City Free Zone	
3	RAK Airport Free Zone (* effective from 1 January 2018 till 4 July 2019)	
4	Al Hamra Industrial Zone- Free Zone (*Effective from 4 July 2019)	
5	Al Ghail Industrial Zone- Free Zone (*Effective from 4 July 2019)	
6	Al Hulaila Industrial Zone- Free Zone (*Effective from 4 July 2019)	
1	Fujairah Free Zone	Fujairah
2	FOIZ (Fujairah Oil Industry Zone)	

ESSENTIALS OF

UAE VAT LAW

CHAPTER 05

Valuation

5. Valuation

A Taxable Supply is defined in the VAT legislation as a "supply of Goods or Services for Consideration by a Person conducting business in the UAE, and does not include an exempt supply".

As a consequence, for a supply to be considered as a Taxable Supply, the following conditions need to be met:

- There needs to be supply of Goods or Services.
- The supply has to be for a Consideration.
- The supply has to be made by a Person who is conducting business in the UAE.

For a supply to be determined as a Taxable Supply, it must be made in return for a Consideration. "Consideration" is a defined term in the VAT legislation and includes anything that is received or expected to be received for the supply of Goods or Services, whether in money or other forms of payment.

As a consequence, the supplier of any Goods and Services has to carefully consider what it receives in return for any supply made by it. In doing so, the supplier should not only consider any monetary benefit being received, but also any other Goods or Services that it may receive in exchange.

We shall discuss the nuances in respect of Consideration or Value of Supply in this chapter.

5.1 Basics of Valuation

VAT is charged on the value of Goods and Services - when adding VAT to the price of Goods or Services, the business should multiply the amount by the applicable VAT rate (e.g., 5%).

If the price already includes VAT, divide the price by 21 (for the 5% VAT rate) to find out the VAT amount. Subtracting this amount from the VAT-inclusive price, will give VAT-exclusive Value of Supply.

5.2 Value of Supply[1]

The Value of Supply of Goods or Services for Consideration shall be as follows:

1. If the entire Consideration is monetary, the Value of the Supply shall be the

[1]Section 5.2 - Article (34) of Federal Decree Law No. 8 of 2017 on Value Added Tax

Consideration less the Tax.

2. If all or part of the Consideration is not monetary, the Value of the Supply is calculated as the overall monetary part plus the market value of the non-monetary part of the Consideration, and shall not include the Tax.
3. For Services received by the Taxable Person who is obligated to calculate the Tax in accordance with provisions of Reverse Charge Mechanism, the Value of the Supply shall be equal to the market value of the Consideration without addition of the Tax on that supply.
4. If the Consideration is related to matters other than the supply of Goods or Services, the Value of the Supply shall be equal to the part of the Consideration that is related to such supply.

5.3 Value of Imported Goods[1]

The Import value of Goods consists of:

1. The customs value pursuant to the Customs Legislation, including the **value of insurance, freight and any customs fees and excise tax paid on the Import of the Goods**. Tax shall not be included in the Value of the Supply.
2. If it is not possible to determine the value as mentioned above, the value shall be determined based on alternate valuation rules stated in the applicable Customs Legislation.

5.4 Value of Supply for Related Parties

As an exception to general valuation rules, Value of the Supply (for local supplies) or Import of Goods or Services between Related Parties shall be considered **equal to the market value** if the following conditions are met:

1. The Value of the Supply is less than the market value.
2. If the supply is a Taxable Supply and the Recipient of Goods or Recipient of Services does not have the right to recover the full Tax that would have been charged to such supply as Input Tax.

** Amendment in VAT Decree Law, Federal Decree-Law No. 18 of 2022 - Issued on 26 September, 2022

In view of the said amendment, it is amended that the Value of Supply in the case of supplies between related parties shall be determined on the basis of the market value, instead of cost price.

[1]Section 5.3 - Article (35) of Federal Decree Law No. 8 of 2017 on Value Added Tax

5.5 Value of Deemed Supply

As an exception to general valuation rules, the Value of Supply in the case of a Deemed Supply when the Taxable Person purchases Goods or Services to make Taxable Supplies, but does not use those Goods or Services for that purpose, it will be considered equal to the **total cost incurred** by the Taxable Person in order to make this Deemed Supply of Goods or Services.

5.6 Value of Supply in case of Discount or Subsidies

When discounts are made before or after the Date of Supply or subsidies are provided by the State to the supplier for that supply, the Value of the Supply shall be reduced in proportion to such discounts or subsidies. The Executive Regulation of this Decree-Law shall specify the conditions and restrictions for calculating the Tax when the discount is made.

5.7 Value of Supply of Vouchers

The Value of Supply of a Voucher is the difference between the consideration received by the supplier of the Voucher and the advertised monetary value of the Voucher.

5.8 Value of Supply of Postage Stamps

The Value of Supply for postage stamps that allow the user to use postal services in the State shall be the amount shown on the stamp.

5.9 Temporary Transfer of Goods

If Goods are transferred temporarily from the domestic market into a Designated Zone or outside the State for completing the manufacturing or repair in order to re-import them into the State, the Value of the Supply when re-imported shall be the value of the Services rendered.

5.10 Special Case - Value under Profit Margin Scheme

Profit margin is the difference between the purchase price of the Goods and the selling price of the Goods, and the profit margin shall be deemed to be inclusive of Tax.

5.11 Tax-inclusive Prices

Generally, for all taxable supplies, the advertised price shall include the Tax. Instances where prices do not include the Tax are:

a. when the supply of Goods or Services are for Export, and
b. when the customer is a Registrant.

5.12 Market Value[1]

- The phrase "similar supply", in relation to a supply of Goods or Services, means that any other supply of Goods or Services in respect to the characteristics, quality, quantity, functional components, materials and reputation, is the same as, or closely or substantially resembles that supply of Goods or Services.
- The market value of a supply of Goods or Services at a given date is the Consideration in money which the supply would **generally achieve if supplied in similar circumstances** at that date in the UAE, being a supply freely offered and made between Persons who are not connected in any manner.
- Where the market value of a supply of Goods or Services at a given date cannot be determined as mentioned, the market value is the Consideration in money which a similar supply would achieve if supplied in similar circumstances at that date in the State, being a supply freely offered and made between Persons who are not connected in any manner.
- Where the market value of any supply of Goods or Services cannot be determined as mentioned above, the market value shall be determined by reference to the replacement cost of identical Goods or Services, with such supply being offered by a supplier who is not connected to the Recipient of Goods or Recipient of Services in any manner.

5.13 Apportionment of Single Consideration

Where the Consideration payable to the Taxable Person relates to both a supply of Goods or Services and matters other than the supply of Goods or Services, or to two different supplies of Goods or Services, then the Taxable Person must identify the portion of the Consideration that is the market value of each part.

5.13.1 Multiple Supplies

Where a Person makes multiple supplies, the Person must determine the correct VAT treatment of each of the supply that it makes. This means that

[1]Section 5.12 - Article (25) of the Executive Regulations

potentially different supplies made as part of the same transaction can be subject to different VAT treatments. In such circumstances, where a single consideration was paid for multiple supplies that are subject to different VAT rates, the supplier must determine the value of each supply and apply the correct VAT treatment to that value.

5.13.2 A Single Composite Supply

A single composite supply is a single indivisible supply of a mixture of Goods and/or Services. By being treated as a single supply, all of the Goods and/or Services which form part of the supply will be subject to the same VAT treatment. A single composite supply may exist, for example, where there is a principal component and incidental components in a supply for which a single price is payable.

5.14 Guidance in Respect to Tax Invoices Issued in Currency other than AED

Currency stated on tax invoices must be the UAE Dirham (AED). In the event that a supply is made in a currency other than the UAE Dirham, the amount must be converted into and stated in the UAE Dirham on the tax invoice.

The invoice may still contain information regarding prices in the original currency. When converting the foreign currency into the UAE Dirham, the **exchange rate used must be a rate approved by the UAE Central Bank**.

Daily exchange rates are available on the UAE Central Bank website, which can be used for UAE VAT purposes.

5.15 Guidance in Respect to Rounding off

Rounding off rules where the invoice amount is a fraction of a fils, the amount should be rounded off to the nearest fils (that is, to two decimal places) on a mathematical basis, being:

- rounded up if the fraction is a half or more; and
- rounded down if the fraction is less than a half.

5.16 Guidance in Respect to Discounts and Subsidies

- The UAE shall not be treated as providing a subsidy to the supplier if the subsidy or part of it is a Consideration for a supply of Goods or Services to

the UAE.

- Value of Supply may be reduced in case of a discount if the following conditions are met:

a. The customer has benefitted from the reduction in price.
b. The supplier funded the discount.
    - Value of a discount shall be the amount by which the Consideration is reduced.
    - Value of a discount shall not include the value of any Voucher used, and any such reduction will be ignored, unless that Voucher was provided for no Consideration.

5.17 Other Points to be Considered

Public clarification (VATP020) states that the term "VAT-free" is misleading and contrary to the basic principles stipulated by the VAT legislation. It further clarifies the VAT treatment of promotions where the seller absorbs the VAT on promotional goods in the following areas:

- Liability to impose VAT -- Where the seller is a Taxable Person, the seller is required to charge 5% VAT on the supply of all Goods and Services in the UAE except where the VAT law provides for zero-rating or exemption.
- In any promotional campaign stating that the supply of promotional goods is "VAT-free", the seller has the obligation to charge VAT on these supplies as VAT is payable on taxable supplies. The seller may, however, make a commercial decision to offer a discount equivalent to the amount of VAT.
- "VAT-on-us" promotions (discounts) -- In these instances the seller is regarded as giving a discount to customers equivalent to the VAT amount imposed on the promotional Goods or Services. The value of the discount is the amount by which the Consideration is reduced.
- VAT-inclusive prices -- Any price displayed for a taxable supply should be VAT inclusive except for exported Goods or Services or supplies made to VAT-registered customers.
- Even though a company expressly advertises prices as "VAT-free" as part of its promotion labelling, the price charged to the customer is considered to be inclusive of VAT.
- VAT amount -- The amount paid by customers for promotional Goods represents a VAT-inclusive Consideration regardless of whether the promotion is published as "VAT-free" or not.
- Tax invoices -- Tax invoices issued for taxable promotional Goods or Services should meet all the requirements set out in Article 59 of the Executive Regulations.

ESSENTIALS OF

UAE VAT LAW

CHAPTER 06

Zero-rated Supplies

6. Zero-rated Supplies

A supply cannot be a Taxable Supply if it is an Exempt Supply. Where a supply is neither a Taxable Supply nor an Exempt Supply, it will be outside the scope of UAE VAT. The supply and Import of Goods and Services specified in this Chapter made by a Taxable Person shall be a Taxable Supply, subject to VAT at zero rate.

VAT is not applicable on zero-rated supplies (since the applicable rate is 0%), but such supplies are still treated as "Taxable Supplies" in all other respects. As a result, the Person making the supply has the right to recover the VAT incurred on their own business expenditure in the same way as they would if they made standard-rated supplies.

Zero-rated supplies are Taxable Supplies of Goods or Services which are subject to VAT at 0%. The following broad categories of supplies are zero-rated:

- A direct or indirect export of Goods or Services to outside the GCC Implementing States.
- International transport of passengers and Goods which starts or ends in the UAE or passes through the UAE's territory, including services related to such transport.
- Goods and Services consumed or used during the international transportation of Goods or passengers.
- Air, sea and land means of transport intended for the transportation of passengers or Goods, and Goods and Services supplied for the purpose of the operation, repair, maintenance or conversion of these means of transport.
- Aircraft or vessels designated for rescue and assistance by air or sea.
- Certain investments in precious metals.
- The first supply of a newly constructed or converted residential building within 3 years of the completion of the construction or conversion.
- The first supply of a building, specifically designed to be used by charities.
- Crude oil and natural gas.
- Educational services and related Goods and Services for nurseries, preschool, and elementary education; and higher educational institutions owned or funded by Federal or local Government.
- Preventive and basic healthcare services and related Goods and Services. As mentioned above, although VAT charged on a zero-rated supply is nil, the supply is still treated as a Taxable Supply in all other respects -- including the right of the Person making the supply to recover the VAT on expenses incurred in making the zero-rated supply

6.1 Exceptions from Registration

If a Person exceeds, or anticipates exceeding, the Mandatory Registration Threshold, they may request to be excluded from the requirement to register if their Taxable Supplies are exclusively zero-rated. However, the FTA is not obligated to accept such requests and acceptance of such requests is at the FTA's discretion. If a request for exception from registration is accepted by the FTA, then the Person must inform the FTA if they start making any supplies, which are subject to VAT at the standard rate. A failure to do so could result in the FTA raising a tax assessment process and imposing penalties.

6.2 Export of Goods subject to VAT at Zero Rate

As per Article 45 (1) of the Decree Law, zero rate shall apply to a direct or indirect Export of Goods to outside the Implementing States.

Important definitions to understand the zero rating of supply of Goods
- Export, Direct Export, and Indirect Export - are defined in the ER of the Decree Law.

Export - Goods departing the State (the UAE), including Direct and Indirect Export.

Direct Export - An Export of Goods to a destination outside of the Implementing States, where the supplier is responsible for arranging transport or appointing an agent to do so on his behalf.

Indirect Export - An Export of Goods to a destination outside of the Implementing States, where the overseas customer is responsible for arranging the collection of the Goods from the supplier in the State and who exports the Goods himself, or has appointed an agent to do so on his behalf.

Indirect Export can be understood as an 'Ex-works' arrangement where the customer is responsible for collection and transportation of the export of goods. It is important to note here that in an Indirect Export the customer must be an Overseas Customer as defined in the ER. Accordingly, an Indirect Export cannot be zero rated if the customer is located in the UAE and has a TRN.

Overseas Customer - A Recipient of Goods who does not have a Place of Establishment or Fixed Establishment in the State, does not reside in the State, and does not have a Tax Registration Number.

6.2.1 Direct Export of Goods

The Direct Export shall be subject to the zero rate if the following conditions are met:

a. The Goods are physically exported to a place outside the UAE or are put into a customs suspension regime in accordance with GCC Common Customs Law within 90 days of the date of the supply.
b. The official and commercial evidence of Export or customs suspension is retained by the exporter.

Example:
Company X based in the UAE mainland sold goods to a customer based in the USA. Such sale of goods could be classified as zero-rated export of goods, if Company X has physically exported the goods outside the UAE within 90 days of date of supply and retains all the official and commercial evidence for such export.

6.2.3 Indirect Export of Goods

An Indirect Export shall be subject to the zero rate if the following conditions are met:

a. The Goods are physically exported to a place outside the UAE or are put into a customs suspension regime in accordance with GCC Common Customs Law, within 90 days of the date of the supply under an arrangement agreed to by the supplier and the Overseas Customer at or before the date of supply.
b. The Overseas Customer obtains official and commercial evidence of Export or customs suspension in accordance with the GCC Common Customs Law and provides the supplier with a copy of this.
c. The Goods are not used or altered in the time between supply and Export or customs suspension, except to the extent necessary to prepare the Goods for Export or customs suspension.
d. The Goods do not leave the State in the possession of a passenger or crew member of an aircraft or ship.

The above-mentioned condition 'c' implies that it is essential for the supplier to take a confirmation from the overseas Customer that the Goods shall be processed further or shall not change its form before they are exported outside the UAE. The only alteration that can be done to the goods shall be in form that is essential for exporting the goods (for example, packaging, labelling, etc.)

Furthermore, the above-mentioned condition 'd' implies that if the supplier is

selling Goods to a passenger or crew member of a aircraft or ship and is assured that the Goods will be taken outside the UAE still the supplier cannot zero rate the supply of such Goods to a customer who fulfils the definition of an Overseas Customer. The supply of Goods to such customer shall be considered as standard rated. The supply shall be zero rated subject to clause (8) of Article 45, which specifies cases where the supply is made in the departure area of an airport or port to a passenger of an aircraft or a vessel.

Example:
Company X based in the UAE mainland sold Goods to a customer, Company Y based in the USA. Customer Y agrees to make the arrangements for the collection and transportation of the Goods from the UAE to the USA. Such sale of Goods could be classified as zero-rated Export of Goods, if Company Y has physically exported the Goods outside the UAE within 90 days of date of supply and the supplier retains all the official and commercial evidence for such export. Further, such goods shall not be altered or used before leaving the UAE.

6.3 Supply of Goods from Mainland to Designated Zone

Movement of Goods into a Designated Zone from a place in the UAE or a supply of Goods to a Designated Zone shall not be considered an Export of those Goods.

This provision implies that supply of Goods from the UAE Mainland to the Designated Zone shall be taxable at standard rate of VAT at 5%.

6.4 Detailed Understanding of the Official Evidence for Supplies made from Respective Emirates

For the purposes of zero-rating Export of Goods, "Official Evidence" means Export documents issued by the local Emirate Customs Department in respect to Goods leaving the State.

To elaborate further, it may be noted that “Official Evidence" includes the following:

a. Bill of Entry/Exit issued by respective Customs Department.
b. Exit Certificate issued by respective Customs Department.
c. Invoices raised by the customer along with the buyer's Purchase Order.

Dubai Customs Department had issued a Customs Notice in 2017 -- Customs

Notice No. 7 /2017 -- on the 'Procedures for Proving Exportation of Goods for VAT Purposes', applicable on all Goods and consignments being cleared by customs commencing from 1st January, 2018. According to this notice, in order to prove Exportation of Goods outside the country, the following procedures need to be followed:

1. Issuing a customs declaration in accordance with the customs procedures applicable for proving Export of Goods outside the country.
2. Issuing authenticated Customs Exit/Entry Certificates.
3. Actual examination (inspection) of Goods (in terms of description, type, quantity, weight, country of origin, etc.).

With reference to the above, it may be stated that when the movement of Goods is through Dubai Customs and the businesses want to zero rate the transaction, amongst all other export-related documents, the Customs Exit/Entry Certificate is also a mandatory requirement.

Consequently, when Exporting the Goods from an emirate other than Dubai, the businesses should refer to the customs requirements of the respective local emirate and arrange for all the required documents to support that the Export of Goods is zero rated.

Similarly, "Commercial Evidence" shall include any of the following:

a. Airway bill.
b. Bill of landing.
c. Consignment note.
d. Certificate of shipment.

It has been further mentioned that the evidence obtained as proof of Export, whether official or commercial, must identify the following:

a. The supplier.
b. The consignor.
c. The Goods.
d. The value.
e. Destination of Export.
f. The mode of transport and route of the export movement.

However, the Authority may specify alternative forms of evidence according to the nature of the Export, or the nature of the Goods being exported.

6.5 Time Period for Export of Goods

The Authority may extend the 90-day period, if the Authority has determined, after the supplier has applied in writing that either of the following conditions

prevail:

a. Circumstances, beyond the control of the Supplier and the Recipient of Goods, have prevented, or will prevent, the Export of the Goods within 90 days of the date of supply.
b. Due to the nature of the supply, it is not practicable for the supplier to Export the Goods, or a class of the Goods, within 90 days of the date of supply.

The FTA has issued the 'VAT Administrative Exceptions User Guide', which provides the detailed procedure to be followed for filing an exception in case the Goods cannot be exported within 90 days from the date of supply.

In case the person required to Export the Goods does not do so within the period of 90 days, or a longer period that the Authority has allowed, Tax shall be charged on the supply at the rate that would have been due on the supply if it was made in the UAE.

Therefore, if the Goods are not exported within 90 days or a longer period (as provided by filing an administrative exception) then the supply shall be taxable at the standard rate of the VAT (@5%). If the VAT on such supplies exceeds AED 10,000, then the supplier may have to file for a voluntary disclosure. This shall result in both administrative penalty and interest.

6.6 Export of Goods with a Passenger of Aircraft/Vessel

An Indirect Export would include a supply of Goods in a departure area of an airport or port to a passenger of an aircraft or a vessel if:

a. The Goods are intended to leave the State in the possession of the passenger.
b. The supplier has obtained and retained evidence, such as the details of the boarding pass of the passenger, that the passenger intends to leave for a destination outside the Implementing States.

6.7 Goods Destroyed Prior to Export

A supply of Goods shall continue to be subject to the zero rate, even if Goods that would otherwise have been exported are destroyed or cease to exist in circumstances beyond the control of both the supplier and the Recipient of the Goods.

This implies that prior to exporting the Goods, within the period of 90 days from the date of supply, if the Goods are destroyed due to any reason beyond

the control of supplier or Recipient and cease to exist (for example destroyed in some natural calamity), then the supply shall be treated as zero rated. It is, however, essential for the supplier to keep the proof of destruction of the Goods.

6.8 Review by Customs Department

The Customs Department shall check to confirm the type and quantity of the exported Goods with its export documents. Therefore, it is the Customs Department's obligation to do so.

Accordingly, the supplier claiming zero rate under the Export of Goods is encouraged to get an exit certificate issued by the Customs Department or any other kind of inspection certificate issued by the same department. This document is a proof that the exported Goods were verified by the customs and further support the authenticity of the export transaction.

6.9 Major Issue under Discussion: 'Bill to' and 'Ship to' Transactions under UAE VAT Law

It has been observed that many companies are zero rating the 'Bill to - UAE Local customer' and 'Ship to - Goods outside UAE', under the UAE VAT Law. Is this a correct procedure for VAT treatment?

Example

- *ABC LLC a supplier (located in the UAE Mainland) sells Goods (located in the UAE Mainland) to a customer PQR LLC (located in the UAE Mainland).*
- *On the request of PQR LLC, the supplier ABC LLC, exports the Goods outside the UAE. All export-related documents and customs formalities are done by ABC LLC.*
- *ABC LLC is the exporter on record for customs purposes.*
- *ABC LLC issues a Tax Invoice to PQR LLC at zero rate of VAT (Bill to - PQR LLC and Ship to - Outside the UAE).*

The term 'Supply' has been defined as "transfer of ownership of the Goods from one person to another". Supply is taxable at standard rate of VAT, unless it is an export and is zero rated under Article 30 of the ER of the Decree Law.

The term 'Export' has been defined as "Goods departing the UAE" and includes Export of Goods where the supplier is responsible for arranging the transport or appointing an agent to do so on his behalf (referred to as 'Direct Export' in the ER of the Decree Law). Direct Export can be understood as one where the

supplier is responsible for arranging the transportation of the Goods from the UAE to outside the UAE. Direct Export is zero rated provided the exporter (not defined in the Decree Law) retains the official and commercial evidence of export.

With reference to definition of 'Direct Export', for the end customer located outside the UAE, PQR LLC is the supplier who is responsible for arranging the transportation of the goods. For PQR LLC, it is a Direct Export and can be zero rated under Article 45 of the Decree Law, read with Article 30 (1) of the ER of the Decree Law, provided it has 'Official and Commercial Evidence' of the export. The Decree Law and its ER does not mention anywhere that if the supplier is an exporter on record, only then can the transaction be zero rated under Article 30 (1).

Generally, in such cases, we have noted that the main supplier (ABC LLC) takes the responsibility of loading the Goods on to the ship or transport vehicle (Free on board). Unlike other GCC VAT Law, UAE VAT Law has not defined the territorial waters, neither have they given examples of cases of Goods, further sold after UAE customs border. In such a case, one view may be that ABC LLC transfers the ownership of the Goods in the UAE to PQR LLC and agrees to do the arrangement of transportation on behalf of PQR LLC.

Based on the above, it may be stated that ABC LLC being an exporter on record does not suffice that it is a supplier under the definition of Direct Export and thus, the transaction of Bill to local UAE customer and ship to outside UAE may not be zero rated. It may be noted that a detailed analysis needs to be conducted to take a position, as the facts of the case are critical here.

In the Automotive Sector Guide, the FTA has clarified that in case of 'bill to' and 'ship to' transactions, only the final supply can be zero rated. For the current case, we understand that there are two underlying transactions, but only one export transaction takes place.

1. ABC LLC supplied the goods to PQR LLC, which is local movement of goods.
2. PQR LLC made the export to overseas customer.

Drawing reference from the Automotive Guide in this case, it can be constituted that the local supply from ABC LLC to PQR LLC will be subject to VAT at 5%, even though the Goods are transported outside the UAE as Goods are sold to a customer located in the UAE.

Supply of Goods from PQR LLC to a foreign customer (i.e., Raed Trading Est)

will be zero-rated subject to proof of possession of export documentations.

The businesses having transactions of 'Bill to local UAE customer and ship to outside UAE' must re-visit the facts of each case before zero rating the transaction. The Automotive Guide provides clarity on the same as to there are two supplies made in this transaction.

6.10 Temporary Import for Repairs and Maintenance

The question here is whether 'Temporary Import' of machinery for repairs, maintenance, conversion and refurbishment into the UAE would be taxable at standard rate or zero rate, if the customer is a Non-Resident?

Let's analyse the issue in detail through an example and by taking a closer look at the provisions of the VAT Decree Law, its Executive Regulations and GCC VAT Framework:

Example: Facts of the transaction

- *ABC LLC a supplier (located in the UAE Mainland) provides the services of repairs, conversion, refurbishment of machinery to a Non-Resident customer.*
- *For providing these services, the machinery is imported into the UAE and then re-exported.*
- *These services are not part of any warranty cover.*

Generally, repair, maintenance, conversion and refurbishments involve supply of both Goods and Services for one price. Therefore, these supplies are considered as a 'Single Composite Supply' under the Decree Law. The question arises whether such a supply, when made to a Non-resident customer, can be zero rated under Article 31 of the Executive Regulations?
The term 'Export' is defined as "Goods or the provision of Services departing the UAE to a Person whose Place of Establishment or Fixed Establishment is outside the UAE.

VAT Law of	Reference to Article	Tax Implications
Bahrain	Article 72 of the Executive Regulations	May be zero-rated
Kingdom of Saudi Arabia	Article 32 (6) of the Implementation Regulations	May be zero-rated
UAE	Article 31(1)(a) of the Executive Regulations	May be taxable at 5%
GCC VAT Framework	Article 34(1)(c) of the Framework	May be zero-rated

Export of Service is zero rated, provided the following conditions of Article 31 (1) (a) are met:

- The Services are supplied to a Recipient who does not have a Place of Residence in an Implementing State and who is outside the State at the time the Services are performed.
- The Services are not supplied directly in connection with real estate or moveable personal assets situated in the UAE at the time the Services are performed.
- Direct Export is zero rated, provided the exporter (not defined in the Decree Law) retains the Official and Commercial Evidence of Export.

Based on the above conditions, it may be stated that since the machinery (moveable personal asset) is situated in the UAE at the time the Services are performed, the supply of Services cannot be zero rated.

But it is essential to take into consideration the fact that VAT is a tax on consumption of Goods and Services made in the UAE. In this case, the Services are not consumed by the recipient (who is a non-resident and is not present in the UAE when the Services are performed) in the UAE, thus, it should be zero rated.

The zero rating on such a supply can be further evidenced by Article 34 (1) of the GCC VAT framework which states that, re-export of moveable Goods that have been temporarily imported into the GCC Territory for repairs, refurbishment, conversion or processing as well as the Services added to these Goods, shall be zero rated.

To further validate this view, we have analysed the Laws of GCC countries, which have implemented VAT and summarized below:

The UAE is a major hub for many such supplies which involve temporary import for repairs and maintenance. If these transactions are taxable at 5% for a Non-resident customer in the UAE and 0% in other GCC countries, this would certainly impact business in the UAE.

Further, if a non-resident customer wants to claim this amount, will it be allowed to register for VAT in the UAE? May be not, because it is not making any taxable supplies in the UAE.

6.11 Export of Services subject to VAT at Zero Rate

As per Article 31 (1) of Executive Regulation, the Export of Services shall be zero-rated in the following cases.

a. If the following conditions are met:
    1. The Services are supplied to a Recipient of Services who does not have a Place of Residence in an Implementing State and who is outside the State at the time the Services are being performed.
    2. The Services are not supplied directly in connection with real estate situated in the State or any improvement to the real estate or directly in connection with moveable personal assets situated in the State at the time the Services are being performed.
b. If the Services are actually performed outside the Implementing States or are the arranging of Services that are actually performed outside the Implementing States.
c. If the supply consists of the facilitation of outbound tour packages, for that part of the Service.

Additionally, Article 31 (3) of the Executive Regulations states that as an exception to paragraph (a) of Clause 1 of this Article, a supply of Services shall not be zero-rated, if the supply is made under an agreement that is entered into, whether directly or indirectly, with a Recipient of Services who is a Non-Resident, if all of the following conditions are met:

a. The performance of the Services is, or it is reasonably foreseeable that the performance of the Services will be, received in the State by another Person, including but not limited to, an employee or a director of the Non-Resident Recipient of Services.
b. It is reasonably foreseeable, at the time the agreement is entered into, that that other Person in the State will receive the Services in the course of making supplies for which Input Tax is not recoverable in full under Article 54 of the Decree-Law.

6.12 Detailed Analysis of Export of Services[1]

In accordance with Article 31(1)(a)(1) of the Executive Regulations, a supply may only be zero rated where the recipient of Services does not have a place of residence in an Implementing State and is outside the UAE at the time the Services are performed.

In determining whether these conditions are met, the supplier must consider all available facts in order to identify the residency status and the location of the

[1]Section 6.12 - Article (31) of the Executive Regulations

Recipient. Where the Recipient has multiple establishments, the supplier must also determine which establishment of the Recipient is most closely related to the supply.

Article 31(1)(a) of the Executive Regulations allows the zero-rating of the Export of Services, subject to certain conditions. These conditions include the following in subsection (1) of Article 31(1)(a) of the Executive Regulations:

The Services are supplied to a Recipient of Services who does not have a Place of Residence in an Implementing State and who is outside the State at the time the Services are performed.

Subsection (1) of Article 31(1)(a) contains two requirements which must be met in order for a supply to be able to be zero-rated. First, the Recipient of the Services should not have a Place of Residence in an Implementing State, and secondly, the Recipient of the Services should be outside the UAE at the time the Services are performed by the supplier.

Condition 1: Place of Residence of the Recipient

The first condition for zero-rating (i.e., the Recipient of Services should not have a Place of Residence in an Implementing State) will be satisfied if the Recipient does not have a Place of Residence in the UAE.

A Recipient of Services may be considered to have a "Place of Residence" in the UAE if it has either of the following in the UAE:

- A "place of establishment", being the place where the Recipient is a legally established pursuant to the decision of its establishment, in which significant management decisions are taken or central management functions are conducted; or
- A "fixed establishment", being any fixed place of business in which the Recipient conducts business regularly or permanently and where sufficient human and technology resources exist to enable the Recipient to supply or acquire Goods or Services, including the Recipient's branches.

Often, a business may have a number of different establishments in different countries. Where a Recipient has a number of different establishments, with some being in the UAE and some being outside the UAE, it is necessary to determine which of these establishments should be considered as the Recipient's Place of Residence for the purposes of Article 31 of the Executive Regulations.

Where a Recipient has a number of establishments in different countries, the Place of Residence of that Recipient should be considered to be the country in

which the Recipient's place of establishment or fixed establishment most closely related to the supply of Services being made is located.

For example, a Recipient of Services may have a head office (i.e., a place of establishment) outside the UAE and a branch (i.e., a fixed establishment) in the UAE. If the Services provided by the UAE supplier relate solely to the activities of the head office and do not involve the UAE branch, then the head office would be considered to be the establishment most closely related to the supply. As a consequence, the Place of Residence of the Recipient of Services would be the country where the head office is located.

In contrast, where, for example, a UAE supplier makes a supply of Services to the UAE branch of an overseas head office and the Services will be used solely for the purposes of the branch, then the branch would be the establishment most closely related to the supply. As a result, the Recipient would be treated as having the Place of Residence in the UAE, thereby preventing the supply from being zero-rated.

In some cases, the supply of Services made by the supplier may be received, to some degree, by both the place of establishment and the fixed establishment. In such a case, the supplier will need to identify which establishment is most closely related to receiving the supply by considering the facts of each case objectively. The following factors should be taken into consideration:

- Which establishment is the contractual Recipient of the supply?
- Which establishment is actually benefitting from the supply?
- Which establishment will receive the invoice and make payment for the supply?
- Which establishment provides instructions to the supplier?
- Whether the Services are related to the business being carried on by the Recipient through an establishment in a particular country?

It should be noted that where a Person does not have a place of establishment or a fixed establishment in any country (for example, a natural Person), then the Place of Residence of the Person is the state in which the usual place of residence of that person is located (Article 32(3) of the Decree-Law).

Condition 2: Location of the Recipient

The second condition for zero-rating is that the Services are supplied to the Recipient who is outside the UAE at the time the Services are performed.

In other words, in order to determine whether this condition is satisfied, it is necessary to consider whether the Recipient has any physical presence in the UAE at the time the Services are performed. The requirement that the location

of the Recipient should be determined "at the time when the Services are performed" requires consideration of the nature of the Services supplied, and the period or duration during which the Services are performed by the supplier and consumed by the Recipient. Only the physical presence of the Recipient during the period or periods in which the supplier performs Services and the Recipient consumes them needs to be taken into account; the location of the Recipient before or after the Services are performed and consumed should not be taken into account for the purposes of this condition.

For example, where Services are such that they are continuously performed and consumed for a duration of time, then any presence of the Recipient during commencement, throughout, or during completion of the Service in the UAE would result in the Recipient being treated as being within the UAE "at the time the Services are performed". Similarly, if the Services are of a nature that they are performed and consumed at the time that they are completed, then the location of the Recipient at the time of completion of the Services will determine whether the Recipient is outside or inside the UAE at the time the Services are performed.

It should be noted that where the Recipient has multiple establishments, the supplier should only take into account the establishment of the Recipient which is most closely related to the supply being made in determining whether the Recipient is outside or inside the UAE at the time the Services are performed. Therefore, where the recipient has establishments both inside and outside the UAE and the supply is most closely connected with the non-resident establishment of the Recipient, then that non-resident establishment of the Recipient will be treated as the location of the Recipient for the purposes of Article 31(1)(a) of the Executive Regulations. In such circumstances, the condition that the Recipient is outside the UAE would be met even if the Recipient has a UAE establishment as well.

It is important to note that a non-resident Recipient of Services (including a Recipient who may already have a UAE establishment) may lose the ability to receive a zero-rated supply where they create a temporary presence in the UAE at the time the Services are performed, which relates to the supply being made. For example, where a non-resident recipient of legal services relating to some arbitration sends its representative to the UAE to be present during the hearing, the law firm making the supply would not be able to zero-rate the supply of the Services relating to the arbitration process during which the client was present in the UAE - since the non-resident client, through its representative, was physically present in the UAE at the time the Services were performed by the law firm.

The above principles relate to companies and other entities, which are capable of being established and present in multiple locations simultaneously, and do not apply to natural Persons who are incapable of having a simultaneous presence in multiple locations. Therefore, where an individual is physically inside the UAE, he or she cannot be "outside the State". This presence of the individual in the UAE at the time the Services are performed would typically take away the ability of the supplier to zero-rate the supply to the individual.

Extension to the term "outside the State"

Article 31(2) of the Executive Regulations provides an exception to the condition that the Recipient of Services must be physically outside the UAE for zero-rating to apply. Specifically, a Person can still be considered as being outside the UAE where they only have a short-term presence in the UAE of less than a month and the presence is not effectively connected with the supply.

The purpose of this condition is to ensure that the ability to zero-rate a supply is not unduly affected where the recipient has a UAE presence which is both short-term and is not effectively connected with the supply, and, as a consequence, this presence is unlikely to be known to the supplier of the zero-rated services. For example, a Recipient would still be considered to be outside the UAE in situations involving the following scenarios:

- A UK-resident company employs a UAE law firm to represent it during an ongoing litigation before the UAE courts. During the course of the litigation, one of the company's employees comes to the UAE for a conference not related to the ongoing litigation.
- A UAE investment fund provides fund management services to a US-based company. The company has a UAE branch which is not related to the supply being made by the investment fund. The US establishment sends a staff member to the UAE for 3 weeks to provide training to the employees of the UAE branch.
- A Canadian resident natural person engages a UAE company for assistance with due diligence on a company he is interested in investing in. During the process, the person comes to the UAE on a week-long holiday and does not visit the UAE company or meet with its employees.

6.13 Other Supplies subject to VAT at Zero Rate:

Category	Additional Conditions/Commentary
International transport of passengers and Goods which starts or ends in the State or passes through its territory, including transport-related Services	▶ The supply of international transportation Services for Passengers and Goods and transport-related Services shall be subject to the zero rate in the following cases: a. Transporting passengers or Goods from a place in the State to a place outside the State. b. Transporting passengers or Goods from a place outside the State to a place in the State. c. Transporting passengers from a place in the State to another place in the State by sea or air or land as part of a supply of an international transport of those passengers if either or both the first place of departure, or the final place of destination, is outside the State. d. Transporting Goods from a place in the State to another place in the State if the Services are supplied as part, or for the purpose, of the supply of Services of transporting Goods either from a place in the State to a place outside the State or from a place outside the State to a place in the State. ▶ The Service of insuring or arranging of the insurance, or the arranging of the transport of passengers or Goods when they are supplied in respect of the transportation services of passengers or Goods to which either above mentioned Clause applies or which are treated as taking place outside the State.
Goods and Services consumed or used during the international transportation of Goods or passengers	▶ A supply of a postage stamp issued by Emirates Post Group shall be zero-rated where the postage stamp may only be redeemed for transportation of Goods to a place outside the State. ▶ The following Goods and Services shall be zero-rated if they are supplied in respect to the transportation Services of passengers or Goods to which the above mentioned clause applies or which are treated as taking place outside the State: a. The Goods which are supplied for use or consumption or sale by or on an aircraft or a ship. b. The Services supplied during the supply of transportation services.
Air, sea and land means of transport intended for the transportation of passengers or Goods and Goods and Services supplied for the purpose of operation, repair, maintenance or conversion of these means of transport	▶ The supply of the means of transport shall be subject to the zero rate in the following cases: a. A supply of an aircraft that is designed or adapted to be used for commercial transportation of passengers or Goods and which is not designed or adapted for recreation, pleasure or sports. b. A supply of a ship, boat or floating structure that is designed or adapted for use in commercial purposes and which is not designed or adapted for recreation, pleasure or sports. c. A supply of bus or train that is designed or adapted to be used for public transportation of 10 or more passengers. ▶ The Goods and Services related to the supply of the above mentioned means of transport shall be subject to the zero rate if they are any of the following: a. Goods, except fuel or other oil or gas products, that are supplied in the course of operating, repairing, maintaining or

	converting means of transport in any of the following cases: ▶ The Goods shall be incorporated into, affixed to, attached to or form part of those means of transport. ▶ The Goods are consumable Goods that become unusable or worthless as a direct result of being used in the operation, repair, maintenance, or conversion process. b. Services which are supplied directly in connection with the specified means of transport for the purposes of operating, repairing, maintaining or converting those means of transport. c. Services which are supplied directly in connection with parts and equipment of the specified means of transport for the purpose of repairing and maintaining those parts and equipment, provided that any of the following applies: ▶ The Services are carried out on board of the means of transport. ▶ The part or equipment is removed for repair or maintenance, and is subsequently replaced in the same means of transport. ▶ The part or equipment is removed for repair or maintenance, and is subsequently held in stock for use in the future as spares in the same means of transport or another means of transport. ▶ The part or equipment cannot be repaired and is exchanged for an identical part or equipment.
Aircraft or vessels designated for rescue and assistance by air or sea	No Additional conditions/ comments
Certain investment precious metals	▶ The supply or import of investment precious metals shall be zero-rated. ▶ The phrase "investment precious metals" means gold, silver and platinum that meet the following standards: a. The metal is of a purity of 99 percent or more. b. The metal is in a form tradeable in global bullion markets.
The first supply of a newly constructed or converted residential building within 3 years of the completion of the construction or conversion	▶ The phrase "residential building" means a building intended and designed for human occupation, including: a. Any building or part of a building that the Person occupies, or that it can be foreseen that a Person will occupy, as their principal Place of Residence. b. Residential accommodation for students or school pupils. c. Residential accommodation for armed forces and police. d. Orphanages, nursing homes and rest homes. ▶ A "Residential building" does not include any of the following: a. Any place that is not a building fixed to the ground and can be moved without being damaged. b. Any building that is used as a hotel, motel, bed and breakfast establishment, or hospital or the like. c. A serviced apartment for which services in addition to the supply of accommodation are provided. d. Any building, constructed or converted without lawful authority. ▶ A building shall be considered as a residential building if a small

	proportion of it is used as an office or workspace by the occupants, if it includes garages and gardens used in conjunction with it, or it includes any other features that may be said to comprise part of the residential building. ▶ The first supply of a building, or any part of a building, which is converted to a residential building shall be subject to the zero rate provided that the supply takes place within 3 years of the completion of the conversion and the original building, or any part of it, was not used as a residential building and did not comprise part of a residential building within 5 five years prior to the conversion work commencing. ▶ The presence of shared or common facilities, or dividing walls or similar features in a residential building should not cause the residential building to be considered, or any part thereon, as part of a pre-existing residential building.
The first supply of a building, specifically designed to be used by charities	▶ The first sale or lease of a building, or any part of a building, shall be zero-rated if the building was specifically designed to be used by a Charity and solely for a relevant charitable activity. ▶ "Relevant charitable activity" means an activity for the purpose other than for the purpose of profit or benefit to any proprietor, member, or shareholder of the Charity, and one which is undertaken by the Charity in the course or furtherance of its charitable purpose or objectives to carry out a charitable activity in the State as approved by the Ministry of Community Development, or under the conditions of its establishment as a charity under Federal or Emirate Decree, or as otherwise licensed to operate as a Charity by an agency of the Federal or Emirate Governments authorised to grant such licences. Such charitable purposes and objectives include, for instance, advancing health, education, public welfare, religion, culture, science and similar activities.
Crude oil and natural gas	No Additional conditions/ comments
Educational Services and related Goods and Services for nurseries, preschool, and elementary education; and higher educational institutions owned or funded by Federal or local Government	▶ The supply of educational services shall be subject to the zero rate if the following conditions are met: a. The supply of educational services is provided in accordance with the curriculum recognised by the federal or local competent government entity regulating the education sector where the course is delivered. b. The supplier of the educational services is an educational institution which is recognised by the federal or local competent government entity regulating the education sector where the course is delivered. c. Where the Supplier of educational services is a higher education institution, the institution is either owned by the federal or local government or receives more than 50% of its annual funding directly from the federal or local government. ▶ A supply of Goods or Services made by specified educational institutions shall be zero-rated where the supply is directly related to the provision of a zero-rated educational service. ▶ Printed and digital reading material provided by specified educational institutions and which are related to the curriculum of an education shall be zero-rated.

	▶ As an exception to the above, the following supplies shall not be zero-rated: a. Goods and Services supplied by the specified educational institution that are made available to Persons who are not enrolled in the educational institution. b. Any Goods other than educational materials provided by the specified educational institution that are consumed or transformed by the students undertaking the educational service for the purposes of education. c. Uniforms or any other clothing which are required to be worn by the specified educational institution, irrespective of whether or not supplied by the educational institutions as part of the supply of educational services. d. Electronic devices in relation to educational Services, irrespective of whether or not supplied by the specified educational institution as part of the supply of educational services. e. Food and beverages supplied at the specified educational institution, including supplies from vending machines or vouchers in respect of food and beverages. f. Field trips, unless these are directly related to the curriculum of an education service and are not predominantly recreational. g. Extracurricular activities provided by or through such educational institution for a fee additional to the fee for the education service. h. A supply of membership in a student organisation.
Preventive and basic healthcare services and related goods and services. As mentioned above, although VAT charged on a zero-rated supply is nil, the supply is still treated as a taxable supply in all other respects - including the right of the person making the supply to recover the VAT on expenses incurred in making the zero-rated supply	▶ The phrase "healthcare services" means any Service supplied that is generally accepted in the medical profession as being necessary for the treatment of the Recipient of the supply including preventive treatment. ▶ A supply of healthcare services shall be zero rated on the condition that the supply shall: a. Be made by a healthcare body or institution, doctor, nurse, technician, dentist, or pharmacy, licensed by the Ministry of Health or by any other competent authority. b. Relate to the wellbeing of a human being. ▶ " Healthcare services" do not include any of the following: a. Any part of a supply that relates to staying in or attending an establishment the principal purpose of which is to provide holiday accommodation or entertainment such that any healthcare service is incidental to the provision of the accommodation or entertainment. b. Elective treatment for cosmetic reasons other than prescribed by a doctor or medical professional for treating or prevention of a medical condition. ▶ A supply of Goods is zero-rated if it is a supply of: a. Any pharmaceutical products identified in a decision issued by the Cabinet. b. Any medical equipment identified in a decision issued by the Cabinet. c. Any other Goods not covered by above mentioned paragraphs (a) and (b) which are supplied in the course of supplying a Person with zero-rated healthcare services that are necessary for the supply of such healthcare services.

ESSENTIALS OF

UAE VAT LAW

CHAPTER 07

Exempted Supplies

7. Exempted Supplies

Exempt Supplies, by definition, refers to a supply of Goods or Services for Consideration while conducting Business in the State, where no tax is due and no Input Tax may be recovered, except according to the provisions of UAE VAT Law.
As in the case of Zero-rated Supplies, no VAT is collected in respect to Exempt Supplies. However, unlike Zero-rated Supplies, these supplies are not "taxable supplies", and hence, the supplier cannot normally recover any of the VAT on expenses incurred in making the 'exempt supplies'. Incurred VAT, therefore, will represent a cost to businesses involved in making supplies, which are wholly or partly exempt from VAT.

7.1 Supplies Exempt from Tax

The following supplies shall be exempt from Tax:
- Financial services, which are not conducted for an explicit fee, discount, commission, rebate or similar type of consideration.
- Life insurance and reinsurance of life insurance services.
- Supply of residential buildings through sale or lease, other than that which is zero-rated.
- Supply of bare land.
- Supply of local passenger transport.

No VAT is charged on exempt supplies. As these supplies are not 'taxable supplies', the supplier cannot recover any of the VAT on expenses (Input Tax) directly incurred in making these exempt supplies.
In addition, businesses which make supplies with a mixture of components which are subject to different natures of VAT will need to use a method of apportionment in respect to VAT incurred on general costs i.e., Input Tax, which is non-attributable to either taxable or exempt supplies.
The Executive Regulation of this Decree-Law shall specify the conditions and controls for exempting the supplies mentioned in the preceding clauses of this Article.

7.2 Tax Treatment for Supply of Financial Services

1. For the purpose of this Article:
    1. The phrase "debt security" means any interest in or right to be paid money that is, or is to be, owed by any Person, or any option to acquire any such interest or right.
    2. The phrase "equity security" means any interest in or right to a share in the

capital of a legal person, or any option to acquire any such interest or right.

3. The phrase "life insurance contract" means a contract lawfully entered into to the extent that it places a sum or sums at risk upon the contingency of the termination or continuance of human life, marriage, similar relationships permitted under applicable law, or the birth of a child.
4. The phrase "Islamic financial arrangement" means a written contract which relates to a supply of financing in accordance with the principles of the Shariah.

2. Financial Services are services connected to dealings in money (or its equivalent) and the provision of credit, and include for instance the following:
   1. The exchange of currency, whether effected by the exchange of bank notes or coin, by crediting or debiting accounts, or otherwise.
   2. The issue, payment, collection, or transfer of ownership of a cheque or letter of credit.
   3. The issue, allotment, drawing, acceptance, endorsement, or transfer of ownership of a debt security.
   4. The provision of any loan, advance or credit.
   5. The renewal or variation of a debt security, equity security, or credit contract.
   6. The provision, taking, variation, or release of a guarantee, indemnity, security, or bond in respect of the performance of obligations under a cheque, credit, equity security, debt security, or in respect of the activities specified in paragraphs (b) to (e) of this Article.
   7. The operation of any current, deposit or savings account.
   8. The provision or transfer of ownership of financial instruments such as derivatives, options, swaps, credit default swaps, and futures.
   9. The payment or collection of any amount of interest, principal, dividend, or other amount whatever in respect of any debt security, equity security, credit, and contract of life insurance.
   10. Agreeing to do, or arranging, any of the activities specified in paragraphs (a) to (i) of this Clause, other than advising thereon.

3. The following Financial Services shall be exempted:
   1. Activities under Clause (2) of this Article where they are not conducted in return for an explicit fee, discount, commission, and rebate.
   2. The issue, allotment, or transfer of ownership of an equity security or a debt security.
   3. The provision or transfer of ownership of a life insurance contract or the provision of re-insurance in respect of any such contract.

4. Activities under Clause (2) of this Article shall be subject to tax where the Consideration payable in respect to a supply of Services is an explicit fee, commission, discount and rebate or something similar.
5. Islamic finance products, being financial products under contract which are certified as Islamic Shariah compliant, which simulate the intention and achieve effectively the same result as a non-Shariah compliant financial product, will be treated in a similar manner as the equivalent non-Shariah financial product for the purpose of applying exemption from Tax.
6. Any supply made under an Islamic financial arrangement shall be treated in such a way as to give an outcome for the purposes of the Decree-Law and the decisions issued by the Authority, comparable to that which would be the case for their non-Islamic counterparts.
7. Where Article 31 of this Decision applies to a supply of financial services, this supply should be treated as zero-rated.

7.3 Financial Services

The general principle applicable is that financial services, as defined by the VAT Law and Executive Regulations, will be subject to VAT at the standard rate when they are supplied for an explicit fee, discount, commission, rebate or similar type of charge.

- Supplies of financial services where an explicit fee, discount, commission, rebate or similar type of charge is made are subject to VAT at the standard rate of VAT (i.e., they are treated as taxable supplies) to the extent of the amount of that separately identifiable charge. VAT incurred on costs wholly attributable to the standard rated supply can be recovered in full. The examples of such charges with respect to banking are - subscription fees, cheque book fees, cash handling fees, application fees, administrative fees, etc.
- Financial services, insofar as they are remunerated by way of an implicit margin or spread (i.e., no explicit fee is charged in respect to them) will be exempt from VAT (i.e., they are not treated as taxable supplies). Accordingly, this VAT treatment will also apply to interest payable in respect of borrowing. VAT incurred on costs wholly attributable to the exempt supply cannot be recovered at all. In all cases, the following classes of financial services shall be exempt from VAT:

  a. the issue, allotment, or transfer of ownership of an equity security or a debt security;
  b . the provision, or transfer of ownership, of a life insurance contract or the provision of re-insurance in respect to any such contract (more details on insurance is included in the Insurance Guide VATGIN1).

- The supply of financial services to a recipient established outside the GCC (whether or not they would otherwise have been exempt where supplied in the GCC) will be zero-rated (i.e., they are treated as taxable supplies).

7.3.1 Supply of Residential Buildings

1. The supply of residential buildings is exempt, unless it is zero-rated, where the lease is more than six months or the tenant of the property is a holder of an ID card issued by the Federal Authority for Identity and Citizenship.
2. The period of tenancy referred to above shall be identified with reference to the contractual period of tenancy and shall not take into account any period arising from a right or option to extend the period of tenancy or renew the tenancy.

As per Real Estate VAT Guide, A residential building is a building which is intended and designed for human occupation. This includes:

- Any building or part of a building that the person occupies, or that it can be foreseen that a person will occupy, as their principal place of residence.
- Residential accommodation for students or school pupils.
- Residential accommodation for armed forces and police.
- Orphanages, nursing homes and rest homes.

A residential building is not:

- Any place that is not a building fixed to the ground and which can be moved without being damaged.
- Any building that is used as a hotel, motel, bed & breakfast establishment, or hospital or the like.
- A serviced apartment for which services, in addition to the supply of accommodation, are provided.
- Any building constructed or converted without lawful authorisation.

7.3.2 Supply of Bare Land

The phrase "bare land" means land that is not covered by completed, partially completed buildings or civil engineering works.
As per the Real Estate VAT Guide, in order for land to be considered "bare land" for UAE VAT purposes, none of the following must be present on top of the land:

- Completed buildings.
- Partially completed buildings.
- Civil engineering works.

The supply of bare land is exempt from VAT. This includes the supply by either lease or by sale. As a result, any VAT on costs associated with the supply of bare land, e.g., legal fees or agent's fees, shall not be recoverable by the supplier. Where a plot of land is supplied, which does not meet the definition of 'bare land', it shall be considered to be commercial land and the supply shall be subject to VAT at the standard rate.

7.3.3 Local Passenger Transport Services

The supply of local passenger transport Services in a qualifying means of transport by land, water or air from a place in the State to another place in the State shall be exempt.

The phrase "qualifying means of transport" means:

a. A motor vehicle, including a taxi, bus, railway train, tram, mono-rail or similar means of transport, designed or adapted for transport of passengers. **One such qualifying means of transport includes the supply of a bus or train that is designed, or adapted to be used for public transportation of 10 or more passengers. Only buses or trains which are designed or adapted to be used for the mass transport of individuals, without being restricted to a specific category of users, shall qualify to be supplied at the zero rate, i.e., as a qualifying means of transport.*
b. A ferry boat, abra or other similar vessel designed or adapted for transport of passengers.
c. A helicopter or airplane designed or adapted for transport of passengers and approved for transport of passengers in accordance with Federal Law No. 20 of 1991 on Civil Aviation.

3. Service of transporting of passengers from a place in the State to another place in the State shall not be considered a local passenger transport Service where the transport is by aircraft and constitutes "international carriage" as defined in the Warsaw International Convention for the Unification of Certain Rules Relating to International Carriage by Air, 1929.
4. Transport of passengers shall not constitute a supply of local passenger transport Services where it is undertaken in the context of a pleasure trip where the manner in which the trip is held out indicates that its principal objective may reasonably be said to be sightseeing, or the enjoyment of catering services, or other forms of pleasure or entertainment.

VAT incurred on costs which directly relate to the provision of exempt local transport services are not recoverable. Therefore, where local transport is made for a charge to a defined group of people, rather than the general public, any VAT incurred on the costs of purchasing the means of transport, fuel etc., in

order to provide that service is not recoverable.

Example
For example, a tourist visitor from the UK is booking a hotel room in Dubai for AED 1,000, using the hotel's website. While booking the room, the person added an optional extra of being picked up by the hotel from the airport. This optional airport pickup costs an additional AED 150.

The hotel accommodation and the transportation service are two different supplies for VAT purposes. These services are clearly independent of each other and both are subject to separate charges.

As a consequence, the hotel charges VAT on the hotel room at 5% and treats the airport pick-up service as an exempt local transportation service.

7.4 Entitlement to recover Input Tax

If the purchaser is a taxable person and is registered for VAT then they may be able to recover the amount of VAT incurred. Purchasers who are not taxable persons are not, generally, entitled to recover any VAT on their purchases. A taxable person is able to recover input tax incurred on the purchase of Goods and Services in the course of business, subject to certain conditions.
The recovery of Input Tax will be permitted where acquired Goods and Services are used, or intended to be used, in making any of the following:

- Taxable supplies.
- Supplies that are made outside the UAE, which would have been considered taxable had they been made in the UAE; and
- supplies of financial services which would have been treated as exempt if made in the UAE, but which are provided to a person who is outside the UAE and are treated as taking place outside the UAE.

Where any acquisition by a Taxable Person relates solely to the supplies indicated above, the person will, in principle, be able to recover the input tax incurred in full.

- In contrast, where an acquisition is directly linked solely to non-business or exempt supplies made by the person, the person will not be able to recover any of the input tax incurred. It is important to note that it is not necessary to link every purchase with the onward supply in the business' accounting system - particularly, as some purchases may be consumed by the business or used in the day-to-day running of the business, rather than being supplied on and off. Instead, the business must be able to identify

expenses which are directly attributable to activities of the business that give rise to VAT recovery and expenses that are attributable to activities which do not allow for VAT recovery

- In certain circumstances, goods or services will be used partly in the course of making supplies that allow for the recovery of input tax and partly for making supplies for which VAT is not recoverable. Where an expense is used for making such mixed supplies, the taxable person must determine the portion of the input tax that can be recovered.
- Input tax which is incurred in respect of goods or services which are used partly for making supplies that allow for VAT recovery and partly for making supplies for which VAT is not recoverable is known as "residual" or "overhead" input tax. This residual input tax must be apportioned between those activities. Recovery will be restricted to the proportion relating to supplies that allow for VAT recovery. In order to determine the proportion of recoverable residual input tax, a calculation must be performed to determine the extent to which purchases are used to make recoverable supplies. The percentage resulting from the calculation is then applied to the residual input tax to determine the actual amount of the input tax that can be recovered.

7.5 VAT-free Imports

Goods which are relieved from import VAT are goods which are exempt from customs duties in accordance with the GCC Common Customs Law. These are:

- Goods imported by the military forces and internal security forces.
- personal effects and gifts accompanied by travelers;
- Used personal effects and household items transported by theUAE nationals living abroad on return or by expats moving to live in the UAE for the first time; and
- returned goods. Goods falling under any of these categories are treated as having been imported into the UAE but are exempt from the imposition of VAT.

ESSENTIALS OF

UAE VAT LAW

CHAPTER 08

Input Tax Credit (ITC)

8. Input Tax Credit (ITC)

While conducting business activities, a Taxable Person will incur expenses which are subject to VAT. This VAT can be recovered by a Taxable Person, subject to certain conditions being met. This process ensures that VAT will normally not be a cost to such a Taxable Person. Where the Taxable Person is not able to recover the VAT incurred in respect of Goods or Services, the Person is, in effect, treated as the end-consumer for those Goods or Services. When a person purchases goods or services, the VAT incurred on the purchase or expense is called "Input Tax". In simpler terms, VAT charged by the Supplier is Input Tax of the Recipient.

The focus of this chapter is to set out the circumstances in which taxable persons are entitled to recover input tax and the process they must follow to do so.

If the Purchaser is a Taxable Person and is registered for VAT then they may be able to recover the amount of VAT incurred. Purchasers who are not Taxable persons are not, generally, entitled to recover any VAT on their purchases. A taxable person is able to recover input tax incurred on the purchase of goods and services in the course of business, subject to certain conditions.

The recovery of input tax will be permitted where acquired goods and services are used, or intended to be used, in making any of the following:

- Taxable Supplies.
- Supplies that are made outside the UAE, which would have been considered taxable had they been made in the UAE.
- Supplies of financial services which would have been treated as exempt if made in the UAE, but which are provided to a person who is outside the UAE and are treated as taking place outside the UAE.

Where any acquisition by a taxable person relates solely to the supplies indicated above, the person will, in principle, be able to recover the input tax incurred in full. In contrast, where an acquisition is directly linked solely to non-business or exempt supplies made by the person, the person will not be able to recover any of the input tax incurred.

It is important to note that it is not necessary to link every purchase with the onward supply in the business' accounting system - particularly, as some purchases may be consumed by the business or used in the day-to-day running of the business, rather than being supplied onwards. Instead, the business must be able to identify expenses which are directly attributable to activities of the business that give rise to VAT recovery and expenses that are attributable to

activities which do not allow for VAT recovery.
In certain circumstances, goods or services will be used partly in the course of making supplies that allow for the recovery of input tax and partly for making supplies for which VAT is not recoverable. Where an expense is used for making such mixed supplies, the taxable person must determine the portion of the input tax that can be recovered.

Example
A law firm only provides services which are subject to VAT. The firm purchases new office desks for their employees. Since the desks will be used by the law firm for the purpose of conducting their taxable activities, the law firm will be able to recover the VAT incurred on the purchase of the desks.

8.1 Recoverable Input Tax - A Detailed Analysis

Input Tax that is recoverable by a Taxable Person for any Tax Period is the total of Input Tax paid for Goods and Services which are used or intended to be used for making any of the following:

a. Taxable Supplies.
b. Supplies that are made outside the State which would have been Taxable Supplies had they been made in the State.
c. Supplies specified in the Executive Regulation of this Decree-Law that are made outside the State, which would have been treated as exempt had they been made inside the State.

Other provisions in respect to recovery of Input Tax credit

- Where Goods are imported by a Taxable Person through another Implementing State and the intended final destination of those Goods was the State at the time of Import, then the Taxable Person shall be entitled to treat the tax paid in respect of Import of Goods into the Implementing State as Recoverable Tax subject to conditions, specified in the Executive Regulation of this Decree Law.
- Where Goods were acquired by a Taxable Person in another Implementing State and then moved into the State, the Taxable Person shall be entitled to treat the tax paid in respect of the Goods in the Implementing State as Recoverable Tax, subject to the conditions specified in the Executive Regulation of this Decree Law.
- A Taxable Person shall not be entitled to recover any Input Tax in respect of tax paid in accordance with Clause (2) of Article 48 of this Decree Law.
- The Executive Regulation of this Decree Law shall specify the instances where Input Tax is excepted from being recovered.

8.2 Recovery of Recoverable Input Tax in the Tax Period

Recoverable Input Tax may be deducted through the Tax Return relating to the first Tax Period in which the following conditions have been satisfied:

1. The Taxable Person receives and keeps the Tax Invoice as per the provisions of this Decree-Law, provided that the Tax Invoice includes the details of the supply related to such Input Tax, or keeps any other document pursuant to Clause (3) of Article 65 of this Decree-Law in relation to the Supply or Import on which Input Tax was paid.
2. The Taxable Person imports the Goods, receives and retains invoices and Import documents in accordance with the provisions of this Decree-Law and its Executive Regulation in relation to the Import on which Input Tax was paid or declared.
3. The Taxable Person imports the Services, and receives and retains invoices in accordance with the provisions of this Decree-Law and its Executive Regulation in relation to the Import on which Input Tax was declared.**

**Federal Decree-Law No. 18 of 2022 - Issued on 26 Sep, 2022 (Effective from 1 Jan, 2023)

The Taxable Person pays the Consideration for the Supply or any part thereof, as specified in the Executive Regulation of this Decree-Law.

If the Taxable Person entitled to recover the Input Tax fails to do so during the Tax Period in which the conditions stated in Clause (1) of this Article have been satisfied, he may include the Recoverable Tax in the Tax Return for the subsequent Tax Period.

In simple words, Input Tax must be recovered in the first Tax Period in which two conditions are satisfied: a. the tax invoice is received; and b. an intention to make the payment of consideration of the supply before the expiration of six months after the agreed date of payment is formed.

Upon receipt of a tax invoice, a taxable person can recover input tax only when an intention to make the payment within a prescribed period is formed. Therefore, if the intention to make the payment is formed in a tax period which is later than the tax period in which the tax invoice is received, the input tax can be recovered only in the later tax period.

Article 55(1) of the VAT Law prescribes that input tax must be recovered in the first tax period in which the following conditions are satisfied:

- Taxable person receives tax invoice.

- Taxable person pays the consideration for the supply or any part thereof.

Further, as per Article 54(2) of ER, a taxable person is treated as having made a payment of Consideration of a supply to the extent that the person intends to make the payment before the expiration of six months after the agreed date of payment for the supply.

A concurrent reading of Article 55(1) of the VAT Law and Article 54 of the VAT Executive Regulations provides that input tax must be recovered in the first tax period in which the following two conditions are satisfied:

- The tax invoice is received.
- There is an intention to make the payment of Consideration of the supply before the expiration of six months after the agreed date of payment

A taxable person may receive a tax invoice but may not have an intention to make the payment until the internal approval process for the invoice is completed. In such cases, the conditions of Article 55(1) of the VAT Law are not satisfied as the intention to make the payment before the expiration of six months after the agreed date of payment is not formed.

The FTA considers that the conditions of Article 55(1) of the VAT Law will only be met when the taxable person completes the internal approval process and forms an intention to make the payment within the prescribed period.

In view of the above, before recovering input tax, a taxable person needs to substantiate that in addition to receiving a tax invoice, he has also satisfied the condition of forming an intention to make the payment within the prescribed period.

For further clarity, please note that where a tax invoice is received in one tax period and the intention to make the payment is formed in a later tax period, the input tax can only be recovered in the later tax period when the intention to make the payment was made.

It may be noted that where the input tax is not recovered in the tax period in which both the conditions are satisfied, the taxable person can recover the input tax in the immediate next tax period.

If input tax is not recovered in the first two tax periods, a taxable person is required to submit a voluntary disclosure. The voluntary disclosure should amend the input tax reported in the VAT return of one of the two tax periods in which input tax was not recovered.

Non-payment of consideration before the expiration of six months after the agreed date of payment

Where a taxable person fails to make the payment of consideration before the expiration of six months after the agreed date of payment, the taxable person should reduce the input tax in the VAT Return of the tax period following the expiry of the six-month period. However, once the payment is made, the taxable person will again be entitled to recover the input tax.

8.3 Blocked Input Tax Credit

Input tax on certain expenses incurred by a person is specifically blocked from being recoverable. Such expenses are:

- entertainment expenses;
- motor vehicles used for personal purposes; and
- employee-related expenses.

8.4 Entertainment Expenses

A business is generally prohibited from recovering input tax on expenses incurred in respect of the provision of entertainment to anyone not employed by the business, including customers, potential customers, officials, shareholders, owners, and investors in the business.

The types of entertainment expenses which are covered by the restriction include hospitality (e.g., accommodation, food and drinks) which are not provided in the normal course of a meeting, access to shows or events, or trips organised and provided for the purposes of pleasure or entertainment.

This means that where a business incurs any such expenses, the business will not be able to recover VAT incurred on the expenses.

8.5 Motor Vehicles

Typically, a taxable person is able to recover VAT incurred on the purchase, lease or rental of a motor vehicle which is used for their business activities and which gives the right to input tax recovery. However, where the motor vehicle is available for the personal use of any person, the taxable person will lose the right to recover the VAT incurred.

For the purpose of this rule, the "motor vehicle" is any road vehicle which is designed or adapted for the conveyance of no more than 10 people, including

the driver. "Motor vehicle" does not include a truck, forklift, hoist or other similar vehicles.

This ensures that VAT on essentially commercial vehicles is not blocked due to incidental private use.

A motor vehicle will not be treated as being available for private use if it is within any of the following categories:

- A taxi licensed by a competent authority.
- A motor vehicle registered as, and used as an emergency vehicle, including by the police, fire brigade, paramedics, or similar emergency services.
- A vehicle which is used in a vehicle rental business where it is rented to a customer.

8.6 Employee-related Expenses

The third category of expenses which do not give rise to VAT recovery are certain expenses incurred by a business for the purposes of their employees. VAT on employee-related expenses will not be recoverable by the business where goods or services are purchased to be used by employees for no charge to them and for their personal benefit. There are, however, certain exceptions to the above rule. Thus, the rule will not apply in the following situations:

- Where the employer has a legal obligation to provide those goods or services to the employees under any applicable UAE labour law.
- Where it is a contractual obligation or documented policy of the employer to provide those goods or services to employees to enable them to perform their role and where it can be proven to be a normal business practice in the course of employment.
- Where the provision of goods or services is a deemed supply.

As a consequence, determination regarding whether input tax can be recovered in respect of an employee-related expense has to be made on a case to case basis. For example, where a business incurs compulsory medical insurance or visa costs to enable their employees to perform their duties, such costs will not be blocked under the rule. In contrast, where an employer buys a gift for the employee in appreciation for their good service, the employer would be prevented from recovering VAT on the purchase of the gift, unless it is also treated as a deemed supply.

It should be noted that even if input tax on the employee-related expense is not blocked under the rule described in this section, it does not necessarily follow that the business can definitely recover the VAT incurred. Input tax recovery

can only be made if the normal conditions for input tax recovery are met - for example, the expense must be related to business activities that allow for the recovery of VAT.

8.7 Input Tax Paid before Tax Registration

A Registrant may recover Recoverable Tax incurred before Tax Registration on the Tax Return submitted for the first Tax Period following Tax Registration, which has been paid for any of the following:

- Supply of Goods and Services made to the Registrant, prior to the date of Tax Registration.
- Import of Goods by the Registrant prior to the date of Tax Registration. Provided that these Goods and Services were used to make supplies that give the right to Input Tax recovery upon Tax Registration.

As an exception to the abovementioned provisions, Input Tax may not be recovered in any of the following instances:

- The receipt of Goods and Services for purposes other than making Taxable Supplies.
- Input Tax related to the part of the Capital Assets that depreciated before the date of Tax Registration.
- If the Services were received more than five years prior to the date of Tax Registration.
- Where a Person has moved the Goods to another Implementing State prior to the Tax Registration in the State.

8.8 General Guidelines to Check if Supplier Invoice is a VAT-Compliant Invoice

Tax Invoice is a primary document to be issued and delivered for the supply of taxable goods and services. Further, FTA has issued public clarification VATP006 with respect to issuance of a simplified tax invoice and full tax invoice clarifying the instances where simplified tax invoice or full tax invoice can be issued.

a. Value of Invoice is AED 10,000 or more (referred to as Full Tax Invoice by the FTA)
   - The words "Tax Invoice" clearly displayed on the invoice
   - Name of the supplier and the Recipient as per the TRN certificate
   - Address of the supplier and the Recipient - Physical address or P.O.Box Number along with Emirate either must be available
   - TRN of the supplier (verify the TRN on the FTA website of the vendor) and the Recipient

- Contents of the Tax Invoice - For each Good or Service, the unit price, the quantity or volume supplied, the rate of Tax and the amount payable expressed in AED.
- As a full tax invoice includes several line items, each shall have the net amount payable (excluding the tax) as well as the tax due. The FTA accepts that a full tax invoice does not need to include gross amounts (i.e. inclusive of tax) for each line item, as the total gross amount payable for the invoice shall be stated.
- The Tax amount payable, expressed in AED together with the rate of exchange applied where the currency is converted from a currency other than the UAE dirham. (Conversion rate as published by Central Bank of the UAE)

b. Value of Invoice is less than AED 10,000 (referred to as Simplified Invoice by the VAT Law)
   - The words "Tax Invoice" clearly displayed on the invoice
   - The name, address, and Tax Registration Number of the Registrant making the supply
   - The date of issuing the Tax Invoice
   - A description of the Goods or Services supplied
   - The total Consideration and the Tax amount charged
   - where Simplified Tax Invoices are issued, there is no requirement to show the net value (i.e. the amount excluding the tax) for line items

8.9 Non-Recoverable Input VAT

- Any Motor Vehicle-related expenses which are purchased, rented or leased for use in the Business and is available for personal use
- Any goods or service given free of cost to employees
- Provision of accommodation, food and drinks which are not provided in a normal course of a meeting, access to shows or events, or trips provided for the purposes of pleasure or entertainment given to anyone not employed by the Person, including customers, potential customers, officials, or shareholder or other owners or investors.
- Medical insurance premium for dependents of the employee (we understand all employees are on Dubai Labour Visa for the purpose of this section)

1. Few examples in the Entertainment Services clarification issued by FTA is given below for quick reference which may be part of your operations on regular basis:

a. *Example: A new employee joins a business and is provided with hotel accommodation for a short initial period (less than 14 days) prior to finding their own accommodation.This would not be considered*

entertainment and the VAT incurred on such costs would be recoverable, as this cost is necessary for the person to perform their role.

b. *Example: Where a business organizes a lunch or dinner for employees e.g., a Ramadan Iftar, this would be considered to be entertainment and the VAT incurred on such costs would be blocked from recovery.*
c. *Example: Where simple hospitality is provided in the normal course of a business meeting e.g., where simple food and refreshments are provided during the course of a meeting, the cost is considered to be recoverable.*
d. *Example: If the employee incurs costs which are related to entertaining a current/potential customer/supplier then any associated input tax incurred will be non-recoverable.*

Further, the public clarification VATP028 clarifies recoverability of input tax on mobile phones, airtime and data packages made available to employees for business use.

VAT P028 states input tax credit on phones, airtime, and data packages can be claimed if it is incurred to make further taxable supplies and on fulfilment of below conditions:

- The phone, airtime, and packages are acquired in its own name by the employer and the business' details must be reflected on the tax invoices and contracts. Such contracts and tax invoices should be retained by company
- HR policy should be in place which clearly states that restricted use of such mobile phone/airtime/package and consequences of not abiding to the policy by the employees. Strict actions to be taken on such non-compliance
- Internal control should be in place for monitoring of usage to substantiate the actual business usage of phones/airtime/data packages of employees.
- The company must retain justifications evidencing the business usage to substantiate the input tax credit claimed before the FTA in case questionability arises on the same.

2. Sundry office expenses recoverable (as per the guide issued by the FTA on Entertainment Services):

- Tea and coffee available in the office or provided during meetings for general use by employees and non-employees for no charge;
- Flowers for display in receptions, offices or for decoration during special events;
- Dates, chocolates, or equivalent snacks which may be available in the office or during meetings for general use by employees and non-employees for no charge.

3. Time frame for recovery of Input Tax

Input tax must be recovered in the first tax period in which the following two conditions are satisfied:

a. the tax invoice is received; and
b. there is an intention to make the payment of consideration of the supply before the expiration of six months after the agreed date of payment.

The FTA considers that the conditions of the VAT Law will only be met when the taxable person completes the internal approval process and forms an intention to make the payment within the prescribed period.

In view of the above, before recovering input tax, a taxable person needs to substantiate that in addition to receiving a tax invoice, he has also satisfied the condition of forming an intention to make the payment within the prescribed period.

Accordingly, for all the Tax Invoices for which Input Tax credit is claimed without the payment being done in the tax period under review, it is recommended to keep a document mentioning the internal approval for the payment of the Tax Invoice. During the FTA Audits, this internal approval will prove that there is an intention to make the payment and accordingly the Input credit is claimed in the relevant tax period.

It may be noted that where the input tax is not recovered in the tax period in which both the conditions are satisfied, the taxable person can recover the input tax in the immediate next tax period.

Where a taxable person fails to make the payment of consideration before the expiration of six months after the agreed date of payment, the taxable person should reduce the input tax in the VAT Return of the tax period following the expiry of the six-month period. However, once the payment is made, the taxable person will again be entitled to recover the input tax.

8.10 Input Tax Apportionment Methods

Input tax which is incurred in respect of goods or services which are used partly for making supplies that allow for VAT recovery and partly for making supplies for which VAT is not recoverable is known as "residual input tax", and it must be apportioned between those supplies.

Recovery will be restricted to the proportion relating to supplies that allow for VAT recovery. In order to identify the amount of the residual input tax, it is first

necessary to exclude input tax which is either recoverable or non-recoverable in full.

As a consequence, the first step is to perform the following calculations in respect of each tax period:

1. Calculate the total value of input tax which is directly attributable only to supplies for which VAT may be recovered under Article 54(1) of the Federal Decree-Law No. (8) of 2017 (the "Decree-Law").
2. Calculate the total value of input tax which is directly attributable only to supplies for which VAT cannot be recovered.
3. Calculate the total value of input tax that relates to both supplies for which VAT may be recovered and supplies for which VAT cannot be recovered. This is the residual input tax of the taxable person.

The next step is to determine the recoverable part of the residual input tax. The standard method for apportioning the residual input tax is provided in Articles 55(6)-(10) of the Cabinet Decision No. 52 of 2017 on the Executive Regulations of the Federal DecreeLaw No 8 of 2017 on Value Added Tax ("Executive Regulations") and involves the following calculations:

1. Calculate the percentage to be applied to the residual input tax by dividing the total value of input tax which is directly attributable only to supplies for which VAT may be recovered by the sum of input tax which is directly attributable only to supplies for which VAT may be recovered and input tax directly attributable only to supplies for which VAT may not be recovered. The percentage should be rounded to the nearest whole number.
2. Multiply the total value of residual input tax by the percentage calculated under Step 1 above. The resulting amount is the amount of residual input tax which can be recovered by the taxable person.

This calculation is required to be performed in each period in which the taxable person incurs input tax relating to the making of exempt supplies, or to activities that are not in the course of business. Following the period-by-period apportionments, the taxable person must perform a wash-up calculation for the whole tax year using the principles identified above, and make an adjustment as appropriate.

Specifically, if there is a difference of more than AED 250,000 in any tax year between the recoverable input tax as calculated in accordance with the standard apportionment method and the input tax which would have been recoverable if the calculation was made on the basis of the actual use of the goods or services, then the taxable person should make an adjustment to the input tax in respect of the difference.

It should be noted, that the calculation of the "actual use" should be made in accordance with one of the special apportionment methods described later in this Guide, taking into account the guidelines regarding which special methods can be used by which types of businesses.

The FTA accepts, however, that the standard method of apportionment may not be appropriate in every situation. Each business is different, and the standard method of apportionment may give rise to outcomes which might not be reflective of the actual use of goods or services by the business.

As a consequence, the FTA is introducing a number of alternative methods of input tax apportionment to be used where the standard method does not provide an outcome which is reflective of the actual use of the acquired goods or services.

The special input tax apportionment methods which are available to taxable persons are:

- Outputs based method;
- Transaction count method;
- Floorspace method; and
- Sectoral method.

Not every special apportionment method will be available to every business. Instead, specific special apportionment methods will generally be available only to businesses from certain industry sectors.

In other words, Input tax which is incurred in respect of goods or services which are used partly for making supplies that allow for VAT recovery and partly for making supplies for which VAT is not recoverable is known as "residual" or "overhead" input tax. This residual input tax must be apportioned between those activities. Recovery will be restricted to the proportion relating to supplies that allow for VAT recovery.

In order to determine the proportion of recoverable residual input tax, a calculation must be performed to determine the extent to which purchases are used to make recoverable supplies. The percentage resulting from the calculation is then applied to the residual input tax to determine the actual amount of the input tax that can be recovered.
Input tax apportionment calculation In order to determine the value of input tax which is recoverable by the business, the taxable person should use the following default calculation:

1. Calculate the total value of input tax which is directly attributable only to

supplies for which VAT may be recovered.

2. Calculate the total value of input tax which is directly attributable only to supplies for which VAT cannot be recovered.
3. Calculate the percentage to be applied to the residual input tax by dividing the total value of input tax identified under Step 1 by the sum of the input tax identified under Step 1 and Step 2. The percentage should be rounded to the nearest whole number.
4. Multiply the total value of residual input tax by the percentage calculated under Step 3. The resulting amount is the amount of residual input tax which can be recovered by the taxable person.
5. The total input tax that will be recoverable by the person for the period is the input tax calculated in Step 1 and Step 4.

Example

ABC LLC is a VAT registered business which makes taxable supplies and exempt supplies. ABC LLC must perform an input tax apportionment calculation to determine how much VAT is eligible for recovery for the period covering July - September.

During the period ABC LLC has incurred a total of AED 300,000 of VAT.

1. *Total value of input tax directly attributable to taxable supplies: AED 75,000.*
2. *Total value of input tax directly attributable to exempt supplies: AED 50,000.*
3. *Total residual input tax: AED 175,000 (300,000 - 75,000 - 50,000).*
4. *Residual input tax recovery percentage: 60% (75,000 / (75,000+50,000).*
5. *Recoverable residual input tax: AED 105,000.*
6. *Total recoverable input tax: AED 180,000 (75,000 + 105,000).*
7. *Total irrecoverable input tax: AED 120,000 (50,000 + 70,000).*

AED 180,000 is the total input tax which may be recovered by ABC LLC for the tax period.

It should be noted that the FTA has discretion to allow taxable persons to use an alternative method of input tax apportionment from a list of methods it makes available, if the default method does not provide an outcome which is reflective of the actual use of the acquired goods or services. Such approval will be granted from the second year following the implementation of VAT in the UAE. Where the FTA has approved the use of an alternative method, the taxable person must continue using it for at least two years from the date of approval.

8.11 Annual Wash-up Calculation

At the end of every "tax year", a taxable person must perform a wash-up calculation to determine whether the overall recovery percentage calculated over the course of the year corresponds with the recovery percentages calculated for tax periods during that tax year.

The tax year of a taxable person is dependent on the person's tax periods. Specifically:

1. For a taxable person registered for VAT on a quarterly tax period basis, the tax year is identified as follows:
   - where the taxable person's tax period ends on 31 January and quarterly thereafter, the tax year ends on 31 January;
   - where the taxable person's tax period ends on last day of February and quarterly thereafter, the tax year ends on the last day of February; and
   - where the taxable person's tax period ends on March and quarterly thereafter, the tax year ends on 31 March.
2. For a taxable person registered for VAT on a monthly tax period basis, the tax year ends on the last day of the calendar year.
3. All adjustments related to annual wash up should be reported under 'adjustments' of Box 9 in the VAT return.

8.12 The Annual Wash-up Calculation Requires the Taxable Person to:

- calculate the residual input tax which would have been recoverable if the residual input tax calculations were done for the whole tax year; and
- compare the residual input tax calculated for the entire year with the residual input tax actually recovered in all the tax periods throughout the tax year.

If the above comparison shows a difference, a corresponding adjustment must be made in the first tax period following the end of the relevant tax year. The adjustment will result in either additional recoverable input tax or a reduction in the input tax already recovered.

Furthermore, if there is a difference of more than AED 250,000 in any tax year between the recoverable input tax as calculated in accordance with the method described in this section and the input tax which would have been recoverable if the calculation was made on the basis of the actual use of the goods or services, then the taxable person should make an adjustment to the input tax in respect of the difference. The adjustment must be made in the first tax period

following the end of the relevant tax year.

If the difference is less that AED 250,000, no adjustment is required to be made.

8.13 Direct Attribution Method

In all cases, in each tax period all input tax which can be wholly attributed to any particular supply must be attributed to that supply and either recovered or blocked from recovery as appropriate. This is referred to as direct attribution. Any input tax which cannot be wholly attributed in this manner must be apportioned by way of an input tax apportionment method in order to establish that part which may be recovered and that part which may not. A business may choose between either the standard input tax apportionment method (see step 5.1 below), or by application to and approval of the FTA a special input tax apportionment method (see step 2b below) in order to undertake the necessary apportionment.

It is accepted that whilst the standard method may reasonably apply to most business circumstances, this might not always be the case. Nevertheless, a business must only apply to the FTA to make use of a special input tax apportionment method where it has first established that the standard input tax apportionment method would not render a result which is fair and reasonable in the context of their particular circumstances.

8.13.1 Standard method - the attribution of residual input tax

On a VAT monthly or quarterly basis (as applicable), all input tax that cannot be wholly attributed under step 1 ('residual input tax') is to be apportioned between taxable and exempt use in the following manner:

1. Determine the recovery ratio as a percentage[11]
   Input tax wholly attributable to taxable supplies[12] in the VAT period concerned
   Input tax wholly attributable to supplies allowing VAT recovery in the period concerned and input tax that cannot be recovered in the tax period concerned
2. Apply the rounded recovery ratio percentage to the residual input tax:
   Residual x Recovery Ratio % = Proportion of residual attributable to taxable supplies
3. Treat that proportion of the residual which is attributable to taxable supplies as recoverable in the normal manner (and include in the VAT return for the tax period in which the calculation was undertaken).

4. In the first period following the end of the previous Tax year13, a calculation for the preceding VAT year should be carried out, using the same principles as above. This is known as the 'annual adjustment' and may lead to an increase or a decrease in the amount of input tax previously treated as recoverable on a quarterly basis under (3).
5. Furthermore, if there is a difference of more than AED 250,000 in any tax year between the recoverable input tax as calculated in accordance with the method described in this section and the input tax which would have been recoverable if the calculation was made on the basis of the actual use of the goods or services, then the taxable person should make an adjustment to the input tax in respect of the difference. The adjustment must be made in the first tax period following the end of the relevant tax year. If the difference is less that AED 250,000, no adjustment is required to be made.

8.13.2 Special Method - Attribution of Residual Input Tax

A business may, having first established that the standard input tax apportionment method is not appropriate for use in its particular circumstances, apply to the FTA to make use of a special input tax apportionment method. Each business making such an application to the FTA must provide details of the method which they intend to use and the reasons why the standard method is not otherwise appropriate.
The input tax apportionment methods that are available to taxable persons are:

- Output Based Method- Insurance Companies, Retail Banks etc.
- Transaction Count Method- Banks engaged in wholesale and investment trading etc.
- Floorspace Method- real estate companies
- Sectoral Method- Large, complex banks and insurance companies

Written approval from the FTA must be obtained in advance of the use of any special method. In all cases approval for the use of a special input tax apportionment method will only be made on a prospective basis. An annual adjustment must also be carried out under all methods.

8.14 Capital Asset Scheme

8.14.1 Brief on capital asset scheme

It is important to understand how the capital asset scheme works in the normal course of business. The capital asset scheme is particularly introduced for recovery of input tax on procurement of capital asset (with single/multiple expenditure of AED 5,000,000 or more) and which has estimated useful life equal to or more than:

- 10 years in case of building or part thereof
- 5 years for all capital assets other than buildings or part thereof

Under this scheme, the input tax paid on purchase of capital assets shall be recovered on fulfilment of input tax recovery rules. Thereafter, the usage should be monitored by the company for above mentioned time period and input tax claimed earlier will be subject to reversal to the extend of the capital asset put to use for non-business or exempt purposes fully/ partially.

8.14.2 Assets considered Capital Assets[1]

1. A Capital Asset is a single item of expenditure of the Business amounting to AED 5,000,000 or more excluding Tax, on which Tax is payable and which has estimated useful life equal or longer than:
   a. 10 years in case of a building or a part thereof
   b. 5 years for all Capital Assets other than buildings or parts thereof.
2. Items of stock, which are for resale, shall not be treated as Capital Assets.
3. Expenditure consisting of smaller sums which collectively amount to AED 5,000,000 or more shall be treated as a single item of expenditure of AED 5,000,000 or more for the purposes of this Article where the sums are staged payments for any of the following:
   a. For the purchase of a building.
   b. For the construction of a building.
   c. In relation to an extension, refurbishment, renewal, fitting out, or other work undertaken to a building, except that where there is a distinct break between any such works being undertaken, they shall be taken to be separate items of expenditure.
   d. For the purchase, construction, assembly or installation of any goods or immovable property where components are supplied separately for assembly

8.14.3 Adjustment under the Capital Asset Scheme[2]

1. A Capital Asset eligible for the Capital Asset Scheme shall be monitored and the Input Tax incurred shall be adjusted, as required in accordance with the provisions of this Article, over a period of either 10 ten consecutive years for buildings or parts thereof or 5 five consecutive years for other Capital Assets, commencing on the day on which the owner first uses the Capital Asset for the purposes of its Business.
2. Notwithstanding Clause 1 of this Article, if a Capital Asset is destroyed, sold, or otherwise disposed of before the end of the period referred to in Clause 1 of this Article, the Capital Asset Scheme shall cease in respect of the asset in the Tax year in which the asset was destroyed, sold or disposed of.

[1]Section 8.14.2 - Article (57) of the Executive Regulations
[2]Section 8.14.3 - Article (58) of the Executive Regulations

3. The Tax year in which the Capital Asset is acquired shall be treated as Year 1 for the purposes of the Capital Asset Scheme.
4. A Taxable Person shall keep a Capital Asset register and record therein the Input Tax incurred on the Capital Asset in Year 1 (represented by "W" in this Article) as well as details of any adjustments made to the Input Tax calculations under this Article.
5. The Input Tax recovered on the Capital Asset in Year 1 after any adjustment that may be due under Article 58 of the Decree-Law shall be recorded together with the percentage that gave rise to that recovery (referred to as "X" in this Article).
6. At the end of each year from Year 2 onwards, the Taxable Person shall calculate the percentage of Recoverable Tax for that Capital Asset for that year in accordance with Article 58 of the Decree-Law (referred to as "Q" in this Article).
7. If Q is not equal to X, the Taxable Person shall perform the calculation described in Clauses 8 to 11 of this Article and shall make an adjustment to his Input Tax.
8. The Taxable Person shall calculate an amount (referred to as "R" in this Article) as:
   a. One tenth of W multiplied by Q if the Capital Asset is a building or a part thereof;
   or
   b. One fifth of W multiplied by Q if the Capital Asset is not a buildings or a part thereof.
9. The Taxable Person shall calculate an amount (referred to as "Z" in this Article) as:
   a. One tenth of W multiplied by X if the Capital Asset is a building or a part thereof.
   b. One fifth of W multiplied by X if the Capital Asset is not a buildings or a part thereof.
10. Where R is more than Z, the Taxable Person shall increase his Input Tax by the difference.
11. Where R is less than Z, the Taxable Person shall reduce his Input Tax by the difference.
12. If the Capital Asset is disposed of by the Taxable Person in any year other than the final year or the Taxable Person deregisters from Tax and is required to account for tax on the asset as a Deemed Supply, the use to which the Capital Asset is deemed to have been put in any remaining years will be:
    a. For making Taxable Supplies, where it is disposed of by way of a supply or Deemed Supply that is subject to Tax or would be subject to Tax were it to be made in the State.

b. For making Exempt Supplies, where it is disposed of by way of a supply that is exempt or would be exempt were it to be made in the State.
c. Not in the course of conducting Business, where is it disposed of by way of a transaction that is not deemed as supply in the course of Business, unless it is deemed as a supply according to the meaning provided in Clause 2 of Article 7 of the Decree-Law.

13. Where a Taxable Person transfers his Capital Assets as part of a transfer of his Business or a part thereof according to Clause 2 of Article 7 of the Decree-Law, or to become a member of a Tax Group, or to leave a Tax Group and immediately become a Taxable Person on a stand-alone basis, then the Tax year then applying shall end on the day the Taxable Person transfers the Business or part of the Business, or becomes or ceases to be part of a Tax Group. On the next day, the next Tax year shall commence with the owner of the Capital Assets.
14. Where a Person who registers for Tax has already owned a Capital Asset for the purpose of his Business before registration for Tax, Year 1 shall be deemed to have commenced on the date of first use by that Person.
15. For the purposes of Clauses 12 and 13 of this Article, any adjustments that may be required in respect of any such remaining years shall be included in the Tax Return relating to the Tax Period in which the Capital Asset is disposed of.
16. Any adjustments other than required under Clauses 12 and 13 of this Article shall be made in the Tax Period mentioned in Clause 8 of Article 55 of this Decision

ESSENTIALS OF

UAE VAT LAW

CHAPTER 09

Special Supplies

Special Supplies

PART 1
9.1 Supplies made by Government Entities

1. Government Entity is regarded as making a supply in the course of business in the following cases:
   - If its activities are conducted in a non-sovereign Capacity.
   - If its activities are in competition with the private sector.
2. Cabinet Decision shall be issued at the suggestion of the Minister determining the Government Entities and their activities that are considered as conducted in a Sovereign Capacity and instances where its activities are considered not in competition with the private sector.

9.2 Input Tax Recovery by Government Entities and Charities

Government Entities and Charities entitled to recover the full amount of Input Tax shall be determined in a Cabinet Decision issued upon the recommendation of the Minister, according to the following:

- Input Tax paid by the Government Entity for the purposes of its Sovereign Activities.
- Input Tax paid by the Charity for the purposes of its Relevant Charitable Activity.

As an exception, the following shall be excluded from recovery:

- Input Tax credit on which there are specific requirements/which are specifically blocked.
- Input Tax credit on procurement used to provide exempt supplies.

9.3 Foreign Governments - Refund of Tax Paid on Procurements

1. Where tax is incurred by foreign governments, international organizations, diplomatic bodies and missions, or by an official thereof, the foreign governments, international organizations, diplomatic bodies and missions may submit a claim on a form issued by the Authority requesting repayment of the tax charged.
2. The application of the above mentioned is subject to the following conditions:
   - Goods and Services are acquired exclusively for official use.
   - Country in which the relevant foreign government, international

organisation, diplomatic body or mission is established or has its official seat excludes the same type of entities that belong to the State from the burden of any Tax in that country.

- Refund claim is consistent with the terms of any international treaty or other agreement concerning the liability to tax of such a foreign government, international organisation, diplomatic body or mission.
- Official of a foreign government, international organisation, diplomatic body or mission who benefits from the refund should not hold UAE Nationality or have a residence visa under the sponsorship of an entity other than the foreign government, international organisation, diplomatic body or mission itself, and should not carry out any Business in the State.

PART 2
9.4 Charities

Charities are societies and associations of public welfare not aiming to make a profit that are listed within a Cabinet Decision issued at the suggestion of the Minister. Charities in the UAE include societies and associations of public welfare, cultural awareness and similar

VAT is a general consumption tax imposed on most supplies of goods and services in the UAE. In that respect it will, by default, be chargeable on goods and services supplied by charities in the UAE where the charity is registered for VAT.

9.4.1 Activities of Charitable Institutions may be broadly divided into following 2 categories

1. Business Activities

- Supply: Charities will typically make a mixture of supplies of goods and services with differing VAT liabilities. Where such goods and services are supplied for a charge, this is a business activity which may result in the making of a taxable supply for VAT purposes and VAT will have to be charged where the charity is considered to be a taxable person.
- Input Tax Credit: The charity will be able to recover VAT on costs which directly relate to onward activities which are liable to VAT, subject to the normal VAT recovery rules applicable to all businesses.
- In the normal course of their operation, charities often receive donations of goods and services and may then use these as part of their onward provision of charitable activities. Where these activities are undertaken, and a charge is made, this is also a business activity for VAT purposes and

VAT may be required to be charged.

- Since the relevant goods or services would be received by a charity free of charge, the charity will not have incurred any costs in relation to these and accordingly, there will be no VAT on costs to recover in such circumstances.

Clause 1 paragraph a and b is added Federal Decree-Law No. 18 of 2022 - Issued on 26 Sep, 2022 (Effective from 1 Jan, 2023), we have outlined the same in the introduction.

2. Non- Business Activities

- Supply : Where an activity is performed by a charity that is acting in its charitable capacity ("relevant charitable activity"), and it makes no charge for the supply of goods or services concerned, the activity would ordinarily not be treated as being liable to UAE VAT as there is no charge, unless the supply is treated as a deemed supply.
- It is worth noting that in some cases the relevant charitable activity will be subsidized by grants or donations. Provided the grantor is not entitled to any benefit in return for the grant or donation (beyond a simple acknowledgement), no VAT would be chargeable as this is not a supply for consideration.
- Input Tax Credit: Ordinarily, no VAT on direct costs incurred to receive such free provision of goods and services would be recoverable by the charity in such circumstances. However, certain designated charities will be entitled to recover VAT relating to their relevant charitable activities where they make such free provision of services and goods under a special VAT refund scheme.

Note: Deemed Supplies

In some instances, it might be required for a taxable person to account for output tax even though no supply of goods or services was actually made for consideration by that person. Since activities of the charities often require goods and services to be given away or used for non-business purposes, charities have to consider whether the deemed supply provisions could apply.

The following common situations may trigger deemed supplies:

- Where there is a supply of goods or services for which input tax was recovered (in full or partially) but the goods or services were used, in part or whole, for non-business purposes;
- Where there is a supply of goods or services for no consideration, where those goods or services formed whole or part of assets of a taxable person but are no longer considered to be as such, for example if there was a change in use of the asset.

For purposes of the above, the FTA considers a broad interpretation of the term 'business' for VAT purposes which may include a charity using goods and services within the terms of its charitable activity. Therefore, where goods or services are used for such charitable purposes -

Example 1
Property made available for free for events or kitchen appliances used in providing free meals - then this is not a deemed supply for VAT purposes if the relevant goods and services remain part of the assets of the charity.

If the charity claims VAT in respect of the acquisition of goods and then gives the goods away for free, the supply will be treated as a deemed supply for VAT purposes if the charity recovered input tax in respect thereof.

Example 2
Where a charity has purchased food and then donated it to the poor, the charity should account for the Output Tax on the deemed supply of the food if the charity recovered input tax when the goods were acquired.

9.5 Designated Charities

Designated Charities benefit from special VAT recovery rules. A charity needs to meet the following criteria to be recognised as a Designated Charity for VAT purposes:

1. The charity must be
   - approved by the Ministry of Community Development to carry out a charitable activity in the UAE as a designated charity, or
   - established as a charity under Federal or Emirate Decree, or
   - otherwise licenced to operate as a designated charity by an agency of the Federal or Emirate Governments authorised to grant such licences, with its objectives including for instance, advancing health, education, public welfare, religion, culture, science, and similar activities.
2. The charity must operate within the terms of any approval, licence or other authorisation which has been granted by the aforementioned bodies in respect of its charitable activities.
3. The charity must operate on a not-for-profit basis.
4. The charity must be funded primarily by means of grants or donations.

With reference to the above criteria for Designated Charities under criteria 1(a) and (c), the following will be considered by the Ministry of Community Development or other relevant government entity (Federal or Emirate level) in deciding whether to approve the charity as a 'designated charity';

- The charity only performs the charitable activity it has been licensed to perform.
- The charity is not involved in undertaking trading activities. Trading activities that are undertaken in the course of carrying out the licensed activities (sales) are disregarded provided such activities do not derive any profit or profit derived is applied for the purposes of the charitable activity.
- The charity must be managed by 'fit and proper persons'.

The 'fit and proper test' is aimed at trustees of charities (including directors of corporate trustees5), directors of corporate charities, any employee of a charity and volunteers who act on behalf of a charity. Examples of factors that may lead to considering a person as not being a fit and proper person are involvement in tax fraud or other fraudulent behaviour including misrepresentation and/or identity theft, involvement in attacks against, or abuse of, tax repayment systems and where the person was previously removed from acting as a charity trustee by a charity regulator or disqualified from acting as a charity trustee or company director.

It may be noted that the first sale or a lease of a building, or any part of a building, shall be zero-rated if the building was specifically designed to be used by a Charity and solely for a relevant charitable activity.

The first supply of a new building or part of a building will be subject to VAT at the zero rate where the following conditions are met:

- Charity is a Designated Charity.
- It must be the first supply of that building. Subsequent supplies are taxable at the standard rate (if it is not residential).
- Building, or part thereof, must be specifically designed to be used by the charity solely for its relevant charitable purpose: this means the building must have been designed specifically with the charity as the tenant in mind and for its own use (for example it cannot simply be an office building built speculatively that a charity then chose to occupy).

"Relevant charitable activity" means:

- An activity other than for the purpose of profit or benefit to any proprietor, member, or shareholder of the charity.
- One which is undertaken by the charity in the course or furtherance of its charitable purpose or objectives to carry out a charitable activity in the UAE as approved by the Ministry of Community Development, or under the conditions of its establishment as a charity under Federal or Emirate Decree, or as otherwise licensed to operate as a charity by an agency of the

Federal or Emirate Governments authorised to grant such licenses. Such charitable purposes and objectives include but are not limited to: advancing health, education, public welfare, religion, culture, science and similar activities.

Where the conditions for zero-rating outlined above are not met, the first supply of a new building or part thereof will be liable to VAT at the standard rate unless it qualifies as a residential building, in which case the special rules applicable to residential buildings would apply.

Subsequent supplies of buildings or parts thereof to be used for relevant charitable purposes will also be subject to their normal VAT rate.

It is, therefore, possible that the first rent instalment for a building may be zero-rated while subsequent periods are exempt from VAT in the case of a residential building.8 Since designated charities can recover VAT under the special refund rules, the relief acts largely as a cash-flow benefit in preventing a large amount of VAT being charged to the charity on the purchase of a building.

9.5.1 VAT Recovery Rules for Charities

Not Designated Charities	Designated Charities
Charities that are not Designated Charities are subject to the normal VAT recovery rules ▸ Where a charity which is not a designated charity incurs VAT in respect to activities which do not generate taxable supplies, the related VAT will not be recoverable. ▸ Where a charity incurs VAT which relates to exempt supplies this VAT is also not recoverable. ▸ Charities will, therefore, be required to allocate and apportion VAT incurred between taxable activities (recoverable) and non-taxable activities /exempt activities (non-recoverable).	A Designated Charity may recover VAT on any expenses incurred, provided ▸ Expenses do not relate to exempt supplies made by the charity. ▸ The recovery of input tax related to those expenses are not specifically "blocked" from recovery. However, where the designated charity carries on activities which allow for VAT recovery and also exempt activities, it needs to apportion VAT incurred between those activities so as to accurately determine the recoverable amount of input tax.

9.5.2 Place of Supply

Article 29 of VAT Decree Law states that the place of supply of Services shall be the Place of Residence of the Supplier. Accordingly, the place of supply in case of Charitable Institution shall be the place where the Charitable Institution is located since that is the place from where the services are delivered/performed. Charitable Institutes having branches in various Emirates should take into

consideration the above while reporting the Emirate-wise reporting in the VAT Returns.

9.5.3 Date of Supply

Article 25 of VAT Decree Law states that the date of supply of Goods or Services shall be the earliest of any of the following dates:

- The date on which the provision of service was completed.
- The date of issuance of any Tax Invoice.
- The date of receipt of payment.

Accordingly, the date of supply in case of provision of Charitable Services shall be triggered on the earliest of occurrence of above events.

9.5.4 VAT Registration of Charities

Any charity carrying on a business activity in the UAE and making taxable supplies in excess of the mandatory VAT registration threshold (i.e. AED 375,000) in the last 12 months or is expected to exceed in the next 30 days must apply to be registered for VAT purposes. A Charitable Institution may voluntarily register for VAT if the value of its taxable supplies or taxable expenses incurred exceeded in the last 12 months or is anticipated to exceed in the next 30 days the voluntary registration threshold of AED 187,500.

Designated charities need to apply and register for VAT in order to benefit from recovery of input tax, disregarding whether they meet the threshold or not.

9.5.5 Requirement of Tax Invoices

- Article 65 of VAT Decree Law states that 'A Registrant making a Taxable Supply shall issue an original Tax Invoice and deliver it to the Recipient of Goods or Recipient of Services.'
- Accordingly, Tax Invoices are required for all standard-rated supplies by Charitable institutions. Simplified tax invoices may be issued where the supply is made to an unregistered recipient or the consideration for the supply made to a registered recipient is AED 10,000 or less.
- Further, Article 67 of VAT Decree Law states that a registrant shall issue a Tax Invoice within 14 days of the Date of supply. Including for supplies falling under Article 26 (i.e. continuous supplies) requires the registrant to issue a tax invoice within 14 days as of the date of supply.
- Tax Invoices issued by Charitable Institutions must comply with requirements stated in Article 59 of ER to VAT Decree Law.

9.5.6 Ready Reckoner of Applicable VAT rates for Charitable Sector

Sl. No.	Nature of transaction	Taxability
1.	Services/Supplies provided for a charge	Standard Rated @ 5%
2.	Relevant Charitable Activity for no charge (grantor has not derived any benefit)	Out of Scope
3.	Goods and services provide free of cost (which satisfy deemed supply provision)	Standard Rated @ 5%
4.	First Sale of Building specifically designed to be used by Charitable Institution	Zero Rated.
5.	Donations/ grants/Sponsorship received without any express or implied benefit (grantor has not derived any benefit)	Out of Scope

PART 3
9.6 Profit Margin Scheme (PMS)

Registrant may, in any Tax Period, calculate and charge tax based on the profit margin earned on the Taxable Supplies as specified in the Executive Regulations. Below we have provided details in respect to Profit Margin Scheme.

A VAT-registered business may apply the profit margin scheme to eligible goods in the following circumstances:

1. The goods must have been purchased from either:
   - a person who is not registered for VAT;
   - a taxable person who calculated VAT on the supply by reference to the profit margin i.e., a VAT-registered business which already applied the profit margin scheme on the same goods
2. The taxable person made a supply of the goods where input tax was not recovered in accordance with Article 53 of Cabinet Decision No. 52 of 2017.

A taxable person will not be allowed to apply the profit margin scheme in such cases where he has issued a tax invoice or any other document mentioning an amount of VAT chargeable in respect of the supply.

9.6.1 Goods under Consideration

Goods have been subject to tax before the supply which shall be subject to the profit margin scheme and those Goods are:

- Second-hand Goods, meaning tangible moveable property that is suitable for further use as it is or after repair.
- Antiques, meaning goods that are over 50 years old.
- Collectors' items, meaning stamps, coins and currency and other pieces of scientific, historical or archaeological interest.

9.6.2 Application of Profit Margin Scheme

The Profit Margin is the difference between the purchase price of the Goods and the selling price of the Goods, and the Profit Margin shall be deemed to be inclusive of Tax.

- The Taxable Person must keep the following records in respect of supplies made in accordance with this Article:
  a. A stock book or a similar record showing details of each Good purchased and sold under the profit margin scheme.
  b. Purchase invoices showing details of the Goods purchased under the profit margin scheme. Where the Goods are purchased from Persons who are not Registrants, the Taxable Person must issue an invoice showing details of the Goods himself, including at least the following information:
     1. The name, address and Tax Registration Number of the Taxable Person.
     2. The name and address of the Person selling the Good.
     3. The date of the purchase.
     4. Details of the Goods purchased.
     5. The Consideration payable in respect of the Goods.
     6. Signature of the Person selling the Good or authorized signatory.
     7. Where a Taxable Person has charged Tax in respect to a supply with reference to the profit margin, the Taxable Person shall issue a Tax Invoice that clearly states that the Tax was charged with reference to the profit margin, in addition to all other information required to be stated in a Tax Invoice except the amount of Tax.

9.6.3 Profit Margin Scheme - Eligible Goods[1]

Issue:
It is important that businesses properly identify those goods which qualify to be sold under the profit margin scheme, in the context of transitional periods where 'second hand' goods may not have been subject to VAT prior to implementation of VAT in the UAE.

Clarification:

[1] Section 9.6.3 - VATP002 - VAT Public Clarification

Only those goods which have previously been subject to VAT before the supply in question may be subject to the profit margin scheme. As a result, stock on hand of used goods which were acquired prior to the effective date of Federal Decree-Law No. (8) on Value Added Tax ("VAT law"), or which have not previously been subject to VAT for other reasons, are not eligible to be sold under the profit margin scheme. VAT is therefore due on the full selling price of such goods.

We have provided below detailed comments in respect of Profit Margin Scheme.

Goods which qualify to be supplied under the Profit Margin Scheme:

We wish to reiterate that only certain goods are eligible to be supplied under the profit margin scheme. Those goods are listed below, but may only be supplied under the scheme where they were subject to VAT before the supply which shall be subject to the profit margin scheme:

1. Second hand goods, meaning tangible moveable property that is suitable for further use as it is or after repair;
2. Antiques i.e. goods that are over 50 years old;
3. Collectors' items i.e. stamps, coins, currency and other pieces of scientific, historical or archaeological interest.

Conditions to apply the Profit Margin Scheme:

We wish to reiterate that VAT-registered business may apply the profit margin scheme to eligible goods in the following circumstances:

1. The goods must have been purchased from either: - A person who is not registered for VAT; or A taxable person who calculated VAT on the supply by reference to the profit margin i.e. a VAT-registered business which already applied the profit margin scheme on the same goods.
2. The taxable person made a supply of the goods where input tax was not recovered in accordance with Article 53 of Cabinet Decision No. 52 of 2017.

A taxable person will not be allowed to apply the profit margin scheme in such cases where he has issued a tax invoice or any other document mentioning an amount of VAT chargeable in respect of the supply.

Goods purchased prior to the introduction of VAT

As mentioned above, it is a requirement of Article 29(2) of Cabinet Decision No. 52 of 2017 that the goods which are eligible to be sold under the profit margin scheme are those which have previously been subject to tax. As a result, goods which would ordinarily be eligible to be included within the scheme, but which were purchased during a period in which they would not have been subject to

VAT, are not eligible for the scheme.

If a good was purchased in	Tax treatment	Remarks
2017 or earlier	not subject to VAT	the good is not eligible to be sold under the profit margin scheme and VAT should be applied to the full selling price
2018 or later	from a supplier who did not charge VAT on the supply, and the good may have been purchased in a period prior to the effective date of VAT	the good is not eligible to be sold under the profit margin scheme and VAT should be applied to the full selling price unless evidence is available to show the good had been subject to VAT on an earlier supply
2018 or later	from a supplier and it is known that the good would have been purchased by the supplier in a period after the effective date of VAT	The good is eligible to be sold under the profit margin scheme where you have evidence to show that the good has been subject to VAT on an earlier supply

Evidence that a Good was subject to tax previously:
As mentioned above, a supplier should be confident that a good has previously been subject to tax in order to apply the profit margin scheme. Such evidence or information of this position could include but is not limited to:

1. Information relating to the date the good was first manufactured, sold or brought in to use e.g. in the case of a car, the date the car was first registered would indicate its sale would have been subject to VAT if it was registered on a date after 1 January, 2018;
2. Evidence that the supplier paid VAT on their original purchase e.g. by asking the supplier for a copy of the tax invoice relating to their purchase of the good.

PART 4
9.7 E-commerce

9.7.1 Supply of Goods

A supply of goods in the e-commerce context involves purchasing goods through an electronic platform, such as a website or a marketplace. Once the goods are purchased, they are then delivered to the recipient. Depending on the location of the supplier, the recipient, and the goods, the supply may take any of the following basic forms:

- A supply by a resident supplier to a recipient in the UAE, with goods being delivered from either inside or outside the UAE;
- A supply by a resident supplier to a recipient outside the UAE, with goods

being delivered from either inside or outside the UAE;
- A supply by a non-resident supplier to a recipient in the UAE, with goods being delivered from either inside or outside the UAE; and
- A supply by a non-resident supplier to a recipient outside the UAE, with goods being delivered from either inside or outside the UAE.

In each of the above scenarios, the supplier has to consider the impact of VAT on the sale of the goods. In addition, where the goods are physically imported into the UAE from outside the UAE, the importer has to consider the impact of the VAT charged on import of the goods. Below we discuss the VAT treatment of sales of goods in more detail for the purpose of this topic, the UAE refers to the mainland UAE. This topic does not consider supplies of goods to, from or within Designated Zones.

9.7.2 Place of Supply

The basic place of supply rule for goods is that, if the goods are located in the UAE when supplied, then they are treated as supplied in the UAE. Similarly, if the goods are located outside the UAE when they are supplied, the place of supply is outside the UAE. Where the supply involves the export of goods from the UAE to a place outside the GCC Implementing States (which is currently, any other state outside the UAE), the place of supply is in the UAE.

Supplier is a UAE resident and a taxable person*

As such, a supplier has to consider where the goods are, and which of the place of supply rule applies to a specific transaction. Below we consider various scenarios in more detail.

Goods delivered from	Goods delivered to	VAT on supply	VAT on supply accounted by	VAT on import**
UAE	UAE	5%	Supplier	No
UAE	Outside UAE	0% if export conditions are met; otherwise 5%	Supplier	No
Outside UAE	UAE	No	N/A	Yes
Outside UAE	Outside UAE	No	N/A	No

Notes:
* Where the supplier is not registered for VAT, no VAT applies on the supply (it could apply on the import), unless the supplier has an obligation to register for VAT in accordance with the registration rules.
** The obligation to account for import VAT is on the "importer", i.e. the person whose name is listed as the importer of the relevant goods for customs clearance purposes.

Supplier is not a UAE resident

9.7.3 Telecommunications and Electronic Services

Residency status of recipient	Registration status of recipient	Goods delivered from	Goods delivered to	VAT on supply	VAT on supply accounted by	VAT on import ***
UAE	Registered	UAE	UAE	5%	Recipient*	
Any	Not registered	UAE	UAE	5%	Supplier**	No
Outside UAE	Any	UAE	UAE	5%	Supplier**	No No
UAE	Registered	UAE	Outside UAE	0% if export conditions are met; otherwise 5%	Recipient*	No
Any Outside UAE	Not registered Any	UAE	Outside UAE Outside UAE	5% or 0% if export conditions are met	Supplier**	No
Any	Any	UAE	UAE Outside UAE	0% if export conditions are met; otherwise 5%	Supplier** N/A	No
Any	Any	Outside UAE		No		Yes
		Outside UAE		No	N/A	No

Notes:
* Where a non-resident supplier is already registered for VAT in the UAE, it should account for VAT directly.
** Where the VAT on the supply is the obligation of the non-resident supplier who is not yet registered for VAT, the supplier must apply to register for VAT. The supplier may be subject to penalties for non-compliance.
*** The obligation to account for import VAT is on the "importer", i.e. the person whose name is listed as the importer of the relevant goods for customs clearance purposes.

1. "Telecommunication Services" means delivering, broadcasting, converting or receiving any of the services specified below by using any communications equipment or devices that transmit, broadcast, convert, or receive such service by electrical, magnetic, electromagnetic, electrochemical or electromechanical means or other means of communication, including:
   a. Wired and wireless communications.
   b. Voice, music and other audio material.
   c. Viewable images.
   d. Signals used for transmission with the exception of public broadcasts.
   e. Signals used to operate and control any machinery or equipment;
   f. Services of an equivalent type which have a similar purpose and function.
2. "Electronic Services" means Services which are automatically delivered

over the internet, or an electronic network, or an electronic marketplace, including:

a. Supply of domain names, web-hosting and remote maintenance of programs and equipment.
b. The supply and updating of software;
a. The supply of images, text, and information provided electronically such as photos, screensavers, electronic books and other digitized documents and files; d. The supply of music, films and games on demand;
b. The supply of online magazines;
c. The supply of advertising space on a website and any rights associated with such advertising;
d. The supply of political, cultural, artistic, sporting, scientific, educational or entertainment broadcasts, including broadcasts of events; h. Live streaming via the internet;
e. The supply of distance learning;
f. Services of an equivalent type which have a similar purpose and function.

3. "Electronic Marketplace" means a distribution service which is operated by electronic means, including by a website, internet portal, gateway, store, or distribution platform, and meets the following conditions:
   a. Which allows suppliers to make supplies of electronic services to customers.
   b. The supplies made by the marketplace must be made by electronic means.

Supplies of electronic services (as well as of telecommunications services) are subject to a special place of supply rule. Thus, the place of supply of electronic services is:

- in the UAE, to the extent of the use and enjoyment of the supply in the UAE; and
- outside the UAE, to the extent of the use and enjoyment of the supply outside the UAE.

The reference to the "extent" in Article 31 indicates that a single supply may be apportioned for the purposes of a place of supply rules, so that it is treated as partly in the UAE and partly outside the UAE. This ability to apportion a supply is, however, limited to situations where a sufficient distinction exists between the different parts of the supply (i.e. services supplied) or consideration (amounts charged for such services) so as it is practical and reasonable to divide them.

The actual use and enjoyment of electronic services should be determined on

the basis of where the electronic services are consumed by the recipient, regardless of the place of contract or payment.29 Since the legislation does not provide any express rule regarding the indicators which should be used to determine the place of use and enjoyment, this determination must be made on a case-by-case basis, and all of the facts of the supply must be considered.

Nevertheless, the following principles may be used as high-level guidance in determining the place of use and enjoyment in various scenarios:

- In the case of an electronic service which is delivered to a physical place, the place of use and enjoyment of that service is that physical place. For example, where electronic services content can be only accessed from a particular physical location, that location will be the place of use and enjoyment.
- In the case of electronic services provided on a portable device, the use and enjoyment may be determined on the basis of the recipient's location at the time the services are supplied. For example, where music is electronically delivered to a recipient located in the UAE, the place of use and enjoyment will be the UAE.

For the purpose of determining the location of the recipient, some of the factors which may be indicative of the recipient's location are:

- the internet protocol ("IP") address of the device used by the recipient to receive the electronic service
- the country code stored on the SIM card used by the recipient to receive the electronic service;
- the place of residence of the recipient;
- the billing address of the recipient; and / or
- the bank details used by the recipient for the payment.

In determining the location of the recipient, the supplier should give priority to the factors which give the most precise information regarding the actual place where the electronic services will be used and enjoyed. For example, if a KSA resident orders an on-demand film to be watched on a computer with an IP address in the UAE, the use and enjoyment of the film will be in the UAE.

The table below summarizes the high-level indicative VAT treatment of various scenarios related to supplies of electronic services.

9.8 Transfer of Business as Going Concern

In accordance with Article 7(2) of the Federal Decree-Law No. (8) of 2017 on Value Added Tax (the "Decree-Law"), the transfer of whole or an independent part of a business from a person to a taxable person for the purposes of continuing the business that was transferred is not considered to be a supply for VAT purposes.

As a consequence of not being a "supply" for VAT purposes, such transfer of a business, commonly known as a "Transfer of Business as a Going Concern" or a "TOGC", is not subject to VAT. This rule has a compulsory application.

9.8.1 Requirements of TOGC

For a transfer not to be treated as a supply for VAT purposes, the following conditions must be met:

Residency status of supplier	Place of use and enjoyment	Registration status of recipient	VAT on supply	VAT accounted by
UAE	UAE	Any	5% or 0% if specifically zero-rated	Supplier*
UAE	Outside UAE	Any	No	N/A
Outside UAE	UAE	Not registered	5% or 0% if specifically zero-rated	Supplier
Outside UAE	UAE	Registered	5% or 0% specifically zero-rated	Recipient
Outside UAE	Outside UAE	Any	No	N/A

Notes:
* The UAE-resident supplier will only be responsible for accounting for VAT on the supply where it is a taxable person in the UAE.

dition		
1	There must be a transfer of whole or an independent part of a business independent part of a business	For a transfer to be subject to Article 7 of the Decree-Law, there must be a transfer of a business, and a mere transfer of assets will not qualify as a TOGC. As such, the transfer must effectively give the recipient the possession of the whole of a business, or part of a business where that part is capable of separate operation. As part of the transfer, all of the goods and services that are necessary for the continued operation of that business or a part of a business must be supplied to the recipient. Depending on the facts, this may include, among other things, goodwill, licences, premises, machinery and equipment, employees, ongoing contracts, and liabilities. To qualify as a going concern, the transferred business must be operational before and at the time of transfer. As a consequence, where there is an agreement to transfer a business which is yet to commence, there will be no transfer of a business as a going concern since there is no transferred business which is yet capable of being continued by the transferee Similarly, where the business has ceased operation before the transfer date, the transfer will not qualify as a TOGC
2	Transfer must be made to a taxable person; and	For a TOGC to take place, the recipient must be a taxable person at the time of transfer - i.e. the recipient should be registered or obligated to register for VAT. This condition will be met if any of the following is in effect on the date of transfer: ▸ The recipient is registered for VAT; ▸ The recipient is required to be registered under the mandatory registration rules and has applied for registration to the FTA; or ▸ The recipient has applied for voluntary VAT registration and the FTA has accepted the application.
4	Recipient intends to continue the business which was transferred.	The final condition in Article 7(2) of the Decree-Law requires that the transfer of the whole or independent part of the business must be for the "purposes of continuing the business which was transferred" This requirement will be met as long as the recipient of the business intends to carry on the same kind of business which it acquires. For example, if the recipient acquires a property with a leasing business, the condition will be met if the recipient intends to continue carrying out the leasing business on the property.

		Although there is no requirement for the minimum period for which the transferred business must be operational under the recipient's ownership, the intention to continue the business must be genuine.

Proof of intention:
As discussed above, for a TOGC to take place, the recipient must intend to continue the business which was transferred. As a consequence, prior to treating the transfer as a non-supply under Article 7(2) of the Decree-Law, the supplier should satisfy themselves that the recipient intends to continue the business as a going concern.

Where the supply has been incorrectly treated as a TOGC, VAT may be retrospectively due on the supply. The parties should consider the potential consequences of any such errors when entering into contractual arrangements.

ESSENTIALS OF

UAE VAT LAW

CHAPTER 10

Reverse Charge Mechanism (RCM)

10. Reverse Charge mechanism (RCM)

VAT is due on the import of goods into the UAE where those goods, if otherwise supplied in the UAE, would be taxable at the standard rate. This means that no import VAT will be due in respect of goods which would ordinarily be zero-rated or exempt from VAT.

The manner in which this import VAT should be paid, and the timing of payment, is dependent on the status of the importer.

10.1 Imports Made by Non-registered Persons

Where the import is made by an individual or a business, which is not registered for VAT in the UAE, VAT is due to be paid in respect of the import at the point of importation. As such, VAT must be paid prior to the goods being released to the importer.

Import VAT is calculated on the value of the goods inclusive of any customs duty and excise tax that may also be due. Payment of VAT will need to be made directly to the FTA, separately from any payments which are due to the Customs authorities (for example, customs duties).

VAT payment will be made to the FTA using the FTA's payment portal. Once the VAT is paid, the importer will be able to proceed with the customs clearing process in respect of the goods.

It should be noted that where an unregistered person imports goods using a VAT registered agent, such as a courier company, the agent will be responsible for paying import VAT to the FTA on behalf of the unregistered person.

This agent needs to account for the relevant import VAT on their own tax return, and is not able to recover the VAT accounted for as input tax. The agent will also be required to issue a statement to the unregistered importer with details of the import and the VAT paid.

10.2 Imports Made by VAT-registered Persons

Where the import is made by a VAT-registered person, the import VAT should be accounted for on the person's tax return using the Reverse Charge Mechanism. As a consequence, a VAT registered person may clear the goods through customs and be able to use the goods in the UAE even before the import VAT is accounted for to the FTA.

In order to benefit from the ability to defer the payment of VAT in this way, the importer must:

- be able to demonstrate that they are registered for VAT at the time of import of the goods;
- provide the FTA with their own Customs registration number issued by the competent Customs authority for that import; and
- co-operate with the FTA and comply with any other rules which may be imposed by the FTA in respect to the import.

Where the payment of the import VAT is accounted for on the tax return, the VAT-registered importer must declare the import VAT as output tax in the tax return covering the period of importation.

Where permitted under the normal VAT recovery rules, the importer may also recover the import VAT incurred as input tax in their tax return. Where the business is entitled to recover the input tax in full, this import VAT will not represent a cost to the business.

10.3 Relief from Import VAT

Certain categories of goods are relieved from import VAT. In some cases, these categories mirror reliefs which are available in respect to customs duties, therefore allowing certain goods not to be subject to both VAT and customs duties. Import VAT relief will be available in the cases outlined below.

10.3.1 Customs Suspension

Where goods are under customs duty suspension arrangements in accordance with the GCC Common Customs Law, the imposition of import VAT will also be suspended in the following cases:

- Goods enter the UAE under temporary admission.
- Goods are placed in a customs warehouse.
- Goods are in transit.
- Goods are intended to be re-exported by the same person who imported them.

The FTA may require the importer to provide a financial guarantee or a cash deposit equal to the value of the VAT which would be due on import before allowing the goods not to be treated as imported in the UAE in respect of above categories.

In addition to the above, goods will not be treated as imported into the UAE if they are imported from outside the UAE to a UAE designated zone. It should be noted that where any of above rules apply, the movement of goods into the UAE is not treated as an import, and therefore not subject to import VAT.
If any conditions for the VAT suspension are subsequently broken, the goods may be treated as having been imported into the UAE and the VAT will become due on the import on the date the goods were originally imported.

10.4 Linking Tax Registration Number with Customs Registration Number (TRN - CRN Linkage)

Option One

- Update your Customs Registration Number on your registration profile with the Federal Tax Authority (FTA) by logging onto the FTA's e-Services portal.
- Multiple customs registration numbers can be provided by selecting Edit option and adding the details.

Option Two

- Provide the customs department office with your TRN.
- The customs department officer can verify the TRN by logging onto the e-Services portal or by visiting the FTA website (https://tax.gov.ae/) and by using the feature of TRN verification.
- Once the customs department office verifies the TRN ownership, the customs department can update your TRN on the customs department system.

10.5 Imposition and Accounting for Import VAT

Where cars are imported into the UAE from abroad, the cars will be subject to Import VAT at 5%. Import VAT is imposed on the customs value as calculated pursuant to Customs legislation, including the value of insurance, freight and any customs fees paid on the import of the cars.
The obligation to account for import VAT is on the "importer", being the person whose name is listed as the importer of the relevant cars for customs clearance purposes. The mechanism for accounting for VAT on imported cars depends on the VAT-registration status of the importer at the time of importation.

10.6 Deferred Payment at the Time of Filing the VAT Return

VAT incurred on imports made by VAT-registered entity is treated as input tax of the importer, and the importer may be able to recover it in box 10 of its VAT return, if eligible under the normal VAT recovery rules.

10.7 Payment at the Time of Import

In situations where the conditions for deferring the payment of import VAT are not met.

For example, the importer is not registered for VAT at the time of import - the importer would need to pay VAT to the FTA before the cars can be released to it by the relevant Customs department. This process requires the importer to use the FTA's e-Services portal to complete the VAT301 - Import Declaration Form for VAT Payment and to make the payment of applicable VAT.

10.8 Import of Goods by Non-Registered Importer

Non-registered importers are those who import goods subject to VAT irregularly without being registered for VAT. There exist following scenarios:
Scenario 1: Import goods from outside the UAE to the UAE mainland
Scenario 2: Import into the UAE to export the goods outside the UAE to another country and it is not considered under customs duty suspension
Scenario 3: Import to export the goods outside the UAE to a GCC Country that has implemented VAT and it is not considered under customs duty suspension.
In order to comply and fulfill tax obligation, such persons who are not registered but are importing goods to the UAE will first have to create an e-Services account and pay the applicable taxes before clearing the goods. Import VAT is calculated on the value of the goods inclusive of any customs duty and excise tax that may also be due. However, in case of import for re-export, there is an option whereby such person can submit an e-Guarantee equal to the value of VAT due from their bank before clearing the goods. Such guarantee can be cancelled upon leaving the UAE/ exporting the goods.

10.9 VAT-free Imports

The second type of goods which are relieved from Import VAT are goods which are exempt from customs duties in accordance with the GCC Common Customs Law.
These are:

- goods imported by the military forces and internal security forces;
- personal effects and gifts accompanied by travellers;
- used personal effects and household items transported by UAE nationals living abroad on return or by expats moving to live in the UAE for the first time; and
- returned goods. Goods falling under any of these categories are treated as having been imported into the UAE but are exempt from the imposition of

VAT.

10.10 Import with the Assistance of Import Clearing Agent

Where a clearing agent or equivalent business is importing goods on behalf of a VAT-registered importer, the clearing agent should declare the importer's TRN on the customs import declaration. This will allow the importer to account for the import VAT in its VAT return.

On the other hand, where a clearing agent is importing goods on behalf of a non-registered importer, the agent should declare its C/O TRN on the customs import declaration and should be responsible for the payment of VAT in respect of the import in its VAT return.

It should be noted that since the clearing agent or equivalent business is not the owner of the goods, but simply facilitates the import of those goods into the UAE, it should not recover the import VAT as its own input tax in the VAT return, and doing so would expose the clearing agent or equivalent business to an assessment for over-recovered VAT and penalties.

10.11 Exceptions from Import VAT

Goods are not treated as imported into the UAE where they are under customs duty suspension arrangements in accordance with the GCC Common Customs Law under any of the following categories:

1. Temporary admission.
2. Goods placed in a customs warehouse.
3. Goods in transit.
4. Imported goods intended to be re-exported by the same person.

To apply the above-mentioned exceptions, the importer is required to provide a financial guarantee to the FTA via a clearing agent for the amount of VAT chargeable in respect of the goods. This guarantee will be refunded once the goods leave the UAE in accordance with the relevant customs suspension conditions.

10.12 VAT Treatment on Purchase Returns after Import

In cases where the imported car consequently exported out of the UAE, in such instances, at the time of importation of the car, the motor vehicle dealer would have accounted for import VAT (via the deferred payment method or by making the upfront payment) and would have recovered the input tax in Box 10 of the

VAT return. Therefore, upon the return of the car, importer should make negative adjustment in Box 7 and Box 10 of VAT return of the tax period in which the car is returned and exported out of the UAE.

10.13 Import of Services

Since the Reverse Charge Mechanism is only applicable when specific conditions are met, taxable supplies from the same non-resident supplier of electronic services may be subject to different VAT accounting treatments - while a taxable supply made to a UAE taxable person would be subject to the reverse charge mechanism under Article 48(1) of the Decree-Law. The same supply made to a non-taxable person would not be subject to the reverse charge mechanism and would continue being the obligation of the supplier. As such, the supplier may continue being responsible for accounting for VAT on supplies which are not subject to the reverse charge mechanism.

In respect of cross-border supplies of electronic services into the UAE (i.e., import of services into the UAE from abroad), the reverse charge mechanism applies where the supplier does not have a place of residence in the UAE and the recipient is either registered or required to register for VAT in the UAE.

For example, if a non-resident supplier of cross-border electronic services makes supplies to both taxable and non-taxable persons, it will be obligated to register for VAT and to account for UAE VAT on its supplies to non-taxable persons. However, tax on its supplies to taxable persons is the responsibility of its customers, who shall be responsible to account for VAT under Article 48(1) of the Decree-Law. Note that this treatment is only applicable to cross-border supplies of services, and the rules for goods are different, as explained in the Guide (which refers to the reverse charge mechanism under Article 48(3) of the Executive Regulation as applicable to supplies of goods with the place of supply in the UAE).

ESSENTIALS OF

UAE VAT LAW

CHAPTER 11

Compliance

11. Compliance

11.1 Issuance of Tax Documents

There are two types of tax documents as prescribed in the UAE VAT Law:

- Tax Invoice (including buyer created tax invoice, agent, summary tax invoice, simplified tax invoice);
- Tax Credit Note (including buyer created tax invoice, agent, summary tax invoice, simplified tax invoice)

A VAT-registered Person must issue a tax invoice (also known as "tax invoice") and deliver it to the recipient when it makes a taxable supply of goods or services.

Furthermore, a VAT-registered Person making a deemed supply must issue a tax invoice and either deliver it to the recipient (if there is a recipient) or retain it as part of their records (if there is no recipient).

A tax invoice must normally be issued, or arranged to be issued, by a supplier of goods or services. However, in certain situations a tax invoice may either not be required or may be issued by another person. There are a number of situations when a tax invoice is not required to be issued. These are:

- When the supply is subject to VAT at 0% and there are or will be sufficient records available to establish the particulars of the supply.
- Subject to conditions that may be imposed by the FTA, where the FTA has determined that it would be impractical to require a tax invoice to be issued by the taxable person.

11.1.1 Other Notes for Tax Documentation

- It should be noted that exempt supplies and supplies that are not subject to UAE VAT are not considered taxable supplies, and therefore do not require a tax invoice.
- A tax group is a single entity for VAT purposes meaning supplies between members of the same tax group are disregarded for VAT purposes. As such, there is no need to account for VAT or issue tax invoices in respect of intra-group supplies.
- A person making a supply to another GCC Implementing State where the place of supply is in that state must, however, issue a document which contains most requirements of the tax invoice (along with notes establishing supplies are related to member states).
- A tax invoice as well as tax credit notes must be issued within 14 calendar

days of the date of supply/date when such incident for issuance of tax credit note arose.

- The only exception to this rule is a summary tax invoice that may be issued by a taxable person. Where a taxable person makes more than one supply of goods or services to the same recipient during a month, the taxable person may issue a single tax invoice for these supplies in the same calendar month as the supplies took place. In these circumstances, the summary tax invoice will be treated as issued on time, even if it is issued more than 14 day from the date of supply of any supply covered by the tax invoice.
- Please note 14 days time line does not mean that date of supply triggers after 14 days. The obligation to account for output tax arises at the tax point of the supply, i.e. at the date of supply. Once the date of the supply has taken place, the Taxable Person must account for the output tax in the VAT Return covering that Tax Period.
- Invoices in a foreign currency: Currency stated on a tax invoice must be the UAE Dirham. In the event that a supply is made in a currency other that the UAE Dirham, the amount must be converted into and stated in UAE Dirham on the tax invoice. The invoice may still contain information regarding prices in the original currency. When converting the foreign currency into the UAE Dirham, the exchange rate used must be a rate approved by the UAE Central Bank.
- Rounding rules: Where the invoice amount is a fraction of a fils, the amount should be rounded to the nearest fils (that is, to two decimal places) on a mathematical basis, being:
  a. rounded up if the fraction is a half or more; and
  b. rounded down if the fraction is less than a half.

11.2 Adjusting Output Tax on Tax Invoices

There may be instances where output tax originally charged on a supply has to be adjusted - for example, due to an adjustment of the price or due to a mistake. In such instances, the supplier must account for the correct amount of VAT, and must issue a document recording the correction. Thus, where the output tax charged is less than the output tax that should have been charged following the adjustment (i.e. there has been a price increase), the supplier must issue a tax invoice for the difference and provide it to the recipient, with the following effects:

- The supplier has to account for the additional output tax to the FTA on the tax return that relates to the tax period in which the adjustment is made.
- The recipient can treat the additional VAT incurred as input tax subject to

the normal input tax recovery rules in the tax return for the tax period in which the tax invoice is received.

In contrast, where the output tax charged is more than the output tax that should have been charged following the adjustment (i.e. there has been a price decrease), the supplier must issue, and provide to the recipient, a tax credit note, with the following effects:

- The supplier can recover from the FTA the output tax which was previously accounted for in respect of the amount of reduction, by reducing the output tax in the tax return for the tax period in which the adjustment is made.
- The recipient must reduce their input tax by the amount of VAT related to the reduced amount in the tax return for the tax period in which the tax credit note is received.

11.3 Key requirements of a Tax Credit Note

In order for a tax credit note to be valid, it must reflect the error in the original tax invoice. Therefore, a credit note should contain the following:

- The words "Tax Credit Note".
- The name, address, and TRN of the supplier.
- Where the recipient is registered for VAT, their name, address, and TRN.
- The date of issuing the Tax Credit Note.
- The value of the supply shown on the tax invoice, the correct amount of the value of the supply, the difference between those two amounts, and the VAT charged that relates to that difference in AED.
- A brief explanation of the circumstances giving rise to the adjustment.
- Information sufficient to identify the supply to which the adjustment relates.

Similar to tax invoices, the FTA has the ability to determine situations when tax credit notes are unnecessary or can contain different particulars. Similarly, a tax credit note may be issued by a VAT-registered agent of the taxable person making a supply or by the recipient of the supply with the agreement of the supplier (with words "buyer-created tax credit note" clearly displayed on the credit note).

11.4 Brief on Tax Credit Note Issuance

Tax Credit Note is primarily issued in following cases:

- Returned goods
- Cancellation of supply

- Any change in agreed consideration
- If tax charged in error
- Change in nature of supply

On concurrent reading of Article 62 and Article 27 of Decree Law, it is clearly mentioned that the tax credit note cannot be issued in cases where the nature of supply changed from standard rated supplies to export to outside UAE at the date of supply basis the place of supply that time. By virtue of amendment in Article 62 of Federal Decree-Law No. 18 of 2022 - Issued on 26 Sep, 2022, the Registrant shall issue a Tax Credit Note within 14 days from the date in which any of the situations provided for in Clause 1 of Article 61 of this Decree-Law took place.**

11.5 Full and Simplified Tax Invoices

In order for a tax invoice to be valid it must contain the following particulars:

- The words, "Tax Invoice" clearly displayed on the invoice.
- The name, address and TRN of the supplier.
- Where the recipient of the supply is registered for VAT, the name, address, and TRN of the recipient.
- A sequential tax invoice number or a unique invoice number.
- The date of issuing the tax invoice.
- The date of supply (where different from date of issue of the tax invoice).
- A description of the goods or services supplied.
- For each good or service, the unit price, the quantity or volume supplied, the rate of VAT and the amount payable expressed in AED.
- The amount of any discount offered.
- The gross amount payable expressed in AED.
- The tax amount payable expressed in AED together with the rate of exchange applied.
- Where the invoice relates to a supply under which the recipient is required to account for VAT, a statement that the recipient is required to account for VAT, and a reference to the relevant provision of the Law.

In addition to a 'full' tax invoice, in certain situations a person may issue a 'simplified tax invoice'. A simplified tax invoice may be issued in the following two situations:

- where the recipient is not registered for VAT; or
- where the recipient is registered for VAT and the consideration for the supply does not exceed AED 10,000.

The information required to be stated on a simplified tax invoice is not as extensive as for the full invoice, and includes:

- the words "Tax Invoice" clearly displayed on the invoice;
- the name, address, and TRN of the registered supplier;
- the date of issuing the tax invoice; a description of the goods or services supplied; and
- the total consideration and the VAT amount charged.

It should be noted that issuing a simplified tax invoice instead of a full tax invoice is optional - for example, the supplier may choose to issue a full tax invoice even when the recipient is not registered for VAT and a simplified tax invoice is therefore available.

11.6 Invoices for intra-GCC supplies

Where a VAT registered person makes a cross-border supply of goods or services with the place of supply taking place in another GCC Implementing State, the person must issue a document with specific particulars, being:

- the usual information that must be included in a tax invoice, but without the label "Tax Invoice" and without charging any VAT;
- the tax registration number of the recipient in the Implementing State; and
- a statement that the supply is a cross-border supply between the UAE and another GCC Implementing State.

The supplier does not need to issue any other tax invoice for such intra-GCC supplies.

11.7 Key Requirements of a Tax Credit Note

In order for a tax credit note to be valid, it must reflect the error in the original tax invoice. Therefore, a credit note should contain the following:

- The words "Tax Credit Note".
- The name, address, and TRN of the supplier.
- Where the recipient is registered for VAT, their name, address, and TRN.
- The date of issuing the tax credit note.
- The value of the supply shown on the tax invoice, the correct amount of the value of the supply, the difference between those two amounts, and the VAT charged that relates to that difference in AED.
- A brief explanation of the circumstances giving rise to the adjustment.
- Information sufficient to identify the supply to which the adjustment relates.

Similar to tax invoices, the FTA has the ability to determine situations when tax

credit notes are unnecessary or can contain different particulars. Similarly, a tax credit note may be issued by a VAT registered agent of the taxable person making a supply or by the recipient of the supply with the agreement of the supplier (with words "buyer-created tax credit note" clearly displayed on the credit note).

11.8 Buyer-created Tax Invoices

In certain commercial situations, it may be easier for a recipient of goods or services to identify the particulars of what has been supplied, and therefore to issue a tax invoice. For example, where scrap metal is sold to a scrapyard, the details of the supply (e.g. the quality and value of scrap metal) might not be known until the scrap is received and valued at the scrapyard.

In these situations, the supplier and the recipient may agree that the recipient will issue the tax invoice instead of the supplier. Such a tax invoice would then be treated as if it had been issued by the supplier and therefore conditions for issuing a tax invoice have been met.

A buyer-created tax invoice may be issued where:

- the recipient is registered for VAT; and
- the supplier and the recipient agree in writing that the supplier will not issue a tax invoice in respect of any supply to the recipient.

Where the conditions above are met, the recipient will be able to issue a tax invoice for a purchase. Such a tax invoice must contain all the particulars normally required in a tax invoice and must be identified by the words "buyer-created tax invoice".

Where a buyer-created tax invoice is issued, the supplier should not issue a separate tax invoice. In such cases, any document issued by the supplier purporting to be a tax invoice will not be a valid tax invoice.

11.9 Invoices issued by Agents

Where a VAT-registered agent makes a supply of goods or services on behalf of the principal supplier of those goods or services, the agent may issue a tax invoice in relation to that supply with the particulars of the agent (such as name, address and TRN) - as if that agent had made the supply of goods or services itself. The invoice should, however, contain a reference to the principal supplier (including the supplier's name and TRN) somewhere on the invoice.

If the agent issues an invoice on behalf of the principal supplier, the principal supplier should not issue their own tax invoice.

Where the invoice is issued by the agent, the supply is still treated as being made by the principal supplier to the recipient of the supply. As a consequence, the supplier has to account for the relevant VAT and must comply with all the record-keeping requirements in respect of the supply.

11.10 Emirate of Reporting Supplies

1. The records of all Goods and Services supplied by the Taxable Person or on his behalf showing the Goods and Services, suppliers and their agents, shall be kept and retained in sufficient detail to enable the Authority to readily identify Goods and Services, suppliers, and agents.
2. Without prejudice to Article 78 of the Decree-Law, the Taxable Person who makes a Taxable Supply of Goods or Services in the State must keep records of the transaction to prove the Emirate in which the Fixed Establishment related to this supply is located.
3. As an exception to Clause (2) above, if the Taxable Person who makes a Taxable Supply of Goods or Services does not have a Fixed Establishment in the State, the Taxable Person must keep records of the transaction to prove the Emirate in which the Supply is received.

In a nutshell, for businesses with fixed establishments in the UAE, the supply should be reported in the Emirate where the fixed establishment most closely connected to the supply is located. For non-established businesses, the supply should be reported in the Emirate where the supply was received.

11.11 VAT Return

The official document to be completed by the Taxable Person and submitted to the Federal Tax Authority ("FTA") at regular intervals detailing any output tax due and input tax recoverable and including any other information that is required to be provided. In this guide, we will refer to it as the "VAT return".
All VAT Returns should be submitted online using the FTA portal. The return can be submitted by the Taxable Person, or another person who has the right to do so on the Taxable Person's behalf (for example, a Tax Agent or a Legal Representative).

A Tax Period is a specific period of time for which the Payable Tax shall be calculated and paid.

- The standard Tax Period applicable to a Taxable Person shall be a period

of three calendar months ending on the date that the FTA determines. The FTA may, at its discretion, assign a different Tax Period, other than the standard one, to a certain group of Taxable Persons (e.g., in some cases businesses may be required to file VAT returns on a monthly basis).

- Where a Taxable Person is assigned the standard Tax Period, he may request that the Tax Period ends with the month as requested by him, and the FTA may accept such a request at its discretion.
- The VAT Return must be received by the FTA no later than the 28th day following the end of the Tax Period concerned or by such other date as directed by the FTA. Where a payment is due to the FTA, it must be received by the FTA by the same deadline.

Where the due date for the submission of the VAT Return and the corresponding payment falls on a weekend or a national holiday, the deadline for filing the VAT Return or making a payment is extended to the first business day thereafter.

Filing VAT Returns For each Tax Period, a Taxable Person will be required to submit a VAT Return which contains details regarding the supplies made and received by the Taxable Person.

With respect to sales and other outputs, the Taxable Person will need to report:

1. supplies of goods and services made which are subject to the standard rate of VAT per Emirate;
2. tax refunds you have provided to tourists under the Tax Refunds for Tourists Scheme, if you are a retailer and provide tax refunds to tourists in the UAE under the official tourists refund scheme;
3. supplies of goods and services received by the Taxable Person which are subject to the reverse charge provisions;
4. supplies of goods and services made which are subject to the zero rate of VAT;
5. supplies made which are exempt from VAT;
6. goods imported into the UAE and have been declared through UAE customs; and
7. where applicable, adjustments to goods imported into the UAE and which have been declared through UAE Customs.

With respect to purchases and other inputs, the Taxable Person should report:

1. purchases and expenses that were subject to the standard rate of VAT and for which you would like to recover VAT; and
2. any supplies which were subject to the reverse charge for which you would like to recover input tax. The amounts of VAT charged and input tax recoverable by the Taxable Person would then need to be netted off in the

Tax Return.

The resulting amount is the net VAT payable to, or to be refunded by, the FTA (i.e. the net VAT position)

11.12 Record keeping

In order to properly facilitate the administration of VAT, all taxable persons are required to maintain certain business records for a specified period of time. The purpose of this chapter is to summarize which records must be maintained and the time periods for which they must be retained.

The retention of records is essential and enables businesses to pay the correct amount of tax. It also provides a framework through which the FTA can collect VAT revenue, monitor a taxable person's compliance and make assessments for additional tax payable where required.

A VAT-registered person is required by law to keep all of the following records:

- Records of all supplies and imports of goods and services.
- All tax invoices and alternative documents received.
- All tax credit notes and alternative documents received.
- All tax invoices and alternative documents issued.
- All tax credit notes and alternative documents issued.
- Records of goods and services that have been disposed of or used for matters not related to the business, detailing the VAT paid on those goods and services.
- Records of goods and services purchased for which the input tax was not deducted.
- Records of exported goods and services.
- Records of adjustments or corrections made to accounts or tax invoices.

In addition to the above, a VAT registered person must keep a VAT record or account which includes the following information:

- Output tax due on taxable supplies.
- Output tax due on taxable supplies accounted for via the reverse charge mechanism.
- Output tax due after the correction of any errors or adjustments.
- Input tax recoverable on supplies or imports; and
- Input tax recoverable after the correction of any errors or adjustments.

In addition to the above VAT-specific record-keeping requirements, all businesses have to keep accounting records and documents that relate to their

business activities. Such records and documents, include:

- Balance sheet and profit and loss accounts'
- Records of wages and salaries.
- Records of fixed assets.
- Inventory records and statements (including quantities and values) at the end of any relevant tax period and all records of stock-counts related to inventory statements.

The above requirements exist in order to demonstrate a sufficient audit trail such that a VAT amount can be traced from a source document, for example an invoice, through to the final tax return.

In general, a taxable person must keep the required records for a minimum of 5 years after the end of the tax period to which they relate. Before the expiration of the 5-year term, the FTA may, however, require the person to retain the records for a further period not exceeding 4 years, in the following cases:

- If the taxable person's tax obligations are subject to a dispute with the FTA.
- If the person is subject to an ongoing tax audit.
- If the FTA has given a notice to the person that it intends to conduct a tax audit before the expiry of the 5-year record retention period.

Where the taxable person owns real estate, the taxable person should retain the required records relating to the real estate for a period of 15 years after the end of the tax period to which they relate.

11.13 Archiving and retrieval requirements

Businesses do not have to keep their records in any specific way or format. However, they must be kept in a way which will allow the FTA to easily check the information which has been used to complete the tax return. Furthermore, regardless of whichever way a taxable person chooses to store their archived records, they need to be made readily available in a legible format on request by the FTA.

Examples of the manner in which records can be archived include:

- Retention of the original documents (e.g. in paper or electronic form).
- Creating photocopies of the original documents.
- Other ways of recording and preserving the information or data contained in the original document.

A taxable person is not required to keep records on their premises. However, as pointed out above, the records must be readily available when requested by the

FTA. For example, where the FTA attends your business premises to conduct a tax audit, businesses need to be able to provide the FTA with access to the relevant records in a timely and efficient manner.

ESSENTIALS OF

UAE VAT LAW

CHAPTER 12

Special Provisions

12. Special Provisions

12.1 Bad Debt Relief

VAT Law makes provisions for a bad debt write-off and discount of output tax paid on a supply for which consideration has not been received, either fully or in part after 6 months from the date of the supply.
Article 64 of the Decree Law that specified the Adjustment for Bad Debts has been reproduced below:

1. A Registrant supplier may reduce the Output Tax in a current Tax Period to adjust the Output Tax paid for any previous Tax Period if all of the following conditions are met:
   a. Goods and Services have been supplied and the Due Tax has been charged and paid.
   b. Consideration for the supply has been written off in full or part as a bad debt in the accounts of the supplier.
   c. More than six (6) months has passed from the date of the supply.
   d. The Registrant supplier has notified the Recipient of Goods and the Recipient of Services of the amount of Consideration for the supply that has been written off.

2. The Registrant Recipient of Goods or Recipient of Services shall reduce the Recoverable Input Tax for the current Tax Period related to a supply received during any previous Tax Period where the Consideration has not been paid and all of the following conditions are met:
   a. The registered supplier reduced the Output Tax as stated in Clause (1) of this Article and the Recipient of Goods and the Recipient of Services has received a notification from the supplier of the Consideration being written off.
   b. The Recipient of Goods and Recipient of Services received the Goods and Services, and the relevant Input Tax was deducted.
   c. The Consideration was not paid in full or in part for the supply for over (6) six months.
2. The reduction stated in Clause (1) and (2) shall be equal to the Tax related to the Consideration which has been written off according to paragraph (b) of Clause (1) of this Article.

In accordance with the date of supply provisions in Article 25 and Article 26 of the Decree-Law, a VAT-registered supplier is generally required to account for output tax in the same tax period in which a tax invoice is issued. This is on the basis that no other event which triggers the date of supply has taken place prior to the date on which the invoice is issued.

If that invoice is not paid and a bad debt situation occurs, the VAT accounted for by the supplier is likely to become a real cost to the business. The Bad Debt relief scheme seeks to provide a relief to the supplier in such instances by permitting an adjustment of the VAT charged but not paid by the customer.

In order to benefit from the Bad Debt relief scheme, the following four conditions must be met:

- Goods and services should have been supplied and VAT on the supply should have been charged and accounted for.
- Consideration for the supply should have been written off in full or in part as a bad debt in the accounts of the supplier.
- More than six months should have passed from the date of the supply.
- Supplier should notified the customer of the amount of consideration for the supply that has been written off.

VAT should have been accounted for and paid on the supply.
The first condition requires that the VAT on the supply must have been charged and paid by the supplier. The FTA considers that this condition will be satisfied where the supplier has charged VAT on the tax invoice and has also accounted for VAT to the FTA via its tax returns.

12.2 Consideration for the Supply should have been Written Off

The second condition mandates the supplier to have written off the whole or part of the consideration for the supply as a bad debt in its accounts.

It is important to note that the bad debt relief can only be taken to the extent of the consideration written off in the accounts. Therefore, if only a part of consideration is written off, a bad debt relief can be taken only to the extent of such written off consideration

For example, where a supplier issues an invoice for AED 105, where AED 100 represents the value of supply and AED 5 represents the VAT amount. If the supplier is not able to collect the entire debt and writes off AED 105, a bad debt adjustment of AED 5 can be taken. On the other hand, if the supplier collects 50% of the consideration and consequently writes off AED 52.5, a bad debt adjustment of only AED 2.5 can be taken.

More than six months have passed from the date of supply

The third condition requires that the debt must have remained unpaid for a period of six months from the date of supply.

This means that a supplier must wait for six months from the date of supply to initiate the process of bad debt adjustment. The FTA considers that during the course of these six months, the supplier should engage with the customer to recover the debt and collect the outstanding amount

Notification has been shared with the customer

The fourth condition states that the supplier should have notified the customer of the amount of Consideration that has been written off.

The FTA considers that the notification issued to the customer must, at the minimum, contain the following information in addition to any other information that the supplier may choose to include:

- Invoice number and date of the tax invoice which has not been paid by the customer.
- Amount of Consideration that has been written off.

Further, Federal Tax Authority (FTA) has issued a public clarification to benefit the taxpayer from the Bad Debt Relief Scheme post fulfilling the mandatory conditions. The said clarification seeks to provide relief to the VAT-registered supplier by permitting an adjustment of the VAT charged but not paid by the customer.

12.3 Conditions to be Met for Availing the Relief

- VAT on the supply must have been charged and paid in the VAT return to the FTA by the supplier and also accounted for in the tax invoice.
- The adjustment shall be limited to the consideration written off in full or in part (as the case may be) as bad debt.
- More than six months should have elapsed from the date of the supply.
- Supplier must notify the customer in writing through letter, email or post etc. stating the amount of Consideration that is to be written off. The supplier must document as evidence such communication with the customers (where no acknowledgement received) that the best measures were taken to notify the customer.

12.4 Mechanism to Claim Bad Debt Relief

Any adjustment on account of Bad Debt Relief should be reported in the "Adjustment column" of Box 1 of the VAT return from respective emirate to which such adjustment pertains.
The same has been depicted in the extract of the VAT return below:

VAT on sales and All Other Outputs	Amounts (AED)	VAT Amount (AED)	Adjustment (AED)
1a Standard rated sales in Abu Dhabi			****
1b Standard rated sales in Dubai			****
1c Standard rated sales in Sharjah			****
1d Standard rated sales in Ajman			****
1e Standard rated sales in Umm Al Quwain			****
1f Standard rated sales Ras Al Khaimah			****
1g Standard rated sales in Fujairah			****
	***	***	

12.5 Supply of Business as a Going Concern

A transfer of a business as a going concern (TOGC), however, is the sale of a business including assets which must be treated as a matter of law, as 'neither a supply of goods nor a supply of services' by virtue of meeting certain conditions. As per the VAT regulation, eligible transfer of a business as a going concern is not to be considered as a supply of goods/services and will not attract VAT. Since such transactions are not subject to VAT, no VAT payments are required to be made either by the transferor or transferee of the businesses. However, the parties involved in such deals shall go through the facts in each case and ensure they satisfy the conditions as stipulated by the VAT regulation which make those transactions eligible to be excluded from VAT application.

Federal Tax Authority has issued the Public Clarification on Transfer of Business as Going Concern as provided below:

As per Article 7(2) of the VAT Decree Law, 'the transfer of whole or an independent part of a business from a person to a taxable person for the purposes of continuing the business that was transferred is not considered to be a supply for VAT purposes.' This public clarification discusses about the conditions that will need to be met for a transfer to qualify as a transfer of a going concern (hereinafter referred to as 'TOGC') under Article 7(2) of the Decree-Law.

12.5.1 Methods of Transferring a Business

- The Transfer of a Business can be executed by means of directly transferring the tangible and intangible assets of the business to the transferee (an "asset sale") or
- by transferring the shares in the Company that operates the business to the transferee (a "share sale").

The clarification distinguishes between a normal sale of assets (taxable supply) and a sale of assets as part of TOGC (not a supply) in detail. Where assets are

sold as part of TOGC, the transfer is not a supply at all and therefore no VAT is charged.

This treatment applies to a transfer of the business irrespective of the VAT treatment which would apply to any of the underlying assets that are being transferred.

Conditions to be satisfied for transfer of business to qualify as TOGC:

Conditions	Detailed requirements
1. Transfer of whole or an independent part of a business	▸ Transfer of business and not mere transfer of assets ▸ Recipient to have possession of business (whole or part where the part is capable of separate operation) ▸ Transfer of all goods and services required for continued operation of business ((this may include, among other things, goodwill, licenses, employees, ongoing contracts, and liabilities) ▸ Business must be operational before and at the time of transfer
2. The transfer must be made to a taxable person **Note:** There is no requirement for the supplier to be registered for VAT for a TOGC to take place	Any of the following to be in effect on the date of transfer: ▸ The recipient is registered for VAT. ▸ The recipient is required to be registered under the mandatory registration rules and has applied for registration to the FTA. ▸ The recipient has applied for voluntary VAT registration and the FTA has accepted the application.
3. The recipient intends to continue the business which was transferred	▸ Intends to carry on the same kind of business which it acquires ▸ Business should not be fundamentally changed after acquisition ▸ Irrelevant whether the recipient will operate the transferred business separately from, or as part of, any other businesses ▸ No minimum period requirement for which the transferred business must be operational (but the intention to continue the same business must be genuine) ▸ Temporary closure of the business immediately after the transfer is permissible to prepare the business for operation under the new ownership
4. The transferred business must be operational before and at the time of transfer	▸ Business yet to commence cannot qualify as TOGC ▸ Also, if business has ceased operation it cannot qualify as TOGC
5. Proof of intention to continue the same business	▸ The supplier should satisfy themselves that the recipient intends to continue the business as a going concern ▸ If incorrectly treated as a TOGC, VAT may be retrospectively due on the supply

12.6 Voucher

Voucher has been defined under Article 1 of the VAT Decree Law and the Executive Regulations as "Any instrument that gives the right to receive Goods or Services against the value stated thereon or the right to receive a discount on the price of the Goods or Services. Vouchers do not include postage stamps issued by the Emirates Post Group."

As per Article 7(2) of the VAT Decree Law, the sale or issuance of any Voucher unless the received Consideration exceeds its advertised monetary value, as specified in the Executive Regulation of this Decree-Law is not considered to be a supply for VAT purposes.

We have outlined, UAE VAT implication for the retailer when offering promotions:

Retail offers	Comments
Free samples	Retailers can supply product samples to foster business profits. Such free samples could be taken within the scope of 'deemed supply' subject to certain conditions such as the following: 1. The retailer recovers VAT on the concerned goods & services procured by them. 2. The value of each supply considered the beneficiary shall be greater than or cumulative AED 500 the worth of all these supplies the duration of twelve months is over 40,000 AED. In the light of the above-mentioned conditions, the free samples distributed to the customer could be liable to VAT.
Percentage based or fixed amount discount	Retail stores may provide the clients with a discount percentage or lump sum discount as a fixed amount on the total selling price of the product. In the event of a discount, the customer benefits from a reduced price and pays only the balance amount. Thus, in such cases, VAT on goods/services would apply to the value of the consideration received by the customer after discount subject to compliance with the conditions laid down in the VAT legislation, i.e. such discounts would have to be financed by retailers and customers would have to benefit from the price reduction. In such instances, it would be appropriate for retailers to ensure that discount costs are not passed on or financed by any third party. In the case that the discount or any part thereof is financed either by the manufacturer or by any other person, such funding may be

	subject to VAT.
Discount coupons	Retail stores provide customers with a discount coupon that can be redeemed against future purchases from stores. Discount vouchers may fall within the scope of 'vouchers' and, therefore, the issuance of discount coupons may be outside the scope of VAT unless it is issued for consideration in excess of the stated face value of such coupon. Depending on the conditions placed on such discount vouchers for their redemption, the same may be considered a discount when the customer redeems the voucher against subsequent purchases of goods.
Raffles/Lottery	Customers will take part in the raffle draw/spin the wheel and get a chance to win a prize. Customers are often required to spend a minimum value in order to participate in the draw. However, sometimes draws are made randomly and they may not be required to buy anything, such as draws kept for all walk-in customers when a new store is opened. In this case, the gifts/prices distributed to participants could fall within the scope of the deemed supply.
Trade-in/Exchange	Customers are offered to exchange their old products for the brand-new product. Customers may be required to pay only the variable consideration resulting in a discount on the price of the new product. Even so, the old product returned by the customers could be considered as non-monetary consideration and the retailer may be liable for payment of VAT on the consideration received plus the market value of the non-monetary part, i.e. the total selling price of the new product.
Cashback/ Retrospective discount by the retailer	Stores offer a percentage discount or a fixed amount discount on the purchase threshold over a certain period of time. In such situations, as a discount is offered to customers against purchases made in the past period, retailers may issue a tax credit note to the customer. Scope of the discount amount; however, it would be cumbersome to identify and tag the original tax invoice against which the discount is offered and, therefore, the tax credit note may not comply with the procedural requirements. Alternatively, retailers may consider passing on this discount to customers on their next purchase value and pay VAT on the value net discount at the time of purchase of that kind.
Cashback by third party/banks	Third-party/banks join hands with retailers to provide customers with cashback after purchase. Retailers shall supply the customer for full consideration and, subsequently, the third-party/banks shall provide the customer with cash back upon receipt of confirmation of supply from the retailers.

	Under these instances, the cashback provided by third-parties/banks would be recognized as a separate transaction. Since there is no underlying supply of goods or services between banks and customers involved in the reimbursement of such consideration or between retailers and banks / third parties, the transaction should be treated as outside the scope of VAT. In addition, third-party/banks can have a back-to-back contract with retailers to carry part of the cashback amount. For these situations, the cashback received from suppliers would also be outside the scope of VAT, because it may be viewed as a solely financial transaction between the bank/third-parties and the retail store. It will be appropriate to analyse the contractual relationship with the retailer with the third-party/banks as to whether the transaction amounts to business promotion/marketing.
Accessories/Parts without consideration	Retail stores shall supply additional goods/accessories/parts with the main product as a bundled supply. Such products are usually marketed as accessories/parts along with the main product on the market. For these situations, products should be treated as a combined supply and the consideration received for the main component should be regarded as a package and VAT is also liable to be paid on the overall consideration received.
'VAT paid/borne by the retailer' promotion	The retail store charges the customer only for goods or services and does not charge the customer any amount of VAT on these supplies. Within those situations, retailers usually offer customers discounts equal to the VAT portion and reduce the consideration to that degree. Balance sum is deemed to be inclusive of VAT as provided for in the law and the VAT on the same sum is refunded. Calculated for the purposes of transparency on tax invoices. From the customer's point of view, the cash flow is reduced to the extent of the discount received.

12.7 Compensation Type Payment

Under Article 2 of the Federal Decree-Law No. 8 of 2017 on Value Added Tax ("VAT Law"), VAT is imposed, among other things, on taxable supplies of goods and services.

"Taxable supply" is defined in Article 1 of the VAT Law as a "supply of goods or services for a consideration by a person conducting business in the State and does not include exempt supply".

The Federal Tax Authority has issued a clarification to discuss the VAT treatment on the compensation-type payments. With the help of this clarification, the FTA has laid down the key principles for determining whether or not a payment is consideration for supply.

It is necessary to consider the contractual and legal arrangements in full to determine the reason for payment. Thus, it may be necessary to consider whether:

1. the payment is consideration for any previously agreed goods or services
2. the payment is consideration for any newly created goods or services
3. the purpose of the payment is to adjust a previously agreed consideration for a supply
4. a party is granting a right to another party in return for a payment
5. a party is promising not to exercise a right in return for a payment
6. a party is giving something up in return for a payment

In simple words, it is crucial to determine whether or not a payment is consideration for supply of goods or services. Apparently, to ensure whether a payment is a consideration for a supply, the taxpayer needs to consider the underlying contractual and legal arrangements that give rise to the payment in order to determine whether the payee has provided anything in return for the payment.
Where the purpose of payment is to compensate for the loss of earnings, wrongdoings or omissions and not to provide consideration for any supply of goods or services then such payments have been kept outside the scope of VAT like:

1. Liquidated damages - early termination of contract or late performance. The purpose of such payments is not to provide consideration for a provision of any goods or services but to compensate a party for loss of earnings.
2. Damages or compensation - where a payment is in the nature of damages

or compensation for any loss suffered by a party, the payment is not consideration for any supply and is outside the scope of VAT.

3. Payment of interest - for late payment of contractual consideration.

4. Fines and penalties - breach of statutory obligation punitive in nature.
5. Unlawful Act - speeding fine or incorrect parking to punish the wrongdoer.
6. Damaging a leased car - for breaching pre-existing terms of contract.

Where the purpose of payment is to provide consideration for any supply of goods or services then such payments are subject to VAT like:

1. Cancellation charges of hotel bookings - cessation of rights which are supply of services.
2. Dispute on price of goods - consideration for supply of goods.
3. Granting of right (intellectual property) - consideration for supply of right to use the property.
4. Customer breaks the good - consideration for supply of goods wherein the customer is obliged to take title of it. The payment the customer makes would represent consideration for a supply of goods, and so would be subject to VAT. On the other hand, where the payment is compensation and for breaching pre-existing terms of a contract, it is unlikely to be consideration for a supply and therefore would be outside the scope of VAT.

In summary, in determining whether or not a payment is consideration for any supply, it is necessary to consider the contractual and legal arrangements in full to determine the reason for the payment. Thus, it may be necessary to consider whether:

- the payment is consideration for any previously agreed goods or services.
- the payment is consideration for any newly created supply of goods or services.
- the purpose of the payment is to adjust a previously agreed consideration for a supply.
- a party is granting a right to another party in return for a payment.
- a party is promising not to exercise a right in return for a payment.
- a party is giving something up in return for a payment.

In considering whether a payment is consideration for a supply or is in the nature of compensation, it is important to ignore the labels or titles the parties give to a payment. For example, a description of an administrative payment as a "penalty" or a "compensation" will not prevent the nature of the payment from being consideration for a supply.

ESSENTIALS OF

UAE VAT LAW

CHAPTER 13

Refund of VAT

13. Refund of VAT

13.1 Refund of Excessive Tax Credit

As specified under Article 65 of the Executive Regulations, If the Taxable Person has excess Recoverable Tax for a Tax Period and has made a request to the Authority by the means specified by the Authority to be repaid the amount of the excess, then the Authority shall repay the amount to the Taxable Person within the timelines and according to the procedures specified in the Federal Law No. 7 of 2017 on Tax Procedures.

Where the Taxable Person makes a claim for a refund of excess refundable tax, the FTA will within 20 business days of an application being submitted, review the application and notify the Taxable Person of its decision to accept or reject the refund claim. The FTA may notify the applicant that it requires a longer period than (20) business days to consider the application where appropriate.

13.2 Tax Refunds provided to Tourists under the Tax Refunds for Tourists Scheme

If you are a retailer and you are registered to provide tax refunds to tourists in the UAE under the official Tourists Refund Scheme, the values of tax refunds provided will be prepopulated in this box. The amounts reported in this box, if negative, will reduce your total output tax liability. The values in this box are no longer editable.

Note: Only businesses registered and enrolled under the tax refunds for Tourists Refund Scheme will see values in this box, otherwise nil values are already pre-populated and will be included within this box.

13.3 Refund of VAT Paid on Goods and Services Connected with Expo 2020 Dubai

Official Participants of Expo 2020 will have to pay VAT on Goods and Services connected to the expo as per normal UAE VAT rules. In certain situations, the offices of the Official Participants can recover VAT on certain Goods and Services which were imported or acquired. The Federal Tax Authority ('the FTA') of the United Arab Emirates ('the UAE') has released the Cabinet Decision No. (1) of 2019 on the Refund of Value Added Tax Paid on Goods and Services Connected with Expo 2020 Dubai and a User Guide ('the Guide') for its

implementation.

The Cabinet Decision read with the VAT Guide incorporates the following to implement the refund scheme for the Official Participants:

13.4 Person eligible to claim refund

An Official Participant holding a valid Expo 2020 trade license number and who does not use or intend to use, more than 20% of the exhibition space or presentation for non-official or commercial purposes.

13.5 What VAT is reclaimable?

Official Participants can reclaim VAT incurred on the import and acquisition of the following four categories of goods and services, which are:

a. Directly connected with the construction, installation, alteration, decoration and dismantlement of their exhibition space.
b. Directly connected with the operation of their exhibition space and any presentation within the Expo 2020 site.
c. Related to the actual operation of the office of the Official participant, provided that the value of each good/ service for which a claim is made is not less than AED 200.
d. For personal use of the Official participant's Section Commissioner-General, Section Staff and the Beneficiaries.

13.5.1 Certificate of Refund Entitlement

In order to be eligible to reclaim VAT on expenses under the first two categories [i.e. (A) and (B)], the Official participant (whether registered for VAT or not) must be in possession of a Certificate of Refund Entitlement issued by the Bureau. An Official Participant (both registered and not registered for VAT) needs to apply for the Certificate before attempting to claim VAT on goods and services under categories (A) and (B) above. A detailed procedure has been prescribed for obtaining the Certificate of Refund Entitlement.

13.5.2 Manner of Refund

- Official Participant registered for VAT may apply for VAT refund through its periodical VAT Return
- Official Participant not registered for VAT needs to submit the refund application to the Bureau in the prescribed format.

13.5.3 Upfront Exemption

The Official Participants may not be liable to account for VAT on the import of goods [under category (A) and (B)], where they use the special TRN allocated to the Bureau, in coordination with the Bureau and hold a Certificate of Refund Entitlement. Such goods will not be included in any refund application.

13.6 Requirement of VAT Registration

- The Official Participants are required to register with the FTA where the value of the taxable supplies or imports (for commercial or non-official purposes) in the UAE exceeds, or is anticipated to exceed, the mandatory registration threshold of AED 375,000 or
- Where more than 20% of exhibition space is used for commercial or non-official purposes, then in order to recover VAT, the Official Participant may apply for registration on a voluntary basis

13.6.1 Procedure for submitting refund application

The Decision read with the VAT Guide, provides for a detailed procedure to be followed for making a refund application (for both, registered and not registered for VAT). The procedure covers aspects such as forms, periodicity, timelines for submission and processing, etc.

Payment of VAT upon sale of imported goods where VAT has been refunded
The Decision provides that where a refund has been granted to the Official Participant in respect of any import of Goods, the goods cannot be sold for consideration or transferred free of charge without the prior consent of the Bureau, and without payment of VAT. Detailed procedure has been prescribed by the Decision read with the VAT Guide.

13.7 VAT Refund for UAE Nationals Building Residences

Where a UAE National owns or acquires land in the UAE on which they build or commission the construction of his/ her own residence, he/she shall be entitled to make a claim to the FTA to refund the VAT on the expenses incurred on the construction of the residence, subject to certain conditions as detailed in Article (66) of Cabinet Decision No (52) of 2017 on the Executive Regulation of the Federal Decree - Law No. 8 of 2017 on Value Added Tax.

To claim this refund, applicants are required to submit a refund form to the Federal Tax Authority (FTA) via email/ on FTA E-services portal along with

supporting documentation. The documentation must evidence that the applicant owned the specific plot of land in the UAE on which the construction took place, the date the building was certified as completed, and the date the building was occupied (if available). Applicants will also be required to submit a copy their passport, Emirates ID and Family Book.

The refund form must be sent to the FTA within 6 months/ 12 months from the earlier of:

1. The date the residence became occupied; or
2. The date when it was certified as completed by a competent authority in the UAE

Once the FTA has successfully assessed the claim, the applicant will be notified with a reference number within 5 business days, and then must apply to a verification body authorized by the FTA to review the invoices and costs related to the claim. Verification bodies are third parties that have been approved by the FTA to perform a detailed review of the expenditure, invoices and VAT incurred in order to verify the VAT refund. Applicants will be required to provide the verification body with the FTA stamped refund form and reference number, the construction plan, and valid tax invoices issued in the name of the applicant. Simplified tax invoices will not be accepted.

The claimed expenses must relate to a newly constructed building which is to be used solely as a residence of the applicant and/or the applicant's family. The expenses claimed must be in respect of:

- Services provided by contractors, including services of builders, architects, engineers, and other similar services necessary for the successful construction of a residence.
- Building materials, being goods of a type normally incorporated by builders in a residential building or its site, but not including furniture or electrical appliances.

Goods are normally considered to be incorporated into a building when they are fixed in such a way that the fixing or removal of those goods would either require the use of tools or result in the need for remedial work to the fabric of the building, or substantial damage to the goods themselves.
A list of examples of the type of expenses which may or may not be claimed are as mentioned below:

Expense items eligible / not eligible for refund

Expense items eligible for refund	Expense items NOT eligible for refund
▸ Services of builders ▸ Services of architects ▸ Services of engineers ▸ Supervisory services ▸ Other similar services necessary for the successful construction of the residence ▸ Building materials that make up the fabric of the property (e.g. bricks, cements, tiles, timber) ▸ Central air conditioning and split units ▸ Doors ▸ Decorating materials (e.g. paint) ▸ Dust extractors and filters ▸ Fencing permanently erected around the boundary of the dwelling ▸ Fire alarms and smoke detectors ▸ Flooring (excluding carpets) ▸ Guttering ▸ Other heating systems ▸ Built-in kitchen, kitchen sinks, work surfaces and fitted cupboards ▸ Lifts and hoists ▸ Plumbing materials ▸ Power points ▸ Sanitary units ▸ Shower units ▸ Window frames and glazing ▸ Wiring when embedded inside the structure of the building	▸ Furniture which is not affixed to the building such as sofas, tables, chairs, bedroom furniture, curtains, blinds, carpets ▸ Electrical and gas appliances, including cookers ▸ Landscaping, such as trees, grass and plants ▸ Free-standing and integrated appliances such as fridges, freezers, dishwashers, microwaves, washing machines, dryers, coffee machines; ▸ Audio equipment (including remote controls), built-in speakers, intelligent lighting systems, satellite boxes, Freeview boxes, CCTV, telephones ▸ Electrical components for garage doors and gates (including remote controls) ▸ Garden furniture and ornaments and sheds ▸ Swimming Pools ▸ Children play structures

It should be noted that no refunds will be granted for any further attachment/ detached structure that is separate from the constructed residence building, unless the attachment/detached structure meets the requirements of a 'residence'.

The term 'residence' refers to any building (including townhouses and villas) used predominantly as a private home of a natural person, including fixtures and fittings belonging thereto and enjoyed therewith, which comprise at least of cooking and washroom/bathroom facilities in addition to sleeping quarters. Any subsequent attachment to the residence or detached structures subsequently built on the same plot would not be regarded as a 'residence' for the purposes of the New Residences Refund Scheme, unless that attachment/detached structure meets the definition of 'residence' stated above on a standalone basis. For example, if-

- *a playroom is added to the residence at a later stage, the VAT on the building expenses will not be recoverable under the New Residences Refund Scheme.*
- *a second house with cooking, washroom, and sleeping facilities is subsequently built on the same plot, the VAT on the related building costs may be recovered under the New Residences Refund Scheme if all the other requirements are met.*
- *a second floor with cooking, washroom, and sleeping facilities is subsequently built on an existing residence, the VAT on the related building costs may not be recovered under the New Residences Refund Scheme even if all the other requirements are met.*

Buildings and units registered for commercial purposes, including hotel apartments, do not qualify as 'residences' for purposes of the New Residences Refund Scheme.

13.8 Application Process

All applications for New Residence VAT Refunds must be submitted via the FTA eServices Portal.

As part of the refund application process, you would be required to provide the following documents when submitting the Refund Request to the FTA. It is advisable that you have these documents on hand before starting your application:

- copy of the applicant's Emirates ID;
- copy of the applicant's Family Book;
- copy of the property completion certificate and building permit;
- copy of your property site plan;
- documentary proof to support that you own the plot of land in the UAE;
- copy of the letter/certificate issued and stamped by your bank which includes details such as the account holder's name, bank's name and the IBAN;
- other documentations to support the date the building is occupied (if required).

Requests meeting the conditions will be transferred by the FTA to the Verification Body within 5 business days from the date of receiving the request, and the applicant will be notified of the same.

Please note that you only submit one Refund Request per residence, unless the

refund is in relation to the retention payment, in which case the same residence will have a total of two Refund Requests.

13.9 Reviewing New Residence VAT Refund Requests

Once your application is reviewed and approved for eligibility by the FTA, it will be forwarded for further checks to the Verification Body. In such a case, you shall receive the result of the eligibility check and the reference number and may be required to submit additional documentations supporting your claim to the Verification Body.

"Verification Bodies" are third parties that have been approved by the FTA to perform a detailed review of the expenditure, invoices and VAT incurred to verify the VAT refund that the applicant will claim. No fees are charged by Verification Bodies for this service to the UAE Nationals.

The additional documents which may need to be submitted to the Verification Body include:

- copies of the construction contract (including addendums);
- copies of the consultancy agreement (including addendums);
- copies of variation orders;
- copies of invoices that include returned items; and
- copies of credit notes.
- lump-sum tax invoices and proof of payments (for example, receipts) provided by the contractor and the consultant to the owner; and
- relevant tax invoices and proof of payments (for example, receipts). Tax invoices should include the name of the owner (i.e. the applicant), valid TRNs and the correct VAT amounts. Simplified tax invoices will not be accepted for the purposes of claiming refund. Tax invoices issued in the name of a related party / consultant / contractor / agent, must state that they are for the use of the owner and reflect the details of the building (including the plot number) for which the costs were incurred. Alternatively, the tax invoice may be accepted if it contains all of the following:
- The full name of the UAE National on whose behalf the expense was incurred;
- Signature and Emirates ID number of the UAE National as acknowledgement that the cost was incurred on his/her behalf; and
- Full plot number or street address of the new residence. Note that, if the plot number is used, it should be clearly indicated as such. Merely stating numbers without a description would not be accepted.

The Verification Body may request additional documentations, or original of documents, to complete verification procedures. Reviewing the documents and making payment might take up to 20 business days from the date all required documents have been submitted.

In certain circumstances, a UAE National may be required to make retention payments to its contractors following the expiration of the 6-month period from the date of completion of the new residence. Where the UAE National intends to make such payments, the UAE National should indicate so when filing the initial application for the refund. Once the UAE National makes a retention payment, he or she will be entitled to submit a subsequent claim to the FTA to recover VAT related to the retention payment. The claim should be made within 6 months from the date of making the payment, and subject to provision of proof thereof, for example, a receipt.

13.10 Business Visitors[1]

1. The Authority shall implement a Businesses VAT Refund Scheme for Foreign Businesses to allow the repayment of Tax on expenses incurred in the State by a foreign entity which has no Place of Establishment or Fixed Establishment in the State or the Implementing State, and is not a Taxable Person.
2. For the purpose of this Article, a "foreign entity" is any Person that carries on a Business as defined in this Decision and is registered as an establishment with a competent authority in the jurisdiction in which he is established.
3. A foreign entity is not entitled to make a claim under the VAT Refunds for Foreign Businesses Scheme in the following cases:
   a. If it makes supplies which have a place of supply in the State, unless the Recipient of Goods or Recipient of Services is obliged to account for the Tax on those supplies in accordance with Clause 1 of Article 48 of the Decree-Law.
   b. If the Input Tax relates to Goods or Services for which the Tax is not recoverable in accordance with Article 53 of this Decision.
   c. If the foreign entity is from a country that does not in similar circumstances provide refunds of value added tax to entities that belong to the State.
4. A foreign tour operator is not entitled to make a claim under the VAT Refunds for Foreign Businesses Scheme in connection with undertaking activities as a tour operator.
5. The claim for any refund shall be made on an electronic form as will be provided for the purpose by the Authority.

[1]Section 13.11 - Article (67) of the Executive Regulations

6. The claim form shall contain such particulars as may be required by the Authority including:
   a. Name and address of the foreign entity.
   b. Nature of activities of the foreign entity.
   c. Details of the registration of the foreign entity with the competent authority in the country where it is established.
   d. Description of reasons for incurring expenses in the State.
   e. Description of activities undertaken in the State.
   f. Details of expenses incurred in the State during the period of the claim.
7. The claim shall be accompanied by such documents or other evidence as may be required by the Authority.
8. The period of the claim shall be 12 calendar months

To submit claims for a VAT Refund under this special recovery arrangement available to foreign businesses, you will be required to create an e-Services account with the FTA, which will then allow you to access the Refund Form under the VAT section.

Only foreign businesses who meet the following conditions (hereinafter referred to as "Foreign Business") are eligible to apply for a Refund:

- They have no place of establishment or fixed establishment in the UAE or an Implementing State;
- They are not a Taxable Person in the UAE;
- They are not carrying on Business in the UAE;
- They are carrying on a Business and are registered as an establishment with a competent authority in the jurisdiction in which they are established.

Important notes:

1. Businesses which are resident in any GCC State that is not considered to be an Implementing State according to the above can apply for such Refunds under this scheme.
2. Foreign Government Entities cannot use this form to claim back VAT incurred in the UAE.
3. Foreign Businesses are not entitled to seek an exception from VAT properly chargeable at the point of sale, except as may be applicable under any other specific reliefs (for example in the scenarios described under Cabinet Decision No. 26 of 2018 on the Refund of Value Added Tax Paid on Services Provided in Exhibitions and Conferences)

13.11 Non applicability under this scheme if

- The Foreign Business makes supplies in the UAE (unless the recipient is

obliged to account for VAT under the reverse charge mechanism);

- The input tax incurred on the goods or services is non-recoverable by a Taxable Person according to the UAE VAT legislation e.g. entertainment and motor vehicles available for personal use;
- The Foreign Business is from a country that does not in similar circumstances provide VAT Refunds to UAE entities.

Please note for Businesses which are resident in any GCC State that is not considered to be an Implementing State according to the tax legislation, this condition does not apply and hence such foreign businesses can still apply for these Refunds.

- The Foreign Business is a non-resident tour operator.

It is pertinent to note that the list of countries with Reciprocal Agreements for the Business Visitors VAT Refunds ("Approved List") is available on the FTA's website.

In the event that your country is not on the approved list, or does not have a VAT system, you should contact the Ministry of Finance of your country which would have to contact the UAE Ministry of Finance for inclusion on the Approved List. Note that, as a Foreign Business, you will only be entitled to a VAT refund in respect of expenses incurred on or after the effective date of the agreement between the UAE and your country.

13.12 Eligibility for Refund

- The period of each Refund claim shall be 12 calendar months (except in the case of Applicants resident in GCC States which are not Implementing States)
- The minimum amount of VAT for which a claim may be submitted under this scheme shall be AED 2,000

13.13 Documents required for Refund

- Original Tax compliance certificate in Arabic or English issued by the relevant competent Tax Administration reflecting your tax registration number ("TRN") attested by UAE Embassy in country of tax registration.
- If you are undertaking exempt or non-business activities in your country of establishment, which do not give you the right to fully recover any input tax, you will need to provide a declaration in Arabic or English indicating the level (percentage) of input tax you are eligible to recover on expenses.
- The relevant tax invoices with valid tax registration number and proof of

payment to support your refund claim.

- Copy of passport of the authorised Signatory.
- Proof of authority of the authorised Signatory.

Further, the detailed process step by step is shared in this guideline to enable foreign businesses to apply for VAT refund.

Automotive guide provides guidance on how VAT affects businesses which operate within the automotive sector.

ESSENTIALS OF

UAE VAT LAW

CHAPTER 14

Litigative Aspects

14. Litigative Aspects

A Clarification is a mechanism to provide taxpayers with written guidance or advice about the FTA's interpretation and position on specific tax matters of uncertainty, subject to the terms, conditions and procedures established by the FTA.

The answer provided by the FTA applies to the applicant and the specific transaction on which such advice has been requested only. There is no precedence for the advice set out by the FTA's response that could be applied to other persons or to the applicant for materially different transactions carried out.

Any person may use this Clarifications Form to seek technical clarification on specific tax matters, provided that:

- The person has analysed the relevant tax law, regulations and guidance and the answer is still uncertain - It is the responsibility of the applicant to monitor from time to time all publications issued by the FTA including but not limited to the law, regulations and guidance to avoid unnecessary and invalid submissions of a Clarifications Form.
- Person has an interest in the matter at hand (i.e. this is a genuine factual matter that has a material impact on the taxable person's activities); and
- The matter is not covered by previous Clarifications issued by the FTA.

It is not required that:

- Person has to be a Taxable Person registered with the FTA;
- Person has to appoint a Tax Agent; or
- Matter has to relate to a transaction which has already occurred.

The FTA will not provide Clarification on the area of uncertainty which you raise if:-

- You request Clarification for a matter that does not fall within the criteria above;
- The application form is not filled in correctly;
- The content of the application form is not complete and/ or the FTA considers more information is required to proceed with the review;
- FTA does not believe that there are genuine points of uncertainty for your application;
- Your application is about the treatment of transactions which the FTA believes that are for the purposes of avoiding tax;
- You are asking the FTA to give tax planning advice; or

- The application is related in any way to a matter raised in a tax inspection, audit or assessment by the FTA.

14.1 Voluntary Disclosure

A Voluntary Disclosure is a form provided FTA pursuant to which the Taxpayer notifies the FTA of an error or omission in a Tax Return, Tax Assessment or Tax Refund application.

In line with the relevant legal provisions, there would be specific scenarios where a Voluntary Disclosure Form should or can be used by taxpayers and submitted to the FTA. This would, in general, be in cases where a taxpayer becomes aware of an error or omission in a Tax Return, Tax Assessment or Tax Refund application, as below:

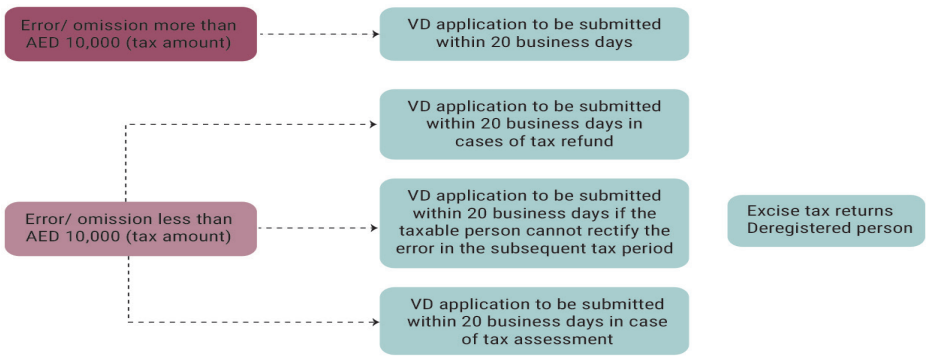
- If you become aware that a Tax Return submitted by you to the FTA or a Tax Assessment sent to you by the FTA is incorrect, which resulted in a calculation of the Payable Tax according to the Tax Law being less than it should have been, you must submit a Voluntary Disclosure to correct such error. Please note that you are not required to submit a Voluntary Disclosure for the underpaid tax if the amount of the Payable Tax is not more than AED 10,000 as long as the person is able to correct the error in the Tax Return for the tax period in which the error has been discovered
- If you become aware that a Tax refund application that you have submitted to the FTA is incorrect, which resulted in calculating the refund amount to which you are entitled according to the Tax Law, being more than it should have been, you must submit a Voluntary Disclosure to correct such error
- If you become aware that a Tax Return submitted by you to the FTA or a Tax Assessment sent to you by the FTA is incorrect, which resulted in a calculation of the Payable Tax according to the Tax Law being more than it should have been, you may submit a Voluntary Disclosure to correct such error.
- If you become aware that a Tax refund application that you have submitted to the FTA is incorrect, which resulted in calculating the refund amount to which you are entitled according to the Tax Law, being less than it should have been, you may submit a Voluntary Disclosure to correct such error

14.2 Time Limit for Voluntary Disclosures

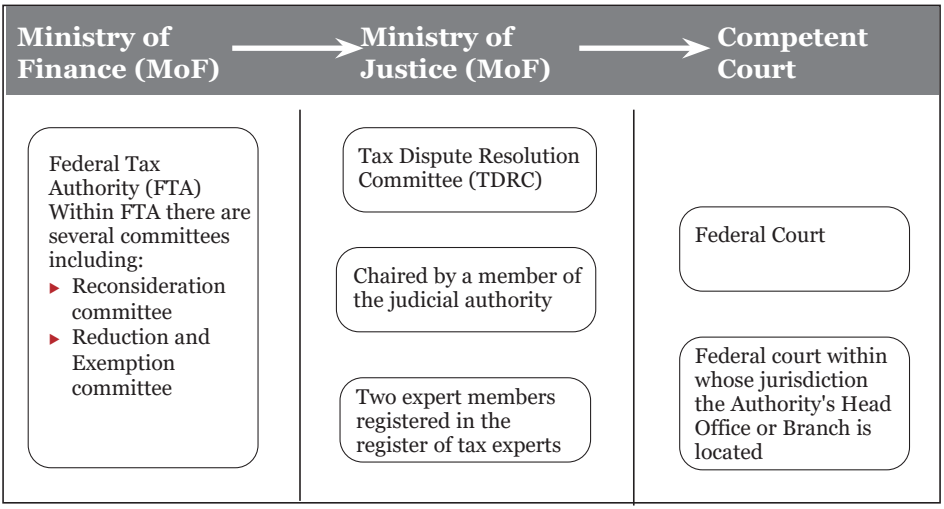
If an error(s) resulted in a calculation of the Payable Tax being less than required by...	...the Person shall...	...before...
more than 10,000 Dirhams	make a Voluntary Disclosure to the FTA	20 business days from the date when the Taxable Person became aware of the error
10,000 Dirhams or less	correct the error in the Tax Return for the Tax Period in which the error has been discovered (if he is obligated to submit a Tax Return to the FTA for this Tax Period); or	the due date for the submission of the respective Tax Return
	make a Voluntary Disclosure to the FTA (if there is no Tax Return through which the error can be corrected)	within 20 business days from the date of becoming aware of the error

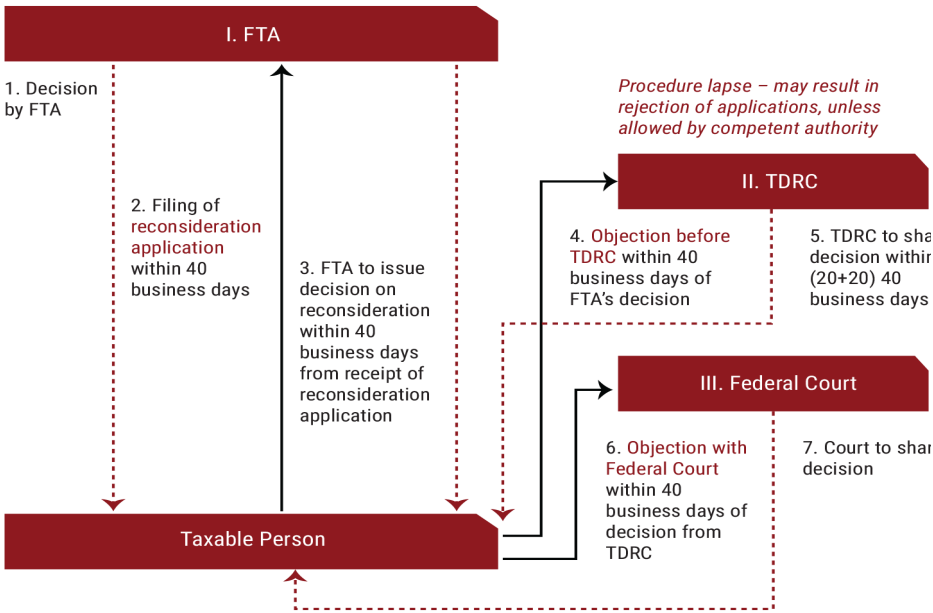
Form prepared by the FTA pursuant to which the taxpayer notifies the FTA of an error or omission in the following:

- Tax returns, or
- Tax assessment, or
- Tax refund application



Tax Litigation in the UAE





Reconsideration

Article (27) of the Tax Procedures Law allows Persons to submit a reconsideration request on any decision issued by the FTA in whole or in part. To be eligible,

applicants must fulfil the following conditions:

- Submit a reconsideration request in Arabic, citing justifications.
- Submit the application within 40 business days from the date of the FTA decision.
- The request must be submitted by the concerned person or his legal representative.

Authority shall review a request for reconsideration if said request meets all requirements. The FTA issues its verdict within 20 business days from receiving the application, and informs the applicant of its decision within five business days of issuing it.

In the event where the Authority does not issue a verdict - or the applicant does not object to a decision - within the legally specified period, the applicant has the right to resort to the Tax Disputes Resolution Committee - an impartial committee formed by decision of the Minister of Justice and chaired by a member of the Judicial Authority, along with two tax experts.

14.3 Tax Disputes Resolution Committee (TDRC)

The Tax Disputes Resolution Committee belongs to the Ministry of Justice and works under its supervision administratively and financially. The Committee's procedures were outlined in Cabinet Decision No. (23) of 2018, which formed three committees in Abu Dhabi, Dubai, and Sharjah in order to streamline processes for applicants. Article (3) of the Cabinet Decision specified the spatial jurisdiction of each committee, considering the applicant's address is mentioned in their Tax Registration File. The Sharjah Committee, in particular, tends to applicants registered in the emirates of Sharjah, Ras Al Khaimah, Ajman, Fujairah, and Umm Al-Quwain. Meanwhile, the Abu Dhabi Committee is concerned with foreign companies that have no address in the country.

The objection is submitted to the Department of Tax Dispute Resolution Committees at the Ministry of Justice via the online objections systems. Applications are submitted using the dedicated forms, which must be accompanied by the following documents and data:

- Applicant's name, details, and address. Summary of the application's subject and requests included therein
- Supporting documents.
- Electronic notification addresses for the objector's legal representative or tax agent, along with one additional address specified by the objector.
- Any other documents relating to the reasons for the objection.

The committee studies the objection and gives sufficient opportunity for both parties involved to provide feedback on what the opposing party presents. The committee issues its verdict within 20 business days from the date the objection is submitted; it can also extend the deadline by another 20 business days if it deems there are reasonable motives for such an extension.

The law on Tax Procedures mandates the full payment of taxes and administrative penalties as a prerequisite for approaching the Reconsideration Committee. The reconsideration request must be submitted to the committee in order to be approved by the Tax Dispute Resolution Committee.

The individual and the Federal Tax Authority have the right to appeal the Tax Dispute Resolution Committee's verdict in the courts, as per the regulations in force at the courts.?

14.4 Tax Litigation Procedure in a Nutshell

Application	Timelines	Other details	Filing Language
VD before MoF (FTA)	Submission within 20 business days _	Tax payable is AED 10,000 or more	Arabic - also available in English
Technical Clarification/ Administrative Exception before MoF (FTA)		Filed to obtain certainty	Arabic - also available in English
First Objection: Reconsideration before MoF (FTA)	Submission within 40 business days	Consider All grounds for filing objection	Arabic - also available in English
Second Objection before MoJ (TDRC)	Submission within 40 business days	Payment of taxes before filing application	Arabic
Third Objection before Court	Submission within prescribed time	Only in respect of TDRC decisions that results in tax payable of more than AED 100,000	Arabic

ESSENTIALS OF

UAE VAT LAW

CHAPTER 15

Industry Specific

15. Industry specific

15.1 Insurance

In accordance with Article 42(3) (C) and Article 33(2) (C), below are two categories of insurance, defined by exception, namely:

1. Life insurance and associated reinsurance; and
2. Insurance, or the arranging of the insurance, which relates to the international transportation of passengers or goods.

A life insurance contract is defined as 'a contract lawfully entered into to the extent that it places a sum or sums at risk upon the contingency of the termination or continuance of human life, marriage, similar relationships permitted under applicable law, or the birth of a child as defined by article 42 (1) (c) of ER.

15.1.1 Insurance relating to the International Transportation of Passengers or Goods

This is a contract of insurance which is provided in connection with the international transportation of goods or passengers, including a transfer which begins or ends in the UAE or which passes through the UAE.

International Transportation is further defined as:

- Transportation of Goods or Passengers that begins in the UAE and ends outside the UAE.
- Transportation of Goods or Passengers that begins outside the UAE and ends in the UAE.
- Transportation of Passengers from a place in the UAE to another place in the UAE by sea or air or land as part of an international transport of those passengers if either the first place of departure, or the final place of destination, is outside the UAE.
- Transportation of Goods from a place in the UAE to another place in the UAE if the services are supplied as part, or for the purpose, of an international transportation of goods either from a place in the UAE to a place outside the UAE, or from a place outside the UAE to a place in the UAE.

The definition of insurance in this instance includes the act of arranging such forms of insurance.

15.1.2 Single Composite Supplies

A Single Composite Supply is one, single indivisible supply of a mixture of Goods and/or Services. The supply is treated as a single supply and is subject to VAT at one rate which is applied to the value of the supply as a whole. You must not use apportionment where you make a single composite supply.

There will be a single composite supply where one or more elements of the supply comprise the principal component, with other elements being ancillary - i.e. not an aim in itself, but a means of better enjoying the principal component. The contractual nature and wider circumstances of such supplies will be taken into account.

In addition, there will be a single composite supply where there is a supply which has two or more elements which are so closely linked that they form a single supply and which it would be artificial or impossible to split.

Charging a single price is not determinative but may suggest that there is a single composite supply. However, where there are indications that the recipient intended to buy two distinct services, with different VAT liabilities, this could mean that the single price should be apportioned.

15.1.3 A Single Composite Supply will Only Typically Exist Where

- the price of the different components of the supply is not separately identified or charged by the supplier; and
- all the components of the supply are supplied by a single supplier.

For example, an insurer may offer life insurance which includes an element of health insurance to make the product more attractive. The prices are not separately identified. The premium would be exempt because the principal component is the life insurance, not the health insurance.

15.2 VAT Treatment of Insurance and Related Services in the UAE

15.2.1 Standard-rated Services

As outlined above, supplies of insurance and insurance-related services are subject to VAT at the standard rate (i.e. they are treated as taxable supplies). VAT incurred on costs wholly attributable to the standard rated supply can be

recovered in full.
Contracts of life insurance and general intermediation services are expressly defined as a Financial Service in the Executive Regulations:

- The payment or collection of any amount of interest, principal, dividend, or other amount whatsoever in respect of any debt security, equity security, credit, and contract of life insurance.
- Agreeing to do, or arranging, any of the activities specified in [Article 42(2)] paragraphs (a) to (i) of this Clause, other than advising thereon.

Under Article 42(3) of the Executive Regulations, the VAT liability of Financial Services is set as exempt in respect of:

- Activities under Clause (2) of this Article where they are not conducted in return for an explicit fee, discount, commission and rebate or similar.
- The provision or transfer of ownership of a life insurance contract or the provision of re-insurance in respect of any such contract.

For examples of the VAT liabilities of typical insurance charges, please see Appendix A.

15.3 Exported Services

The supply of insurance and related services to a recipient established outside the GCC Implementing States (whether or not they would otherwise have been exempt where supplied in the GCC) will be zero-rated (i.e. they are treated as taxable supplies).

VAT incurred on costs wholly attributable to a zero-rated supply can be recovered in full.

Supplies of insurance and related services to a recipient established outside the UAE but within the GCC Implementing States have the following VAT treatments:

- Where the recipient is registered or registerable for VAT in the GCC Implementing State in which the insurance or insurance related service is received, the supply is outside the scope of UAE VAT and the recipient is liable to account for the reverse charge in the other GCC member state at the prevailing rate of VAT applicable to that service in that state.
- Input tax which is directly attributable in respect of such supplies is still recoverable, even if the supply would have been an exempt supply if made in the UAE.
- Where the recipient is not registered nor registerable for VAT in the GCC

Implementing State in which the insurance or insurance related service is received, the place of that supply will be the UAE. In such instances, the supply will be liable to UAE VAT as normal and will have the related level of VAT recovery.

15.3.1 Exemption

Financial Services, insofar as they are remunerated by way of an implicit margin or spread (i.e. no explicit fee is charged in respect of them) will be exempt from VAT (i.e. they are not treated as taxable supplies).

In all cases, the following class of financial services shall be exempt from VAT:

- the provision, or transfer of ownership, of a life insurance contract or the provision of re-insurance in respect of any such contract.
- As a result, exemption will apply to premiums payable in respect of life insurance and reinsurance of life insurance. VAT incurred on costs wholly attributable to such exempt supplies cannot be recovered at all.

15.3.2 Recovery of input tax

Where insurance providers make a mixture of taxable and exempt supplies, this will result in their being partially exempt for VAT purposes and input tax recovery will be on that basis.

VAT incurred on costs which is partly attributable to taxable supplies and also to exempt supplies of financial services must be apportioned; only that part which is reasonably attributable to the taxable supply can be recovered. The supplier in question must make use of an input tax apportionment method in order to determine the amount of input tax which it may recover in such circumstances.

15.4 Transitional Provisions

15.4.1 Contracts of Insurance

Where a contract is entered into prior to the effective date of the VAT law which concerns a supply made wholly or partly after the effective date of the VAT Law, VAT will be due on the supply taking place after the effective date of the VAT Law.

If the contract does not mention VAT, the value of the supply stated in the contract shall be treated as inclusive of VAT.

For VAT purposes, insurance contracts are treated as continuous supplies of services, with premiums often payable in instalments.

Therefore, as a result of the VAT Law on transitional provisions, part of the premium, which is due post 1 January, 2018 is liable to VAT. Insurers should have applied a fair and reasonable pro-rata to premiums received before 1 January, 2018 which apply to services which are provided/have been provided after that date and have applied the appropriate VAT liability to that element of the premiums which are subject to VAT.

15.4.2 Health Insurance

The provision of health insurance will be liable to VAT at the standard rate. Where this is provided by an employer to an employee as a benefit which is part of a contract of employment, the employer will be able to recover the input tax on such products, subject to the usual rules of VAT recovery.

Where an employer provides health insurance to the family of the employee, input tax will only be recoverable if there is a legal obligation to provide the insurance to the family members.

The reason for this is that Article 53 of the Executive Regulations dealing with blocked input tax envisages that costs incurred for the personal benefit of employees (which health insurance would be), will only be recoverable where:

1. It is a legal obligation to provide those services or goods to those employees under any applicable labour law in the State or Designated Zone.
2. It is a contractual obligation or documented policy to provide those services or goods to those employees in order that they may perform their role and it can be proven to be normal business practice in the course of employing those people.
3. Where the provision of goods or services is a deemed supply under the provisions of the Decree-Law.

The important part of the above is under 2, where family health insurance is a contractual obligation, then it must also be required in order that the employee may perform their role. It is not the case that an employee requires their family member to have health insurance in order that the employee may perform their role, and on that basis the input tax on health insurance provided to families under 2 above should not be recoverable.

In contrast, where the law stipulates that the employee's family members must

be provided with health insurance, this would be dealt with under 1 above and the input tax incurred by the business would be recoverable.

15.4.3 Real Estate Insurance

For the avoidance of doubt, a supply of insurance in respect of real estate will not be considered a "service related to real estate" for the purposes of the place of supply rule in Article 30(7) of the VAT Law. Therefore, the place of supply of the insurance relating to real estate has to be determined on the basis of the general place of supply rules, i.e. by reference to the Place of Residence of the supplier.

If the insurance is exported, i.e. where the recipient of the Real Estate insurance is not located in the UAE or other GCC Implementing States, it will be zero-rated.

Please note that where the provision of insurance is included within the service charge for real estate, then this is likely to be related to the real estate for place of supply purposes under Article 21 of the Executive Regulations. In such cases, the place of supply will be determined not by reference to the Place of Residence of the supplier, but by reference to the location of the real estate in question.

For this to apply, the insurance must be part of a single composite supply; must not be the principal component of that supply, and

a. the price of the different components of the service charge should not be separately identified or charged by the supplier; and
b. the insurance must be provided by the same supplier as the other components, such as maintenance, repairs, cleaning etc.

15.5 Agents

Where an insurance intermediary (i.e., an agent or broker) acts as a disclosed agent for an insurance transaction, the following supplies generally occur:

- The insurer supplies the insurance to the insured and charges the premium to the insured. This supply will be liable to VAT at the standard rate (unless the insurance is covered by one of the exceptions outlined above).
- The intermediary collects the premium (which may be paid in instalments) from the insured on the insurer's behalf. This is not a supply for VAT purposes.
- However, the intermediary does charge a fee (or commission) to the insurer or insured for the services provided. This is a supply and is either liable to VAT at the standard or zero rate, or is out of scope, depending on

the application of the place of supply rules.

- Finally, the intermediary remits the premium to the insurer (possibly net of their commission). This is not a supply for VAT purposes.

If the intermediary acts in its own name - that is as an undisclosed agent, then the above sequence simply becomes a series of supplies liable to VAT.

15.6 Insurance Companies - Recovery of Claims Costs

Where an insurer makes a payment in respect to the provision of some goods or services under the contract of insurance - e.g., for a replacement product or a repair of an asset - the question arises who may recover the VAT incurred.

The following principles should be applied in respect to determining which party may recover the VAT incurred:

- If the insurer provides a payment to the insured, which is in the nature of compensation for costs incurred by the insured (e.g., in repairing a car), the input tax in respect of the costs will be recoverable by the insured (subject to the normal recovery rules).
- If the insurer incurs the cost of acquiring goods or services itself, then the input tax in respect of the costs will be recoverable by the insurer.

Appendix A

VAT treatment of insurance charges

Types of insurance	Liability of charges
General insurance Motor insurance Real estate insurance Fire and theft Contents insurance	Premium - standard-rated if the recipient is resident in the UAE; zero-rated if the recipient is resident outside the GCC Implementing States, is located outside the UAE and the performance of the insurance services is not received by anyone in the UAE who would not be able to recover VAT incurred.
Life insurance Individual Group Investment-linked policy Life annuity Term	In all cases: ▶ exempt if recipient is resident in UAE; ▶ zero-rated if the recipient is resident outside the GCC Implementing States, is located outside the UAE and the performance of the insurance services is not received by anyone in the UAE who would not be able to recover VAT incurred.
International Transport Aviation/Marine Cargo Transportation of Passengers	Premium - zero-rated if in respect of international transportation services only, but not for travel insurance.
Travel	▶ Standard-rated if the recipient is resident in the UAE; ▶ Zero-rated if the recipient is resident outside the GCC

15.7 Exempt Supply - Real Estate

	Implementing states, is located outside the UAE and the performance of the insurance services is not received by anyone in the UAE who would not be able to recover VAT incurred.
Other Public indemnity Medical Accident Public liability	▶ Standard-rated if the recipient is resident in the UAE; ▶ Zero-rated if the recipient is resident outside the GCC Implementing states, is located outside the UAE and the performance of the insurance services is not received by anyone in the UAE who would not be able to recover VAT incurred.
	Same general principles apply as above.

15.7.1 Exemption of Residential Buildings[1]

1. The supply of residential buildings is exempt, unless it is zero-rated, where the lease is more than (6) six months or the tenant of the property is a holder of an ID card issued by Federal Authority for Identity and Citizenship.
2. The period of tenancy referred to in Clause (1) of this Article shall be identified with reference to the contractual period of tenancy and shall not take into account any period arising from a right or option to extend the period of tenancy or renew the tenancy.
3. For the purposes of Clause (1) of this Article, a right of any party to terminate the lease early shall be ignored.

15.7.2 Exemption of Bare Land[2]

The phrase "bare land" means land that is not covered by completed, partially completed buildings or civil engineering works.

15.8 The Real Estate Sector

The Real Estate sector is a wide ranging topic under the Decree Law and covers many different types of supplies. For a better understanding we have divided the topics as follows:

1. Basics of Reals Estate Sector Taxability: Meaning of Real Estate, Place of Supply and Date of supply
2. Supply of Bare Land
3. Residential Buildings

[1]Section 15.7.1 - Article (43) of the Executive Regulations
[2]Section 15.7.2 - Article (44) of the Executive Regulations

4. Commercial Real Estate

5. Farm houses and Farm Land
6. Mixed Use Developments
7. Labour Accommodation
8. Developer of Property
9. Owners Associations and Management Entities
10. Real Estate-related Services
11. Construction Services

15.8.1. Basics of Reals Estate Sector Taxability

a. Meaning of Real Estate

Real estate is generally considered to be property consisting of land or buildings, and includes:

- Any area of land over which rights or interests or services can be created;
- Any building, structure or engineering work permanently attached to the land;
- Any fixture or equipment which makes up a permanent part of the land or is permanently attached to the building, structure or engineering work.

b. Whether supply of Real Estate is supply of Goods or Services?

Definition of Goods given by the Decree Law states goods means 'Physical property that can be supplied including but not limited to real estate.'

As per Article 2 clause 4 (b), 'A supply of real estate including sale and tenancy contracts shall be considered as supply of Goods.'

Accordingly, supply of real estate either in form of actual transfer of ownership or right to use (leasing of the real estate) is always a Supply of Goods under the Decree Law.

c. Place of Supply for 'Real Estate' and 'Real Estate-related Services'

Real Estate: The supply of real estate including sale and tenancy contracts is a supply of goods. The place of supply of goods is the UAE, where the goods are located in the UAE when sold and the supply does not involve the export of goods from the UAE.

Therefore, any real estate located in the UAE (except property located in a Designated Zone) is supplied in the UAE. As a result, the supply of any property located in the UAE will be subject to UAE VAT legislation.

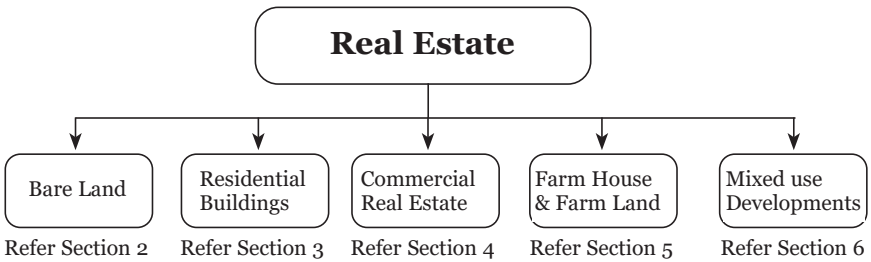
Real Estate-related Services: As per Article 30 (7) of the Decree Law, for the Supply of Services related to real estate, the place of supply shall be where the real estate is located.

d. Date of Supply

The date of supply rules under Articles 25 and 26 of the VAT Decree-Law have been provided in the respective topic related to real estate transactions according to the applicable circumstances.

e. Rate of Tax

The rate of tax either zero rated, standard rated (@5%), exempt supplies or out of scope supplies have been provided in the respective topic related to real estate transactions according to the applicable circumstances.



15.8.2 Supply of Bare Land

a. Definition of Bare Land

Bare Land has not been defined in the Decree Law. The meaning of Bare Land is given by Article 44 of the ER of the Decree Law which states that, 'the phrase "bare land" means land that is not covered by completed, partially completed buildings or civil engineering works.'

Further, the Real estate guide issued by the FTA provides for the definition of Bare Land which is presented below:

The phrase "land" means any area on the surface of the earth, including any trees, plants or natural objects in, under or on top of it. The ordinary meaning of bare land is vacant i.e. land that has no buildings, whether partial or not, or nothing else on the land.

In order for land to be considered "bare land" for UAE VAT purposes, none of

the following must be present on top of the land:

- Completed buildings.
- Partially completed buildings.
- Civil engineering works.

Where a plot of land is covered only by natural objects such as natural trees and natural plants, this will be considered bare land for VAT purposes.

b. Taxability of Bare Land

Article 46 of the Decree Law provides for bare land supply to be an exempt supply for the VAT Law purposes. This includes the supply by either lease or by sale.

As a result, any VAT on costs associated with the supply of bare land e.g., legal fees or agent's fees, shall not be recoverable by the supplier.

Where a plot of land is supplied which does not meet the definition of 'bare land', it shall be considered to be commercial land and the supply shall be subject to VAT at the standard rate. Accordingly, every supply of bare land needs to be evaluated on a case to case basis.

c. Meaning of Partially completed Buildings

Construction would be considered to be sufficient enough to represent a partially completed building when the stage of the construction has progressed beyond foundation level.

Where a plot of land has been fenced to allow construction to commence and temporary movable structures were placed on the land, the erection of the fence and movable structures itself will not cause the land to be considered covered by buildings or civil engineering works.

d. Meaning of Civil Engineering Works

Examples of civil engineering works include roads, bridges, and pipes used for mains water or power services. Land will not be considered to be "bare land" where it is covered by civil engineering works which are complete, or partially complete.

Land will be considered to be bare land where there are civil engineering works which run underneath the land, but which do not break the ground surface of the land and to which the land carries no right of access.

The civil engineering works would need to be of sufficient substance to represent

a fixed and immoveable part of the land itself. Land which has the benefit of civil engineering works in the vicinity of the land, but not directly on the plot of land being supplied, shall also not be considered to be covered by civil engineering works.

For example, a master developer may prepare a number of plots of land for sale, which could involve the installation of connections to the water or power mains

Sl. No.	Stages of work	Tax Implications
1.	The construction has progressed beyond foundation level.	Bare Land - Exempt supply
2.	Plot of land has been fenced to allow construction to commence and temporary movable structures were placed on the land	Bare Land - Exempt supply
3.	On the plot of land the roads, bridges, and pipes used for mains water or power services is built	Not a Bare Land - taxable at 5%
4.	An area of land which has water pipes running underneath it, but which do not protrude above the surface of the land and do not offer any water connection to the specific plot of land itself	Bare Land - Exempt Supply
5.	A plot of land which has pipes which protrude above the surface for the purposes of allowing future developments on the land to be connected to the mains water or power supply	Not a Bare Land - taxable at 5%
6.	A plot of land is used for farming and is irrigated via hosepipes which are run along the surface of the ground and which could be moved or removed at any time	Bare Land - Exempt Supply
7.	The farm land has a more substantial irrigation system which is fixed into the land itself and is not moveable	Not a Bare Land - taxable at 5%

within the communal infrastructure of the development, including streets and communal areas. Such infrastructure may run up to the edge of the plot of land, but not actually involve the installation of any civil engineering on the plot of land itself. In such cases, the land is still considered bare land as there are no civil engineering works on the land being supplied.

Tabular presentation of all practical scenarios covering the stages of work done on a Bare land with the tax implications:

e. Leasing Bare Land for Development

Where a landlord leases a plot of land to a tenant who intends to develop on the land, it is important that the landlord identifies whether he is supplying bare

land or covered land to the tenant.

It may be the case that a landlord supplies land to a tenant which meets the definition of "bare land" at the point it is first leased to the tenant, however once

Facts of the case	Relevant Date	Tax Implication
10 year lease is signed with a Developer	1 June 2018	NA
Foundation work completed	September 2018	NA
Lease rentals payments	Monthly	June 2018 to August 2018 rentals - Exempt supply From September 2018 onwards - Taxable at 5% (the land ceases to be bare Land)
Lumpsum Lease rental payments for all 10 year	1 June 2018	All Lease rentals are Exempt supply

the tenant begins to develop on the land then the nature of the landlord's supply will change.
As soon as the land becomes covered by completed or partially completed buildings or civil engineering works, the land ceases to be bare land and will be taxable depending on the date of supply provisions of Article 25 and 26 of the Decree Law.

Example:
Tabular presentation of tax implications on leasing of a bare land:

Musataha Agreements and VAT Implications for Bare Land

a. General Understanding of Musataha Agreement

A Musataha Agreement creates a real property right which entitles its holder to construct a building or to invest in, mortgage, lease, sell, or purchase a plot of land belonging to a third party for a period of its validity, i.e. up to 50 years, provided that such acts do not contravene any Executive Council resolutions.

b. Tax Implications for a Registered Musataha Agreement

The Real estate guide issued by FTA acknowledges that registered Musataha agreements differ from short and medium-term leases. Further, in cases where the parties enter into a Musataha agreement which is registered with the appropriate Land Department or Municipality as required under UAE property law, the lease agreement will be treated the same as a contract of sale or one-off lease and no adjustment to the VAT treatment would be required after that date.

c. Tax Implications for a Non-Registered Musataha Agreement

If the Musataha is not registered, the lease will generally be treated the same as any other lease agreement which is explained above.

d. Tax Implication if the contracting parties are unable to register the Musataha agreement due to circumstances beyond their control.

As per the Real Estate Guide issued by the FTA, If the contracting parties are unable to register the Musataha agreement due to circumstances beyond their control (as evidenced by the relevant Land Department or Municipality), the parties may request a clarification to confirm whether the agreement could, for VAT purposes, still be regarded as similar to a sale agreement or whether the normal rules for leasing would apply.

Tabular presentation of all practical scenarios pertaining to leasing of Bare land with the tax implications:

Sl. No.	Leasing of Bare Land	Tax Implications
1.	50 year lease and Musataha Agreement is registered in the first year of leasing. Subsequently, in the fifth the civil engineering work is done on the bare land. Annual rentals to be paid as per the agreement	1 to 4 years - Exempt supply 5 to 50 years - Exempt supply
2.	50 year lease and Musataha Agreement is not registered for leasing. Subsequently, in the fifth the civil engineering work is done on the bare land. Annual rentals to be paid as per the agreement	1 to 4 years - Exempt supply 5 to 50 years - Standard rated supply (@5%)
3.	Musataha agreement could not be registered due to circumstances beyond control of contracting parties	File for a Technical Clarification with FTA

15.8.3 Residential Buildings

a. Meaning of Residential Buildings

Article 37 of the ER of the Decree Law provides for the meaning of residential buildings.

The phrase "residential building" means a building intended and designed for human occupation, including:

a. Any building or part of a building that the person occupies, or that it can be foreseen that a person will occupy, as their principal place of residence.
b. Residential accommodation for students or school pupils.
c. Residential accommodation for armed forces and police.

d. Orphanages, nursing homes, and rest homes.

"Residential building" does not include any of the following:

a. Any place that is not a building fixed to the ground and can be moved without being damaged.
b. Any building that is used as a hotel, motel, bed and breakfast establishment, or hospital or the like.
c. A serviced apartment for which services in addition to the supply of accommodation are provided.
d. Any building constructed or converted without lawful authority.

A building shall be considered as a residential building if a small proportion of it is used as an office or workspace by the occupants, if it includes garages and gardens used in conjunction with it, or it includes any other features that may be said to comprise part of the residential building.

b. Taxability of Residential Buildings

Article 43 of the ER of Decree Law states that the supply of residential buildings is exempt, unless it is zero-rated, if any of the following conditions are met:

- Lease is more than (6) six months, or
- The tenant of the property is a holder of an ID card issued by Federal Authority for Identity and Citizenship (Emirates ID holder)

Example: *A holder of Emirates ID staying in emirate of Dubai has to re-locate to other emirate for a period of 3 months for business purposes. If a taxable person leases the property to an Emirates ID holder for a period of 3 months, then it shall be exempt supply under the Decree Law. However, continuing the same example if the person does not have an Emirates ID then supply cannot be considered an exempt supply and may be taxable at 5%.*

c. First supply of Residential Buildings

i. Taxability of the first supply of Residential Buildings

As per Article 45 (9) of the Decree Law, the first supply of residential buildings within (3) years of its completion, either through sale or lease in whole or in part shall be zero rated subject to following conditions stated in Article 39 of the ER of the Decree Law:

a. The first supply of a building, or any part of a building, which is converted to a residential building shall be subject to the zero rate provided that the supply takes place within 3 years of the completion of the conversion and the original building, or any part of it, was not used as a residential building and did not comprise part of a residential building within (5) five years prior to the conversion work commencing.

b. The presence of shared or common facilities, or dividing walls or similar features in a residential building should not cause the residential building to be considered or any part thereon as part of a pre-existing residential building.

ii. Calculation of 3 years from Date of Completion

The Real Estate guide issued by the FTA provides for the completion date being earlier of:

a. the building is occupied, or
b. the date the building is certified as being complete by an appropriately qualified party.

iii. Calculation of 3 years for transitional supplies of Residential Buildings

Where a building was completed prior to 1 January, 2018, but the first supply of that building within 3 years of its completion takes place after 1 January, 2018 the supply will still qualify for zero-rating. It is important to note however, that this rule applies to the first supply of the property, and not to the first supply after the introduction of VAT.

Any subsequent supplies of the building, either by sale or lease, within 3 years from its completion date shall not be zero-rated, as they will not qualify as the first supply of the building.

iv. Input VAT recovery of costs incurred in construction of Residential Buildings

Where a taxable person incurs the costs of constructing a residential building, all of the VAT incurred on the costs of such development shall be recoverable in full on the basis that the costs relate to the zero-rated first supply. Any future supplies of the building by that taxable person (e.g. a subsequent lease, which would be exempt from VAT after the first supply) does not impact the developer's right to recover input tax
incurred before the date of first supply.

This means that the taxable person is not required to make any adjustments to its initial input tax recovery on the development costs under the capital assets scheme.

d. Subsequent supply of Residential Buildings

i. Taxability of the subsequent supply of Residential Buildings

Article 46 (2) provides that supply of residential buildings through sale or lease, other than that which is zero-rated (first supply of residential building within 3 years from date of completion) shall be exempt from VAT.

ii. Input VAT recovery of costs incurred towards the subsequent supply of Residential Buildings

Where the supplier of the residential building incurs VAT on costs relating to such a subsequent supply e.g. agent fees, or incurs VAT on costs relating to the general upkeep and maintenance of the property after the first supply, then such costs are considered to directly relate to the exempt supply of the building. As such, the supplier will be unable to recover any VAT on such costs via its VAT return.

e. VAT Liability of service charges relating to residential buildings

A community master developer or building owner will often make charges to the owners or tenants of units within the community/building in return for the upkeep of the communal areas of the property. Such charges will be subject to VAT at the standard rate, on the basis that they represent a charge for the services of maintaining and running the communal areas. Such charges do not represent the consideration for a supply of a residential building and as such will not be eligible for zero-rating or exemption.

f. Purchase of residential buildings off plan or prior to completion

The purchase of a residential building 'off plan' i.e. direct from the developer prior to construction of the property, or purchase of a partly completed residential building, shall be zero rated, as a future supply of a residential building or as it will be used for residential purposes. This is assuming that the relevant conditions are met so as to be treated as a residential building.

15.8.4 Commercial Real Estate

a Commercial Real Estate

The Decree Law and its Regulations does not define Commercial Real Estate. The Real Estate guide issued by the FTA defines Commercial real estate for VAT Law purposes as any real estate which is not residential building or bare land or a designated charitable building.

b. VAT Rate

Supply of Commercial real estate is taxable at standard rate of VAT at 5%

c. Buyer of Commercial real estate - VAT Payment 'Special Procedure'

A special payment process exists where sales of commercial real estate are made within the UAE. Detailed guidance on this process is explained in the 'VAT Payment for Commercial Property Buyers User Guide'

i. Applicability of this special procedure

The special procedure only applies to sales of commercial property which are

subject to VAT at 5% other than the case where commercial real estate is sold in the UAE by any supplier other than the developer of that property. Therefore, it does not apply to:

- any sales or leases of residential property;
- leases of commercial property;
- Sales of commercial property by the developer of that property; and
- the sale of a commercial property with the benefit of sitting tenants to a buyer who is a Taxable Person which qualifies as the transfer of a business.*

*Not applicable in case of transfer of the commercial property along with the tenants. Example, if the owner of commercial building sells the entire building along with the existing lease / tenants in the building then this special procedure need not be used.

ii. Step-by-Step guide to the special procedure

- Seller to issue a tax invoice to the buyer for the sale of commercial property

If the seller is not registered for VAT with FTA (he is an individual) then he is not required to register for VAT for the execution of this sale transaction.

It may be stated that supplier being an individual (owns a commercial property as an investment) and does not conduct business activity as defined in the Decree Law. Accordingly, is not making a taxable supply.

- Buyer responsibility
  - If the buyer does not have TRN, then create a e-services account with FTA (please note this is not VAT registration, it only requires the buyer to have a e-services account on FTA portal)
  - Go to tab 'My payments' and select 'Miscellaneous payment'
  - Under 'Miscellaneous payment' drop down select 'Commercial Property Sale'. The following mandatory fields will appear, and you are required to fill them all:
  - VAT Amount.
  - Seller's TRN.
  - Commercial Property Number. This number can be provided by the seller or the land department.
- Date of Sale.
- Land Department.
  - Click on 'My Payments' and make the payment of the VAT.
  - Post successful payment, 'Payment Transaction Number' will be generated automatically.
  - The Payment Transaction Number will be required by the Land Department to continue processing the transfer of ownership.
  - Without the evidence, Payment Transaction Number, the purchase of

the property cannot proceed and it will lead to delays.

- Supplier VAT Return Reporting
  - The supplier will declare the output tax due on the property within its VAT return in the

normal way, and will then also include the value of the output tax in the adjustments
column of the return. This will avoid paying the output tax to the FTA twice.

- Buyers VAT Return Reporting (if the buyer is registered)
  - Buyer can recover the VAT paid on the purchase of commercial property subject to the Input VAT recoverability conditions stated in Article 54 of the Decree Law

d. Supply Commercial real estate - VAT Payment where the 'Special Procedure' mentioned above is not applicable

The normal VAT rules regarding VAT accounting and payment are applicable to both the registrant supplier and buyer of commercial property.

15.8.5 Farm Houses and Farm Land

a. Meaning of Farm Houses and Farm Land

Farm Houses and Farm Land are not defined in the Decree Law.

Farm house can be generally understood as a house built on a agricultural land. Similarly, a farm land is considered to be an agricultural land.

Accordingly, for the VAT rate on supply of such Farm house and Farm land it is important differentiate whether the Farm house is a 'Residential Building' or a 'Commercial building' for the VAT Law purposes. Accordingly, if it is Residential building the supply of Farm house will be exempt (except for first supply which is zero rated as per Article 45(9) of the Decree Law) else, it will be taxable at 5%.

Correspondingly, it is important to differentiate whether the Farm Land is a 'Bare Land' thus an exempt supply or 'Commercial real estate' property taxable at standard rate of 5% respectively under the Decree Law.

b. Farm House a Residential or Commercial building under the Decree Law

The Real Estate guide issued by FTA explains that for a farm house to be considered as 'Residential Building' it must be occupied, or intended to be occupied as a person's principal place of residence and meet the conditions to be treated as a residential building.

Conversely, if the conditions are not satisfied it will be considered as Commercial building and taxable at 5%.

Example 1

A taxable person has a principal place of residence in the emirate of Dubai and a farm house in the emirate of Fujairah. During winter season the farm house is leased out to tourist for accommodation. In this case, the farm house is not a principal place of residence for anyone (as it is available to tourists). Accordingly, lease rentals earned from this farm house shall be taxable at standard rate of VAT.

Example 2

Where a farm house is used as a weekend home of a family, it is not to be the principal place of residence and, therefore, is not a residential building.

c. Farm Land a Bare Land or Commercial Real Estate under the Decree Law

The Real Estate guide issued by FTA explains that Farm land will normally be considered to be commercial land as it will normally be covered with infrastructure or civil engineering works required to make it operational as a farm e.g. irrigation systems, roads, utility connections etc.

Accordingly, if the Farm Land is covered by Civil Engineering work explained in Section 2 Bare Land above, it will be considered as a commercial real estate and taxable at 5%. A supply of 'bare' farm land (without any civil engineering work) shall be an exempt supply under the Decree Law.

d. Public Clarification on Farm Houses and Farm Land

This public clarification supported the tax positions given in the Real estate guide issued by FTA. However, the key highlight of the document is tax implication in case of a real estate which has multiple components (like it has farm land with a fixed irrigation system surrounding a farm house with some bare farm land).

The document determines the tax position if the supply involves multiple component with different tax treatments.

i. Single Composite supply

If the supply is of multiple components of a farm as a whole, comprising both commercial land, commercial buildings and residential buildings for a lumpsum price then the VAT liability should be on the basis of the tax treatment of the principal component.

In such case, the supplier may need to identify the predominant usage of the farm and apply that VAT treatment to the whole supply. Again, this determination needs to be made on a case by case basis.

Example:

If a commercial farm has a residential building which permanently accommodates the manager of the farm and his or her family, the use of the farm for commercial purposes would likely be a main component of the supply, and therefore the sale would in principle be subject to VAT.

ii. Mixed supply

If a Farm (including a house) is supplied and is not considered to be a single composite supply, the VAT liability should be apportioned. An indicator that the supply is not a single composite supply could be the separate identification of prices for different parts of the farm, specified in the sale contract. This would mean that the value of the consideration received for the residential part of the farm (i.e. a farm house) should be treated as exempt from VAT and the value of consideration relating to the commercial part of the farm (i.e. covered land, commercial buildings) should be treated as standard rated.

15.8.6 Mixed Use Development

a. Meaning of Mixed Use Development

A mixed-use development is a building or plot of land which has clear and distinct areas which are put to different uses which would have a different VAT treatment when supplied.

Example:

a building which has retail units on the ground floor level, office or commercial space on the middle floors of the building and residential units on the top floor would be considered a mixed-use development.

b. Taxability

- The supply of a commercial unit shall be taxable at the standard rate
- The supply of a residential unit (other than the first supply) shall be exempt from VAT.

c. Supply of Mixed use development

It is necessary to apportion the consideration received between the different parts of the building. The value of consideration relating to the residential part of the building shall be treated as exempt from VAT (or zero-rated, where the supply is the first supply), and the value of consideration relating to the

commercial part of the building shall be treated as standard rated.

d. Input VAT Recovery of a Mixed use real estate development cost

For a developer, any VAT incurred on the construction of a mixed-use development is recoverable in full subject to the conditions of Article 54 of Decree Law on Input VAT Recovery.

Input VAT is recoverable in full because the first supply of residential building is taxable supply at zero rate and commercial real estate is taxable at 5%. As per Article 54 of the Decree Law, Input Tax is recoverable by a Taxable Person on Goods and Services which are used or intended to be used for making Taxable Supplies.

e. Input VAT Recovery of a Mixed use real estate other than development cost (Repair & Maintenance)

- Input VAT directly attributable to commercial real estate - Recoverable in full
- Input VAT directly attributable to Residential Building - Not Recoverable
- Residual Input VAT (not directly attributable to either commercial or residential real estate) - Standard Method of Apportionment as per Article 55 of the ER of the Decree Law*.

* The standard method of apportionment may not be appropriate in every situation as it may give rise to outcomes which might not be reflective of the actual use of goods or services by the business. As a consequence, the FTA introduced alternative methods of input tax apportionment which may be used where the standard method does not provide an outcome which is reflective of the actual use of the acquired goods or services. A special method may however only be used after written approval was received from the FTA. The floorspace method is available to businesses which deal with supplies (sales and rental) of commercial and residential properties.

15.8.7 Labour Camps

a. Meaning of Labour Camps

The Real Estate guide states that Labour camps are generally areas where labourers are housed by their employers. They can take many different forms and some may provide residents with additional services on top of the living accommodation.

b. Are all Labour Camps Residential?

Labour camps can be either Residential Building under the Decree Law or Commercial real estate. The distinction depends on the characteristics given below and if all the conditions are satisfied, the Labour camp shall be treated as a Residential Building under the Decree Law:

- The building or lodging is occupied by the employee as their principal place of residence. This means that the building should be the place where that individual usually lives. A person can only have one principal place of residence, although they may share that principal place of residence with other people;
- It is a building which is fixed to the ground and which cannot be moved without being damaged;
- The building has been constructed or converted with lawful authority; and
- It is not a building which is similar to a hotel, motel, bed & breakfast establishment, or serviced apartment for which services in addition to the supply of accommodation are provided.

c. Taxability of Labour Camps

- If the Labour Camp fulfills all conditions given above - Exempt supply (except for first supply which is zero rated as per Article 45(9) of the Decree Law)
- If the Labour Camp does not fulfil even one of the above conditions - Standard rated supply (@5%)

d. Taxability in the hands of the Employer providing Labour Camps

i. Employer charges consideration towards providing such labour accommodation

a. VAT on supply:

Where the employer charges the employee a form of consideration in exchange for the residential accommodation, this shall be treated as a supply for VAT purposes.

Consideration may be received from an employee in a number of ways, including but not limited to:

- A direct charge made to the employee for the accommodation;
- A deduction from the employee's salary in respect of the accommodation; and
- Provision of accommodation in lieu of the payment of a housing allowance to the employee.

b. Input VAT Recoverability on Expense

- Supply of Labour Accommodation is taxable at standard rate of VAT (serviced apartments)

Input VAT is recoverable subject to the Input VAT conditions of Article 54 of the Decree Law.

- Supply of Labour Accommodation is exempt from VAT (Residential buildings)

Any expense like agent's fee shall not be recoverable as the same is incurred towards making an exempt supply.

Example

The employer has housed its employees in labour accommodation which is a fully serviced apartment. Towards this accommodation, the employer directly deducts a fixed amount from the salary of the employees. Such fixed amount deducted from employees salary must be offered to tax at standard rate of VAT (@5%).

Further, if the accommodation is residential building (as per the conditions given above) then the amount deducted from the employee salary must be reported under exempt supply. And any costs which directly relate to the provision of that residential accommodation to the employee, for example agent's fees, shall normally be treated as relating to an exempt supply and shall not be recoverable.

ii. Employer provides such labour accommodation free of cost

a. VAT on Supply

Where the employer does not make a charge to the employee for the provision of residential accommodation, it is not making a supply for VAT purposes.

b. Input VAT recoverability on Expenses

VAT incurred on costs relating to the provision of the residential accommodation may be recovered as a general overhead cost of the business subject to conditions of Article 53 of the ER of the Decree Law on the 'Non-recoverable Input Tax'.

Important note: In situations where accommodation is not necessary for the employee to perform their role, for example accommodation in hotel apartments, input tax shall not be recoverable.

d. Public Clarification on Labour accommodation: residential versus serviced property

This clarification focusses on essentials to be taken into consideration to identify whether Labour accommodation is a Residential (exempt supply except first supply which is zero rated) or serviced property (commercial real estate - standard rated at 5%)

i. Below is the list of various services provided along with the accommodation. This table represents which services will can be referred by the supplier to identify whether it is supply of residential accommodation or serviced accommodation:

Residential Building - Services normally supplied along with residential accommodation	Serviced Accommodation - Additional services indicating a supply of serviced accommodation:
Cleaning of communal areas	telephone and internet access
Maintenance services required for the general upkeep of the property Pest control, Garbage collection Security	cleaning of the rooms, other than purely the communal areas of the property laundry services, including the regular changing of bed linen
Utilities e.g. electricity, water, etc	Catering
Access to facilities within the building for residents to use themselves, e.g. launderette facilities, gym, pool, prayer rooms etc.	maintenance services other than those required for the general upkeep of the property.

ii. Mixed versus composite supplies

Where a single composite supply is made, the entire consideration for the supply shall be subject to the VAT treatment of the principal component. (Refer Article 4 of the ER of the Decree Law). The following facts must also be taken into account:

- The price of the different components of the supply is not separately identified or charged by the supplier
- All components of the supply are supplied by a single supplier. Accordingly, even where it is considered that a single composite supply is being made, it shall be prevented from being treated as such if the various components are supplied by different suppliers or where the prices of each component are separately listed out.

Note: Simply charging a single price does not, however, automatically mean a single composite supply is being made e.g. if there is not an identifiable principal component.

Where a mixed supply is made, each component must be valued and the correct

VAT treatment applied to each component. (Refer Article 4 of the ER of the Decree Law)

15.8.8 Master developer of Property

a. Background of work done by Master developer

In many cases in the UAE a master developer will purchase a large plot of land, which it then sub-divides into smaller plots of land for sale.

As part of this process, the master developer will add infrastructure to the communal areas of the development, such as roads, power and water and connections to other infrastructure such as internet and phone lines. In some cases, such infrastructure costs may include the development of mosques, parks, utility networks and landscaping etc. This work is often required as a condition of the Urban Planning Authorities in order to approve the master plan and allow the master developer to sell the divided plots.

b. Supply by Master Developer of smaller plots of land to another Developer

On a case to case basis, master developer needs to identify whether these smaller plots of land fulfil the conditions of a Bare Land. If yes, then the supply shall be an exempt supply else, the same shall be taxable at standard rate of 5%.

For example, a master developer may prepare a number of plots of land for sale, which could involve the installation of connections to the water or power mains within the communal infrastructure of the development, including streets and communal areas. Such infrastructure may run up to the edge of the plot of land, but not actually involve the installation of any civil engineering on the plot of land itself. In such cases, the land is still considered bare land as there are no civil engineering works on the land being supplied.

c. Input VAT on the infrastructure cost incurred on communal area

If the master developer makes fully taxable supplies, then the VAT incurred on the infrastructure costs shall therefore be recoverable in full.

If the master developer makes exempt supplies (sale of smaller plots as bare land) then input vat cannot be recovered on such infrastructure cost.

If the master developer makes mixed supplies (taxable and exempt) then then the VAT incurred on infrastructure costs should be apportioned under the

normal input tax apportionment rules.

d. VAT on upkeep of the communal areas

A community master developer or building owner will often make charges to the owners or tenants of units within the community/building in return for the upkeep of the communal areas of the property.
Such charges will be subject to VAT at the standard rate, on the basis that they represent a charge for the services of maintaining and running the communal areas. Such charges do not represent the consideration for a supply of a residential building and as such will not be eligible for zero-rating or exemption.

15.8.9 Owners Association (OA) & Management Entities (ME)

a. Meaning of OA and ME

OA and ME manage and administer the common areas of a building on behalf of all of the owners of a building.

OA - comprised of members which are the owners of the individual units themselves

ME - may include the developer, the management company, or the hotel project management company as the case may be.

b. Legal status of OA and ME

OA's are usually not-for-profit organisations or associations, but they can take many different legal forms. They are not normally incorporated legal entities, but instead they could be:

- A legal partnership between the members;
- An association with legal status, reg
- istered under laws concerning joint property ownership; or
- An unincorporated group or association with no legal personality/status.

ME are legal entities having trade license and registered with the respective authorities of the emirates in the UAE.

c. VAT treatment of supplies made by OA and ME

In cases where the OA/ME is conducting an economic activity the service charges made by the OA/ME should be subject to VAT at 5%.

Accordingly, the OA/ME should therefore have the right to recover any VAT incurred on services it purchases from third parties for the purposes of maintaining the building subject to conditions stated in Article 54 of the Decree Law.

d. Registration for VAT

An OA/ME is regarded as a 'person' for VAT purposes and required to register for VAT if its supplies exceed the VAT registration threshold. Although OA's and MEs can take many different legal forms and can enter into arrangements with suppliers and tenants, in multiple different ways, they will be making taxable supplies or undertaking an economic activity and the normal VAT rules will apply.

Where a supply of services is considered to be related to real estate, the place of supply of the services is where the real estate is located. Therefore, any services which are related to real estate located in the UAE shall also be treated as supplied in the UAE and UAE VAT will be applicable on the supply.

15.8.10 Real Estate-related Services

a. Meaning of Real Estate-related Services

Article 21(2) of ER of the Decree Law provides that a supply of Services is deemed to relate to a real estate where the supply of Services is directly connected with the real estate, or where it is the grant of a right to use the real estate.

Article 21 (3) provides that Services directly connected with real estate includes:

1. The grant, assignment or surrender of any interest in or right over real estate.
2. The grant, assignment or surrender of a personal right to be granted any interest in or right over real estate.
3. The grant, assignment or surrender of a licence to occupy land or any other contractual right exercisable over or in relation to real estate, including the provision, lease and rental of sleeping accommodation in a hotel or similar establishment.
4. A supply of Services by real estate experts or estate agents.
5. A supply of Services involving the preparation, coordination and performance of construction, destruction, maintenance, conversion and similar work.

Services which are not considered to be directly related to real estate shall be subject to the normal place of supply rules.

Real estate Guide further provides for Some examples of services that are not considered to directly relate to real estate include:

- Secondment of staff to a building site;
- Advice or information relating to land or property markets generally;
- Drawing up plans for a building that does not relate to a specific site;
- Management of a property investment portfolio;
- The supply of storage of goods in a property without a right to a specific area for the exclusive use of that customer;
- Advertising services, including those that involve the use of a billboard;
- General legal advice on real estate related contracts.

b. Taxability of Real Estate-related Services

- If the real estate is located in the UAE - the supply of real estate related service will be taxable at 5%.
- If the real estate is located outside the UAE - the supply of real estate related service will be outside the scope of VAT of the UAE

15.8.11 Construction Industry

a. Taxability for Construction Services

Construction services which are supplied in the UAE are subject to VAT at 5%. This VAT treatment will apply regardless of the type of building which is being constructed.

Whether it is a construction of residential accommodation, commercial building, charitable building, etc. the construction services are always a taxable supply under the Decree Law.

b. Place of Supply rule for Construction Services

As per Article 21 of the ER of the Decree Law, Construction services is a real estate related service. Accordingly, pursuant to Article 30 of the Decree Law on Place of supply in special cases, the place of supply for construction services is where the real estate is located.

c. Date of Supply for Construction Services

Generally, the construction industry involves supplies which take place over a significant period of time and are therefore subject to stage of completion payments/advance payments/retentions etc and other performance-related events during the course of the overall supply. As a result, applying the normal date of supply rules (refer Article 25 of the Decree Law) may not always be straightforward for supplies within the construction industry.

Accordingly, Article 26 of the Decree Law on Date of Supply in Special Cases for such continuous supplies of services must apply to construction services where there are periodic payments or consecutive invoices.

A supply is considered to fall under Article 26 where both factually and contractually there are multiple payments to be made under the contract. In such cases where a contract includes periodic payments or consecutive invoices, the date of supply shall be the earliest of the following:

- The date of issuance of any tax invoice;
- The date payment is due as shown on the tax invoice;
- The date of receipt of payment.

In the event of 12 months being passed from the date of provision of the goods or services and none of the above events has occurred, a date of supply will be triggered at the 12-month point.

The certification of a construction project at a particular point in time will not trigger the date of supply for VAT purposes. However, certification of a project is often linked to other obligations such as a due date for payment, which may itself trigger the date of supply.

Please note that Article 67 of the Decree Law on Date of Issuance of Tax Invoice within 14 days of date of supply does not apply to Article 26 of the Decree Law.

d. Retention payments pertaining to Construction Services

Meaning: A retention is an amount held back from a payment made under a construction contract. It is generally held to ensure that a contractor performs all of its obligations under the contract, and is then released either on practical completion or after the end of a defects notification period.

Date of supply: As per the contract, the supplier needs to determine whether retention payments are continuous supply thus, Article 26 of the Decree Law shall apply or single supply subject to the tax point
rules under Article 25 of the Decree-Law.

Those applying to continuous supplies under Article 26 of the Decree-Law the date of supply shall, therefor,e be the earliest of:

- The time the retention payment has been made;
- The issuance of a tax invoice in relation to the retention; or
- 12 months from the date the work has been signed off as complete (e.g. certified).

If, the services are considered to be a single supply subject to the tax point rules under Article 25 of the Decree-Law, the date of supply will be delayed until the earlier of:

- The time the retention payment has been made;
- The work has been signed off as complete; or
- The tax invoice has been issued.

This means that where the construction services are not considered to be contractually complete, VAT is only due to the extent of any payments received or invoices issued during delivery of the services.

Transition Period related Retention Payments:

a. Where retention payments become due for payment to the supplier after 1 January, 2018 which relate to supplies of services which were completed prior to 1 January, 2018, the payment received by the supplier should be outside the scope of VAT.
b. Where a retention payment becomes due for payment to the supplier after 1 January, 2018 and the supply is not considered to be completed until the retention is signed off, then VAT shall be applicable on the value of the retention payment received.

e. Snagging

Meaning: In general terms, snagging refers to the process of a new owner, either the client or final customer, checking a new building for minor faults that need to be rectified. Snagging generally occurs where the customer is not happy with the standard of work provided by the builder.

Original Builder rectifies the snags

a. At his own cost - Where the original builder corrects the snags at his cost he will not receive any further consideration. Therefore, there is no further supply being made by the builder and the snagging works are considered to be part of the original supply. The builder will not be required to account for VAT on the liability of the works undertaken.
b. For Additional Fee - This is an additional supply of services to the customer and VAT will be due on that supply.

Other than the Original Builder rectifies the snags

This is an additional supply of services to the customer and VAT will be due on that supply.

Retention is held permanently by the customer and not released to the supplier.

In such cases of snagging, generally, the customer may withhold the retention permanently and accordingly, VAT is not due on such retention payment which is withheld permanently by the customer.

If VAT has already been accounted for (because a tax invoice was issued or the 12-months rule had applied), then the supplier may consider using the bad debt relief provisions.

f. Sale of partially completed buildings

Date of completion: Earlier of the following -

a. The date the building is certified as being complete by an appropriately qualified party; or
b. The date on which the building is occupied.

Sale of the building prior to its completion date: Partly completed commercial building supply will be standard-rated unless it qualifies to be treated as part of a transfer of a going concern.

Supply of a partly completed residential building, shall be zero rated, as a future supply of a residential building or as it will be used for residential purposes.

15.9 Exempt Supply - Local Passenger Transport Services[1]

1. The supply of local passenger transport Services in a qualifying means of transport by land, water or air from a place in the State to another place in the State shall be exempt.
2. The phrase "qualifying means of transport" means:
   a. A motor vehicle, including a taxi, bus, railway train, tram, mono-rail or similar means of transport, designed or adapted for transport of passengers.
   b. A ferry boat, abra or other similar vessel designed or adapted for transport of passengers.
   c. A helicopter or airplane designed or adapted for transport of passengers and approved for transport of passengers in accordance with Federal Law No. (20) of 1991 on Civil Aviation.

Exceptions

1. As an exception to Clause (1) of this Article, the Service of transporting of passengers from a place in the State to another place in the State shall not be considered a local passenger transport Service where the transport is by aircraft and constitutes "international carriage" as defined in the Warsaw International Convention for the Unification of Certain Rules Relating to

[1] Section 15.9 - Article (45) of Federal Decree-Law No. 8 of 2017 on Value Added Tax

International Carriage by Air 1929.

2. As an exception to Clause (1) of this Article, the transport of passengers shall not constitute a supply of local passenger transport Services where it is undertaken in the context of a pleasure trip where the manner in which the trip is held out indicates that its principal objective may reasonably be said to be sightseeing, or the enjoyment of catering services, or other forms of pleasure or entertainment.

15.10 Zero-rating Healthcare[1]

As per clause (14) of Article 45 of Decree Law, The supply of preventive and basic healthcare Services and related Goods and Services and Import of concerned related Goods** according to what is specified in the Executive Regulation of this Decree-Law.

As per Cabinet Decision No. (56) of 2017 on Medications and Medical Equipment Subject to Tax at Zero Rate Article (1), "Definitions", In the application of the provisions of this Decision, the following words and expressions shall have the meanings assigned against each, unless the context requires otherwise:

Medications: Every product containing a substance(s) which achieves the intended objective in or on the human body via biological effect, which is produced, sold or offered for use in cases relating to diagnosing, treating, healing, relieving or preventing diseases, or renewing, correcting or rehabilitating the function of body organs.

Medical equipment: A medical product containing a substance, device, instrument, motor, implant, detector or system, including its accessories and operating software, which achieves the intended objective in or on the human body without medicinal, immunological or metabolic effect, which is produced, sold or offered for use in cases relating to diagnosing, treating, relieving, controlling or preventing diseases, injury or disability.

15.10.1 Supplies Subject to Tax at Zero Rate

The supply of Medications and Medical Equipment registered with the Ministry of Health and Prevention, or imported with its permission or approval, shall be subject to tax at zero rate.

This section covers all the supplies of healthcare by health professionals and

[1]Section 15.10 - Article (41) of the Executive Regulations

health institutions including the zero rates which are available for the supply of healthcare.

1. The phrase "healthcare services" means any Service supplied that is generally accepted in the medical profession as being necessary for the treatment of the Recipient of the supply including preventive treatment.
2. A supply of healthcare services shall be zero rated on the condition that the supply shall:
   a. Be made by a healthcare body or institution, doctor, nurse, technician, dentist, or pharmacy, licensed by the Ministry of Health or by any other competent authority.
   b. Relate to the wellbeing of a human being.
3. Healthcare services do not include any of the following:
   a. Any part of a supply that relates to staying in or attending an establishment the principal purpose of which is to provide holiday accommodation or entertainment such that any healthcare service is incidental to the provision of the accommodation or entertainment.
   b. Elective treatment for cosmetic reasons other than prescribed by a doctor or medical professional for treating or prevention of a medical condition.
4. A supply of Goods is zero-rated if it is a supply of:
   a. Any pharmaceutical products identified in a decision issued by the Cabinet.
      ** Federal Decree-Law No. 18 of 2022 - Issued 26 Sep 2022
   b. Any medical equipment identified in a decision issued by the Cabinet.
   c. Any other Goods not covered by paragraphs (a) and (b) of this Clause which are supplied in the course of supplying a Person with zero-rated healthcare services that are necessary for the supply of such healthcare services.

15.10.2 Healthcare of Supplies Business-to-Business Services[1]

As per the UAE VAT Law, healthcare services that are necessary for the treatment of the "recipient of the supply" are zero rated.

In this publication, the FTA has clarified its view that the healthcare service provider should provide services directly to the patient in order for that service to qualify for zero rating. If the patient and "recipient of supply" of healthcare service are two different persons, then the supply will be subject to VAT at 5%.

This analysis highlights the distinction, common in many VAT analyses around the world, between the "recipient" of the supply for VAT purposes to whom the

[1]Section 15.10.2 - VAT Public Clarification - VATP016

supply might be "made" in a contractual sense and the person to whom the underlying supply might to be provided in a practical sense.

The FTA states its view that the person contractually entitled to receive the healthcare service would be considered as the "recipient of the supply" for VAT purposes, notwithstanding that the actual service may be provided in a physical/ practical sense to another.

If the contract for service is drafted unclearly, then the factual reality of the transaction should be considered to determine the recipient. The FTA has emphasized that initiating the contract or mere obligation to pay will not be conclusive factors to determine the recipient of service.

For the sake of simplicity, the FTA has provided following examples to determine the recipient and taxability of healthcare service:

Sl. No.	Scenario	Transactions	VAT Outcome
1.	A doctor has contracted with a hospital to see patients who visit the hospital	Supply by doctor to hospital	Standard rated
		Supply by hospital to patient	Zero rated
2.	A hospital refers a patient to a laboratory for a medical test and the patient directly contracts with the laboratory	Supply by laboratory to patient	Zero rated
3.	Hospital - 1 is required to perform a specialised procedure for its patient. Hospital - 1 contracts with hospital - 2 to perform the procedure.	Supply by hospital - 2 to hospital - 1	Standard rated
		Supply by hospital - 1 to patient	Zero rated

This issue is also commonly manifested in situations where an employer contracts with a health care provider to provide health care services to its employees.

As per article 2 of Cabinet decision no. (56) 2017 on Medications and Medical Equipment Subject to Tax at Zero Rate, registration of products and equipment supplied in the UAE whereas permission or approval in case of imported concerned goods is pre-requisite to qualify its supply at zero-rate. Businesses acquiring products and equipment for healthcare shall ensure to verify the registration, approval, permission in their furtherance of such supplies to their customers.
Each product needs a separate registration for its SKU though content may be

same as that of previously registered goods. Businesses shall take acknowledgements from the sellers for their product registration certificate/ approval from Ministry before furtherance of sales at zero-rate.

15.11 VAT on Oil and Natural Gas in UAE

The oil and gas industry is a vital and significant industry in the Gulf and includes large national oil companies and their associated entities, international oil companies with local operations (or trading in the area) - both in 'upstream' exploration and production activities and 'downstream' marketing activities, and service companies providing specialist resources and expertise to the sector. The scope of oil and gas services is quite broad and may include drilling services, seismic surveying, pipeline installation and maintenance, leasing of ships, storing, and handling services at installations, refinery and warehousing services and sale of feedstock. The VAT framework will have differing impacts for each type of industry participant.

VAT rates for oil and gas is as below, however the Law has explained the tax implications on each such supplies in detail and this document shall provide clarity on the VAT treatment to businesses operating in oil and gas industry.

Type of Supply	VAT Rate
Crude oil and Natural gas	0%
Other oil and gas products, including petrol at petrol stations	5%

15.11.1 Taxability

Article 45 (12) of the Federal Law No.8 of 2017 on Value-added Tax provides that the supply or Import** of crude oil and natural gas shall be zero -rated.
Article 48 (3) of the Federal Law No.8 of 2017 on Value-added Tax provides that where the Registrant supplies any crude or refined oil to the registered customers who intends to either resell the purchased Goods as crude or refined oil or use these Goods to produce or distribute any form of energy, the following rules shall apply:

a. The Registrant Supplier shall not charge Tax on the value of the supply of the Goods
b. The registered Recipient of the Goods shall calculate the Tax on the value of the Goods supplied thereto and shall be responsible for all applicable Tax obligations and for calculating the Due Tax in respect of such supplies.

The provisions of Clause (3) of this Article shall not apply in any of the following situations:

a. Where, before the Date of Supply, the Recipient of Goods has not provided a written confirmation to the supplier that his acquisition of the Goods is for the purpose of resale.
b. Where, before the Date of Supply, the Recipient of Goods has not provided a written confirmation to the supplier that he is a Registrant and the supplier has not verified the Tax Registration of the Recipient of Goods by means approved by the Authority.
c. Where the Taxable Supply would be subject to Tax at the rate of 0% in accordance with Clause (1) of Article (45) of this Decree-Law.
d. Where the Taxable Supply includes a supply of Goods or Services other than the Goods referred to in Clause (3) of this Article.

Further, Clause 5 of the said Article states that where a Recipient of Goods of any crude or refined oil, unprocessed or processed natural gas, or any hydrocarbons confirms in writing to the supplier that he is a Registrant for the purposes of applying Clause (3) of this Article, the following shall apply:

** Federal Decree-Law No. 18 of 2022 - Issued 26 Sep 2022

a. The supplier shall not be liable for calculating the Tax in relation to the supply unless he was aware or supposed to be aware, that the Recipient was not a Registrant at the Date of Supply.
b. The Recipient shall be liable for the calculation of any Due Tax in respect of the supply.

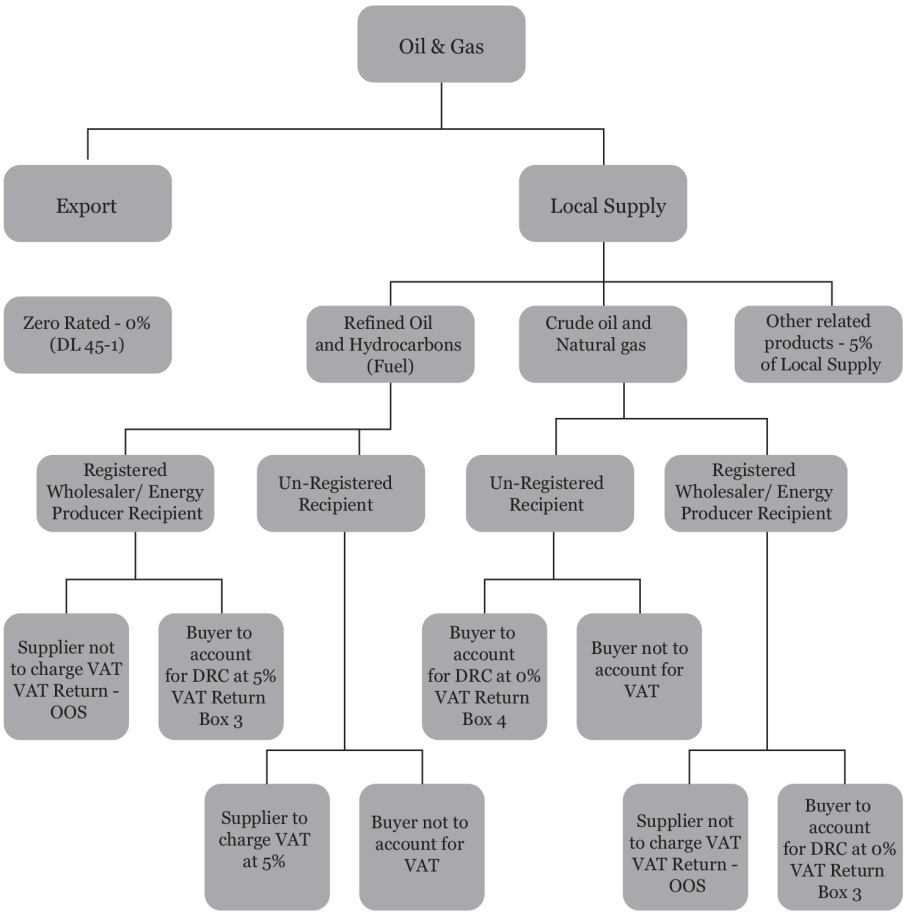
If the supplier mentioned in paragraph (a) of Clause (5) of this Article is supposed to be aware that the Recipient of Goods was not registered at the Date of Supply, the supplier and the Recipient of Goods shall be jointly and severely liable for any Due Tax and relevant penalties in respect of the supply.

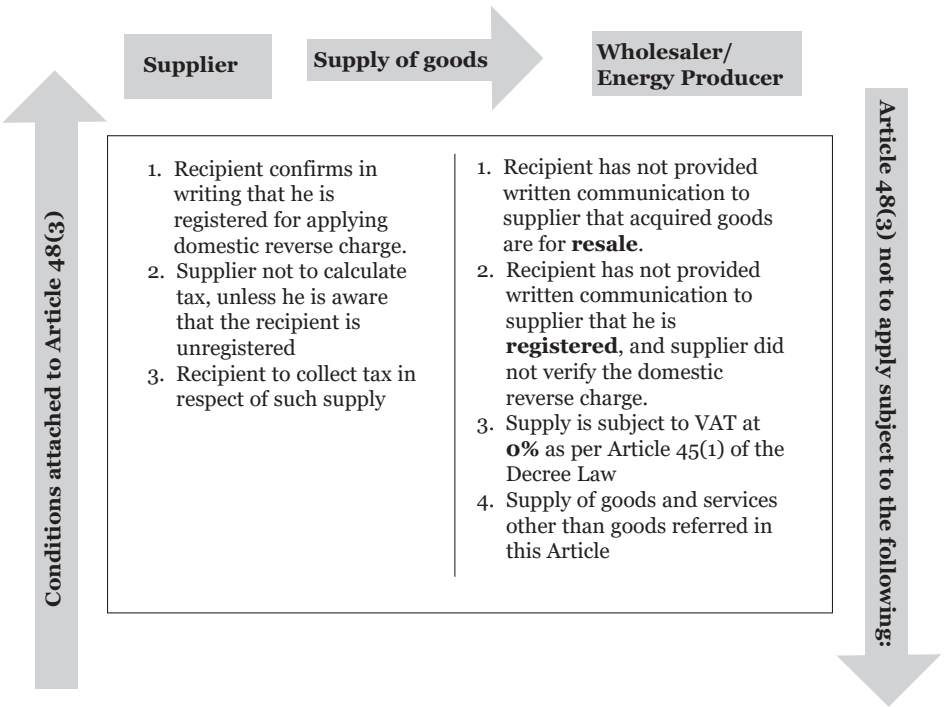
Analysis of the Above Article:

The supply of water and all forms of energy falls within the definition of supply of services as per Article 1 of VAT Decree Law.

Accordingly,

- The supply of oil and natural gas where the supplier in the mainland supplies any crude or refined oil to the registered customers who intends to resell the purchased goods or produce and distribute any form of energy, then the supplier shall not charge the tax on such supply of oil to the customer. Instead, the customer would be liable to record RCM on such purchase of crude oil, refined oil and hydrocarbons.


Oil & Gas
Export
Local Supply
Zero Rated - 0% (DL 45-1)
Refined Oil and Hydrocarbons (Fuel)
Crude oil and Natural gas
Other related products - 5% of Local Supply
Registered Wholesaler/ Energy Producer Recipient
Un-Registered Recipient
Un-Registered Recipient
Registered Wholesaler/ Energy Producer Recipient
Supplier not to charge VAT VAT Return - OOS
Buyer to account for DRC at 5% VAT Return Box 3
Buyer to account for DRC at 0% VAT Return Box 4
Buyer not to account for VAT
Supplier to charge VAT at 5%
Buyer not to account for VAT
Supplier not to charge VAT VAT Return - OOS
Buyer to account for DRC at 0% VAT Return Box 3



15.11.2 Place of Supply

Article 28 of VAT Decree Law states that the place of supply in case of supply of water and all forms of energy through a distribution system shall be:

a. The Place of Residence of the Taxable Trader in case the distribution was conducted by a Taxable Person having a Place of Residence in the State to a Taxable Trader having a Place of Residence in an Implementing State.
b. The place of actual consumption, if distribution was conducted by a Taxable Person to a Non-Taxable Person.

15.11.3 Purchase of oil from suppliers located in Mainland for the purpose of Resale

Article 48(3) of the VAT Decree Law, provides that where the Supplier in the mainland supplies any crude or refined oil to the registered customers who intends to resell the purchased goods or produce and distribute any form of energy, he shall not charge the tax on such supply of oil to the customer. Instead, the customer would be liable to record RCM on such purchase of crude oil.

Reporting in the VAT Return

VAT under RCM on domestic purchases would be reported under Box no: 3 - "Supplies subject to reverse charge mechanism" of the VAT return. The Vat paid on such RCM purchases can be claimed as credit under Box 10 of the VAT return.

1. Un-registered Recipient

	Supplier (AED)	Un-registered Recipient (AED)
Selling Price	50,000	-
Cost Price	10,000	50,000
Net	40,000	50,000
Box 4 of the VAT Return	**50,000**	-

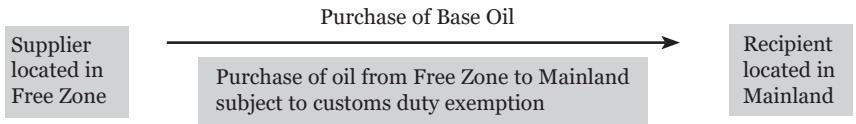
2. Registered Recipient

	Supplier (AED)	Registered Recipient (AED)
Selling Price	50,000	-
Cost Price	10,000	50,000
Net	40,000	50,000
Box 3 of the VAT Return	-	**Domestic Reverse Charge at 0% or 5%**
Box 10 of the VAT Return	**-**	**Recover in Box 10 of the VAT Return**

15.11.4 Purchase of oil from suppliers located in Free Zone/ ROW/ GCC

Article 48(1) of the UAE VAT Decree Law read along with Article 47(2) of the Executive Regulations ("ER") stipulates that import of goods into the UAE would be subject to VAT at standard rate of 5% under reverse charge mechanism ("RCM"). However, no tax shall be imposed where they are under an exemption from customs duty under following categories:

- Goods imported by the military forces;
- Personal effects and gifts;
- Used personal effect and household items transported by UAE Nationals;
- Returned Goods



Reporting in the VAT Return

The value of goods received from free zone supplier which are subject to customs duty exemption, if not auto populated in Box 6 of the VAT Return, should be shown as an adjustment under Box no 7 of the VAT Return. ("Box No 7- Supplies subject to reverse charge provisions where customs declaration has been given"). Corresponding VAT credit on such imports can be claimed under Box no 10 of the VAT Return.

15.11.5 Supply of oil and natural gas in Mainland

Where the goods are sold within Mainland, then the supply shall be subject to VAT at 5% irrespective of whether the customer is registered or unregistered.

Reporting in the VAT Return

The value of goods sold shall be reported as Standard Sales in Box 1 of the VAT Return.

15.11.6 Supply of oil and natural gas from Designated Zone (DZ) to another DZ company for resale and from DZ to outside UAE

Where the goods are sold within Designated zone to registered customer for resale or from DZ to rest of the world including GCC, then the supply shall be out of scope for the VAT purposes.

15.11.7 Supply of oil and natural gas from Mainland to Rest of the World including GCC

Where the goods are sold from Mainland to rest of the world including Gulf countries, then the supply shall be subject to VAT at 0% for the VAT purposes.

Reporting in the VAT Return

The value of goods sold shall be reported in Box 4 - "Zero-rated Supplies" of the VAT Return.

15.12 Transportation[1]

As per Article 1 of Decree Law, Transport-related Services includes Shipment, packaging and securing cargo, preparation of Customs documents, container management, loading, unloading, storing and moving of Goods, or any another closely related services or services that are necessary to conduct the transportation services.

As per clause 4 of Article 30, place of special supply of Decree Law For the Supply of means of transport to a lessee who is not a Taxable Person in the State, the place shall be where such means of transport were placed at the disposal of the lessee.

Further as per clause 8 of Article 30, For the Supply of transportation Services, the place of supply shall be where transportation starts. Further Article (22) of Executive Regulation of this Decree-Law further explains that Place of Supply of Certain Transport Services as per below;

1. The place of the supply of each transportation service is the place where the supply of that transportation service commences, where a trip includes more than one stop and consists of multiple supplies in accordance with Clause (5) of Article (4) of this Decision.
2. The place of supply of Transport-Related Services shall be the same as the place of supply of the transportation service to which they relate.

As per Article (45), Supply of Goods and Services that is Subject to Zero Rate,

1. International transport of passengers and Goods which starts or ends in the State or passes through its territory, including Transport-related Services.
2. Air passenger transport in the State if it is considered an "international carriage" pursuant to Article (1) of the Warsaw Convention for the

[1]Section 15.12 - Article (45) of Federal Decree-Law No. 8 of 2017 on Value Added Tax

Unification of Certain Rules Relating to International Carriage by Air 1929.

3. Supply or import** of air, sea and land means of transport for the transportation of passengers and Goods as per the criteria and conditions specified in the Executive Regulation of this Decree-Law.
4. Supply of Goods and Services or import of concerned goods** related to the supply of the means of transport mentioned in Clause (4) of this Article and which are designed for the operation, repair, maintenance or conversion of these means of transport.
5. Supply or Import of air or sea rescue and assistance aircrafts or vessels**
6. Supply of Goods and Services related to the transfer of Goods or passengers aboard land, air or sea means of transport pursuant to Clauses (2) and (3) of this Article, designated for consumption on board; or anything consumed by any means of transport, any installations or addition thereto or any other use during transportation.

**Federal Decree-Law No. 18 of 2022 - Issued 26 Sep 2022

However, supply of local passenger transport is exempt under Article 46 of Decree Law. Further Article 45 of Executive Regulations to Decree Law states,

1. The supply of local passenger transport Services in a qualifying means of transport by land, water or air from a place in the State to another place in the State shall be exempt. 2. The phrase "qualifying means of transport" means:
   a. A motor vehicle, including a taxi, bus, railway train, tram, mono-rail or similar means of transport, designed or adapted for transport of passengers.
   b. A ferry boat, abra or other similar vessel designed or adapted for transport of passengers.
   c. A helicopter or airplane designed or adapted for transport of passengers and approved for transport of passengers in accordance with Federal Law No. (20) of 1991 on Civil Aviation.
2. As an exception to Clause (1) of this Article, the Service of transporting of passengers from a place in the State to another place in the State shall not be considered a local passenger transport Service where the transport is by aircraft and constitutes "international carriage" as defined in the Warsaw International Convention for the Unification of Certain Rules Relating to International Carriage by Air 1929.
3. As an exception to Clause (1) of this Article, the transport of passengers shall not constitute a supply of local passenger transport Services where it is undertaken in the context of a pleasure trip where the manner in which the trip is held out indicates that its principal objective may reasonably be said to be sightseeing, or the enjoyment of catering services, or other forms

of pleasure or entertainment.

Clause 3 of Article 53 provides relief to Transportation service provider in recovering blocked input on entertainment by providing relaxation, i.e. provision of catering and accommodation services shall not be treated as entertainment services where it is provided by a transportation service operator, such as an airline, to passengers who have been delayed. Therefore input VAT incurred on catering & accommodation is recoverable as per the provisions of Article 54 on Recoverable Input Tax of the Decree Law.

15.12.1 Zero-rating certain means of transport[1]

The supply of the means of transport shall be subject to the zero rate in the following cases:

1. A supply of an aircraft that is designed or adapted to be used for commercial transportation of passengers or Goods and which is not designed or adapted for recreation, pleasure or sports.
2. A supply of a ship, boat or floating structure that is designed or adapted for use for commercial purposes and which is not designed or adapted for recreation, pleasure or sports.
3. A supply of bus or train that is designed or adapted to be used for public transportation of (10) or more passengers.

15.12.2 Goods and Services Supplied in Connection with Means of Transport[2]

The Goods and Services related to the supply of the means of transport mentioned in Article (34) of this Decision shall be subject to the zero rate if they are any of the following:

1. Goods, except fuel or other oil or gas products, that are supplied in the course of operating, repairing, maintaining or converting means of transport in any of the following cases:
   a. The Goods shall be incorporated into, affixed to, attached to or form part of those means of transport.
   b. The Goods are consumable Goods that become unusable or worthless as a direct result of being used in the operation, repair, maintenance, or conversion process.
2. Services which are supplied directly in connection with means of transport referred to in Article (34) of this Decision for the purposes of operating, repairing, maintaining or converting those means of transport.

[1]Section 15.12.1 - Article (34) of the Executive Regulations
[2]Section 15.12.2 - Article (35) of the Executive Regulations

3. Services which are supplied directly in connection with parts and equipment of a means of transport referred to in Article (34) of this Decision for the purpose of repairing and maintaining those parts and equipment, provided that any of the following applies:
   a. The services are carried out on board of the means of transport.
   b. The part or equipment is removed for repair or maintenance and is subsequently replaced in the same means of transport.
   c. The part or equipment is removed for repair or maintenance and is subsequently held in stock for the future use as spares in the same means of transport or another means of transport. 4) The part or equipment cannot be repaired and is exchanged for an identical part or equipment.

15.12.3 Public Transportation[1]

Issue

Article 34 of Cabinet Decision No. 52 of 2017 on the Executive Regulations of the Federal Decree-Law No. 8 of 2017 on Value Added Tax ("VAT Executive Regulations") states the means of transport which qualify for zero-rating under Clause 4 of Article 45 of the Federal Decree-Law No. 8 of 2017 on Value Added Tax ("VAT Law").

One such qualifying means of transport includes the supply of a bus or train that is designed or adapted to be used for public transportation of 10 or more passengers.
This Public Clarification shall discuss the definition of 'public transportation' and its interpretation for the purposes of identifying those buses or trains which qualify to be supplied at the zero rate under this provision.
For the avoidance of doubt, this Public Clarification impacts upon the VAT liability of the supply of the vehicles themselves, and does not affect the VAT liability of transportation services supplied under Clause 2 of Article 45 of the VAT Law (i.e. international transport of passengers and goods, which is zero-rated) or under Clause 4 of Article 46 of the VAT Law (i.e. local passenger transport services, which is exempt from VAT). The conditions for applying the zero-rate or exemption to such transport services are covered in Article 33 and Article 45 of the Executive Regulations respectively.

Summary

Only buses or trains which are designed or adapted to be used for the mass transport of individuals, without being restricted to a specific category of users, shall qualify to be supplied at the zero rate. As a result, those means of transport which are designed to transport a specific category of individuals, such as school

[1]Section 15.12.3 - VATP007 - VAT Public Clarification

students or employees of a business, do not meet the conditions to be treated as a qualifying means of transport for the purposes of the zero-rating provisions. Such means of transport shall therefore be subject to the standard rate of VAT. Whether or not the original supply of the means of transport qualified for zero rating has no impact on the VAT liability of any charges made for the supply of transportation services. The VAT liability of supplying transportation services shall be determined based on whether the transportation is local (and therefore exempt from VAT) or international (and therefore zero rated).

Detailed discussion

Clause 3 of Article 34 of the Executive Regulations states that the one of the categories of a means of transport which shall qualify for zero rating is as follows:

A supply of a bus or train that is designed or adapted to be used for public transportation of 10 or more passengers.

Clause 3 of Article 34 requires that the vehicle is actually used for public transportation, as well as being designed or adapted for such. It is also necessary to consider the meaning of means of transport used for 'private transportation' of individuals, which the FTA interprets as:

All means of transportation used to transport a specific group of people under contracts. In contrast, means of transport used for 'public transportation' shall be interpreted by the FTA as: All means of mass transportation used to transport all individuals without specifying any category.

The difference between the two forms of transportation therefore means that public transportation should be available for all individuals without exception. Public transportation would not include transportation which is only available to a specific category of user.

As a result, only those buses or trains which are openly available for use by any person without exception should be considered to be designed or adapted for public transportation and may therefore qualify to be supplied at the zero rate.. If a bus or train is designed or adapted for a specific class or group of people, or is only available for use by a specific class or group of people, it shall be considered to be designed or adapted for use for private transportation. As a result, the supply of those vehicles shall be subject to VAT at the standard rate.

Features of public transportation

In order to determine whether a bus or train is designed or adapted for use for public transportation the FTA considers the following factors would be

indicative, amongst others: ? Features exist which allow passengers to pay for the transportation or to indicate they possess a ticket e.g. a payment booth, ticket scanner or device to take payment;

- There is branding either within or outside the vehicle advertising the transport service, indicating the transportation is available to all;
- There is branding or other features indicating regulation of the means of transport by the entity regulating public transportation in the Emirate of operation;
- There is evidence that the means of transport is required to comply with certain provisions or specifications, or there is a requirement to pay for a specific test determined by the entity regulating public transportation in the Emirate of operation, before being approved for use to transport passengers;
- Features exist which allow the placement of advertising materials by third parties on or within the means of transport;
- The intended use of the means of transport is to transport members of the public without exception or limitation to a specific group.

Application to specific circumstances:

Based on the above, the following means of transport shall not be considered to be used for public transportation and the supply of such means shall be subject to VAT at the standard rate:

- School buses;
- Buses used to transport groups of employees or workers to or from a place of work;
- Shuttle buses used to transport hotel guests to other locations e.g. a mall, airport, park, or other tourist attraction. The examples above are not considered to be used for public transportation on the basis that their use is restricted to one particular group of people, rather than the general public, for example, school students, employees of a business or hotel guests.

VAT liability of transportation services:

As mentioned above, the VAT treatment of the means of transport when purchased does not determine the VAT treatment of any supply of transport services made using that vehicle.

Clause 2 of Article 45 of the VAT Law states that the international transport of passengers and goods which starts or ends in the UAE, or passes through the UAE, shall be zero-rated. As a result, any VAT incurred on costs directly related to the provision of such international transport services should be recoverable in full, subject to the normal input tax recovery conditions.

Clause 4 of Article 46 of the VAT Law and Article 45 of the Executive Regulations state that any supply of local passenger transport shall be exempt from VAT where the supply is of local passenger transport services in a qualifying means of transport by land, water or air from a place in the UAE to another place in the UAE.

For the purposes of the exemption, one of the qualifying means of transport listed includes a motor vehicle, including a taxi, bus, railway train, tram, mono-rail or similar means of transport, designed or adapted for transport of passengers.

Given the definition of "qualifying means of transport" under Article 45 of the Executive Regulations requires only that the vehicle is designed or adapted for transport of passengers, rather than for public transportation, Article 45 is to be interpreted broadly as including the transport of any passengers, whether a defined group or otherwise.

VAT incurred on costs which directly relate to the provision of exempt local transport services are not recoverable. Therefore, where local transport is made for a charge to a defined group of people, rather than the general public, any VAT incurred on the costs of purchasing the means of transport, fuel etc. in order to provide that service is not recoverable.

15.12.4 Supply Exempt from Tax[1]

The following supplies shall be exempt from Tax:

1. Financial services that are specified in the Executive Regulation of this Decree-Law.
2. Supply of residential buildings through sale or lease, other than that which is zero-rated according to Clauses (9) and (11) of Article (45) of this Decree-Law.
3. Supply of bare land.
4. Supply of local passenger transport.
5. Article (48) of Decree Law, Specific Obligations to Account for Tax - Reverse Charge

Explanation:
The reverse charge procedure results in, essentially, a business-to-business (b2b) tax-neutral chain of transactions, with the seller no longer having to account for VAT in b2b transactions within the UAE and opportunity to account

[1]Article (46) of Federal Decree-Law No. 18 of 2022 on Value Added Tax

for VAT shift to recipient of goods and services. Supplies of concerned goods and services remain subject to the reverse charge until they are excepted from the procedure which Federal Tax Authority take in certain cases.

Reference:
As per Article (1) of Decree Law, Concerned Goods refers to goods that have been imported, and would not be exempt if supplied in the State whereas Concerned Services refers to services that have been imported, where the place of supply is in the State, and would not be exempt if supplied in the State.
Law:

1. If the Taxable Person imports Concerned Goods or Concerned Services for the purposes of his Business, then he shall be treated as making a Taxable Supply to himself, and shall be responsible for all applicable Tax obligations and accounting for Due Tax in respect of these supplies. However, to apply RCM, Taxpayer shall apply if the following conditions are met as per Article 48 of ER:
   a. At the time of Import, the Taxable Person can demonstrate that they are registered for Tax.
   b. The Taxable Person has sufficient details for the Authority to verify the Import and the Tax which shall be due on the Import and is able to provide these as required.
   c. The Taxable Person has provided the Authority with its own Customs registration number issued by the competent Customs Department for that Import, such Customs Departments to verify the Import subject to the rules set by the Authority.
   d. The Taxable Person has cooperated with, and complied with any rules imposed by, the Authority in respect of the Import.

Where the conditions mentioned in Clause (1) of this Article are not met, the Taxable Person shall account for Tax in respect of the Import in accordance with Clause (1) of Article 50 of this Decision[1].

Where a Taxable Person who has a Place of Residence in the State receives a supply of Goods or Services with a Place of Supply in the State, from a supplier who does not have a Place of Residence in the State and does not charge Tax on that supply, the supply shall be treated as being of Concerned Goods or Concerned Services subject to Clause (1) of Article (48) of the Decree-Law[2].

2. As an exception to Clause (1) of this Article, in case the final destination of

[1]Clause 2 of Article 54 of ER
[2]Clause 3 of Article 55 of ER

the Goods when entering the State is another Implementing State, the Taxable Person shall pay the Due Tax on Import of Concerned Goods pursuant to the mechanism specified by the Executive Regulation of this Decree-Law.

3. If a Registrant makes a Taxable Supply in the State to another Registrant of any crude or refined oil, unprocessed or processed natural gas, or pure** hydrocarbons, and the Recipient of these Goods intends to either resell the purchased Goods as crude or refined oil, unprocessed or processed natural gas, or any hydrocarbons, or use these Goods to produce or distribute any form of energy, the following rules shall apply:
   a. The Registrant making the Supply shall not account** Tax on the value of the supply of the Goods referred to in this clause**.
   b. The Recipient of the Goods shall calculate the Tax on the value of the Goods supplied thereto and shall be responsible for all applicable Tax obligations and for calculating the Due Tax in respect of such supplies.
4. The provisions of Clause (3) of this Article shall not apply in any of the following situations:
   a. Where, before the Date of Supply, the Recipient of Goods has not provided a written confirmation to the supplier that his acquisition of the Goods is for the purpose of resale or use for production or distribution of any form of energy**
   b. Where, before the Date of Supply, the Recipient of Goods has not provided a written confirmation to the supplier that he is a Registrant and the supplier has not verified the Tax Registration of the Recipient of Goods by means approved by the Authority based on the data provided in the declaration. **
   c. Where the Taxable Supply would be subject to Tax at the rate of zero rate** in accordance with Clause (1) of Article (45) of this Decree-Law.
   d. Where the Taxable Supply includes a supply of Goods or Services other than the Goods referred to in Clause (3) of this Article.
5. Where a Recipient of Goods of any crude or refined oil, unprocessed or processed natural gas, or Pure** hydrocarbons confirms in writing to the supplier that he is a Registrant for the purposes of applying Clause (3) of this Article, the following shall apply:
   a. The supplier shall not be liable for accounting** the Tax in relation to the supply unless he was aware or supposed to be aware, that the Recipient was not a Registrant at the Date of Supply.
   b. The Recipient shall be liable for the calculation of any Due Tax in respect of the supply.
6. If the supplier mentioned in paragraph (a) of Clause (5) of this Article is supposed to be aware that the Recipient of Goods was not registered at the Date of Supply, the supplier and the Recipient of Goods shall be jointly and

severely liable for any Due Tax and relevant penalties in respect of the supply.

7. The Executive Regulation of this Decree-Law shall specify:
   a. Conditions and instances where the mechanism in Clause (1) of this Article applies.
   b. Additional obligations related to record keeping for Tax calculated according to the mechanism in Clause (1) of this Article.
8. **The Cabinet may issue a decision specifying other Goods or Services that are subject to the reverse charge and specify the relevant conditions and provision****

Where Clause (1) of Article (48) of the Decree-Law applies, the Taxable Person must:

**Federal Decree-Law No. 18 of 2022 - Issued 26 Sep 2022

a. Account for Tax on the value of the Concerned Goods or Concerned Services **at the rate which would be applicable** if the supply of the Concerned Goods or Concerned Services was made by a Taxable Person within the State.
b. Declare and pay the Due Tax in the Tax Return which relates to **the Tax Period in which the Date of Supply for the Concerned Goods or Concerned Services took place.**

Where a Taxable Person accounts for Due Tax in accordance Clause (1) of Article (48) of the Decree-Law, the Taxable Person shall keep the following documents relating to the supply:

a. The supplier's invoice showing details and the Consideration paid for the Concerned Goods or Concerned Services.
b. In the case of Concerned Goods, a statement from the relevant Customs Department showing details and the value of the Concerned Goods.

Explanation:

Referring definition of concerned goods and services, any import of concerned goods/services which are exempt in the state are not required to be reported using the reverse charge mechanism. ER to Decree Law refers to the fact that taxpayer shall account for the due tax in the period in which date of supply occur. To identify date of supply, one shall refer Article 25 or 26 of the Decree Law. Further rate of tax on concerned goods or supply shall be applied basis the rate prevailing should the supply had been made in the UAE.

15.13 Tax on Gold and Diamonds between Registrants

The Cabinet decision number (25) of 2018 defines goods[3] eligible for application

[3]Article (1) of Cabinet of Cabinet Decision No. (56) of 2018 on the Mechanism of Applying Value Added Tax on Gold and Diamonds between Registrants in the State

of reverse charge mechanism as gold, diamonds and any products where the principal component is of gold or diamonds. This decision is in effect from 1st June 2018.

Application:

As per Article (2) of the Decision, a supplier makes a supply of goods to a recipient, who is registered with Federal Tax Authority for Value Added Tax in the State, and the recipient intends to either resell such Goods or use them to produce or manufacture any of the Goods, the following rules shall apply:

1. The supplier shall not be liable for calculating the Tax in relation to the supply of the Goods and shall not include it in his Tax Return, in cases where the Registrant Recipient declares in writing the following:
   a. The acquisition of the Goods is for the purpose of resale or use to produce or manufacture any of the Goods.
   b. The Recipient is registered on the date of supply.
   c. The Recipient shall calculate Tax on the value of the Goods supplied to him.
2. The Recipient of the Goods shall calculate the Tax on the value of the Goods supplied to him and shall be responsible for all applicable Tax obligations related to the supply and for calculating the Due Tax in respect of such supplies.

The provisions of this Article shall not apply in any of the following situations:

1. Where the Supplier was aware or was supposed to be aware that the Recipient was not a Registrant at the Date of Supply.
2. Where the Supplier has not verified that the Recipient is registered at the Authority, in accordance with the written declaration, according to the means approved by the Authority.
3. Where the Taxable Supply is subject to Tax at the zero rate in accordance for export and indirect export[4].
4. Where the Supplier was aware or was supposed to be aware that the Recipient was not registered for tax purposes at the date of supply, the Supplier and the Recipient shall be jointly and severely liable for any Due Tax and relevant penalties in respect of the supply.

Supplier shall ensure to verify the recipient is registered on date of supply and take a written declaration on their letter head with TRN mentioned and signed by authorized signatory for the purpose specifying the resell of the goods or use of specified goods to manufacture goods where principal component is Gold or

[4] Clauses (1) or (8) of Article (57), export/indirect export of goods of the referenced Federal Decree-Law No. (8) of 2017

diamond.

VAT public clarification (VAT P029) issued by FTA with radical impact on B2B Gold Jewelry business. It clarifies where supplier supplies gold items and making services to VAT Registrant buyer (B2B supplies), the supplier needs to consider whether the supply constitutes a single composite supply of gold item or multiple supplies consisting of both goods and services.

Supply of Gold items (B2B) - Recipient should account for VAT under Reverse charge mechanism.

Single Composite supply - In case single composite supply, recipient should account for VAT under Reverse charge mechanism for entire value of supply as value of making charges could not be separately identifiable.

Multiple supply - In case of multiple supply, supply of gold and making charges are separately identifiable and the value of supply appearing separately for gold item and making charges on the tax invoice issued. In such case, the supply of gold items will be subject to reverse charge mechanism which is required to be reported by recipient and making charges subject to standard rating (5%) which should be charged by supplier.

15.14 Import of Concerned Goods[1]

A person not registered for Tax shall pay Due Tax on Import of Concerned Goods from outside the Implementing States on the date of Import.

1. Where Concerned Goods are imported by a Person not registered for Tax or where the Taxable Person does not meet the conditions in Clause (1) of Article (48) of this Decision, Tax shall be paid to the Authority by or on behalf of the Person before the Goods may be released.
2. The Customs Departments shall cooperate with the Authority to ensure that Payable Tax on Import has been settled before releasing of Goods.
3. Tax must be settled using the payment method specified by the Authority (e.g. over the counter, transfer, bond, etc.)
4. where a Person who is not registered for Tax imports Goods is using an agent who acts on behalf of the Person for the purposes of importing the Goods into the State and who is registered for Tax in the State, the agent shall be responsible for the payment of the Tax in respect of the Import of

[1]Article 49 of Decree Law and Article 58 of Executive Regulations

Goods.

Explanation:
How an agent shall report Pre-population of concerned goods in the VAT return:

As per Law, the agent will pay Output VAT due on such imports via their VAT return and shall not recover this as their Input VAT under Box 10 of their VAT return i.e. VAT on such imports should not be reduced from the Output VAT liability in their returns.

5. The obligation on the agent to pay Tax on behalf of another Person shall be met as part of the agent's Tax Return and pay Tax as though he imported the goods himself.
6. An agent who has paid tax shall not recover Tax paid on behalf of another Person in accordance with obligations set out in this Article.

Explanation:
An Agent shall adjust such imports pre-populated under Box 7 of the VAT turn because,

a. These do not constitute actual imports for the Agent
b. There is no Output Tax liability due on such imports as the same is already settled through E-dirham or credit card while goods are cleared from custom.
c. The Law prohibits the Agent from recovering Input VAT on imports made on behalf of its customers

7. Where an agent has paid Tax on behalf of another Person is accordance with this Article, it shall issue a statement to that other Person which contains, at the minimum, all of the following details:
   a. The name, address, and Tax Registration Number of the agent.
   b. The date upon which the statement is issued.
   c. The date of Import of the relevant Goods.
   d. A description of the imported Goods.
   e. The amount of Tax paid by the agent to the Authority in respect of the imported Goods.

Explanation:
The statements issued to customers for collecting the VAT payment made on their behalf should not be reported as a Taxable Supply in the Agent's VAT return. These take the nature of disbursements made on behalf of their customer hence the same is Outside the Scope of VAT. The Agent should however retain such statements issued as part of the record keeping requirements.

As a consequence, the value of the imported goods will be reflected in the VAT return of the actual owner of the goods. The owner would then be entitled to recover the import VAT (as declared in Box No. 7 of the VAT Return) in Box No. 10 of the VAT Return as per its normal VAT recovery position.
The owner and the importing agent need to agree in writing to make the adjustments stated in the preceding paragraphs. Furthermore, both parties will need to retain the evidence of this written agreement as records, in addition to any other required records, including customs documentation.

Where the owner and the importing agent do not wish to make the adjustments stated in the preceding paragraphs, the importing agent may issue a statement to the owner as prescribed in Article 50(7) of the Executive Regulations. The statement will be considered as a Tax invoice for the purpose of recovering input tax by the owner and can be recovered via Box 9 of the tax return

15.15 Banking and Financial Services

VAT liability of fees outlined in this section applies only when the Place of Supply for the financial services is in the UAE. As per Financial service guide, exhaustive list of transaction and applicable general VAT treatment is tabulated as below.

Further, it is to be noted that that there may be transactions which fall outside of these general treatments which should be analysed on a case-by-case basis.

Retail and Private banking

Financial Service / Fee Type	VAT Liability	Notes
Fees for opening, maintaining, closing accounts, withdrawals, deposits, etc.	Standard rate	
Early Redemption Fee	Standard rate	
Transaction services fee	Standard rate	
Minimum balance fee	Standard rate	
Overdraft interest income charged to individual customers	Exempt	
Overdraft fees	Standard rate	
Dormant / inactivity account service charges	Standard rate	Extra fee to cover the additional cost of running a non-profitable account
Waiver of fee / services provided for free to all / or specific banking customers	Outside scope	For this type of charge to be outside scope, it must be clear that there is no consideration for a supply and it does not qualify as a deemed supply.
Fees for cheques, including issuance, cancellations, guarantees, copies, service charges, re-presenting dishonoured cheques, etc.	Standard rate	
Certificate / letter issuance fees	Standard rate	
Bank statement fees, etc.	Standard rate	
Fees for traveller's cheques, foreign currency, etc.	Standard rate	
Money transfer fees, including processing overdue payments	Standard rate	
Fees for safe custody of cash	Standard rate	
Direct debit / standing order fees, including re-presenting dishonoured amounts, etc.	Standard rate	
Credit card membership fees, service charges, late payment fees, cash advance fees, over the limit fees, etc.	Standard rate	
Interest income earned on credit cards	Exempt	

Finance charge (Interest) Minimum spend fee	Exempt Standard rate	
Dynamic currency conversion (forms part of the foreign exchange spread and implicit in nature)	Exempt	Earned on international transactions and is calculated by spread
Foreign exchange spreads earned on credit cards	Exempt	
Issuance of loyalty points for use of card	Outside scope	This will only be outside scope if the points qualify as a "voucher" and the consideration received does not exceed the advertised face value. All contracts should be analysed in detail.
Redemption of loyalty points for use of card	Outside scope	Outside scope if there are no services received / provided by the financial institution, i.e. if the supply is between the merchant and the customer. All such contracts should be analysed in detail.
Cash rebate (award to customers)	Outside scope	Not a supply for VAT purposes
Cash back / profit sharing arrangement with selected merchants	Standard rate	Fee by bank for introducing business to the merchant
Fee and charges received by card brand companies	Standard rate	
Debit cards - all related fees	Standard rate	
Loan, mortgage and other credit facilities - all opening fees, processing fees, late payment fees, etc.	Standard rate	
Delayed payment penal interest charges	Exempt	Implicit fee, as it is based on interest
Recovery of non-performing loans - all related fees	Standard rate	
Hire purchase	Standard rate	Standard-rated as long as there is no implicit margin payment
Promissory notes	Standard rate	
Gold loans (lending interest)	Exempt	

Gold loans - transaction fees for gold certificates	Standard rate	
Foreign Exchange (FX) - sales and purchase fees	Standard rate	
FX realized profits and loss spot/ translation (spread income)	Exempt	
Company name change fees	Standard rate	Fees charged for name change of customers in bank systems
SMS services fee	Standard rate	
Disbursements, e.g. collection of legal fees; cost recoveries (repossessions, irrecoverable tracing fee, auctioneer's commission, storage fees, towing fees, legal fees); sales agent fees etc.	Outside scope	It is important that the services are supplied to the customer and not the financial institution for these to qualify as disbursements. All such contracts should be analysed in detail.
Settlement fees between banks	Standard rate	
Correspondent Bank services	Standard rate	These will be standard-rated unless there is no consideration and it is merely a pass through of the correspondent bank's fees.

Asset Management and Private banking

Fee Type/Activity	VAT Liability	Notes
Management fees, sales fees, distribution fees, performance fees, etc.	Standard rate	
Revenue sharing arrangements - revenue share between Asset Management company and Private Banking Business Unit (two different entities and not part of same Tax Group)	Standard rate	This is consideration for a supply.
Revenue share with third party companies on account of performance fee earned on funds	Standard rate	As above
Retrocessions / Rebates - commissions received from fund houses for routing customers for wealth-related transactions	Standard rate	
Recharge income (e.g. recharges of expenses paid on behalf of underlying funds managed) - Disbursement	Outside scope	It is important that the services are supplied to the customer and not the financial institution for these to qualify as disbursements. All such contracts should be analysed in detail.
Custody and Securities Services, Trustees Services	Standard rate	
Investment income - Interest income	Exempt	
Initial investment by fund manager	Outside scope	Not a supply for VAT purposes
Commissions for switching, transfers, incentive fees, etc.	Standard rate	

Equities trading

Fee Type/Activity	VAT Liability	Notes
Transaction fee income (Direct Fixed Income/Equities/FX)	Standard rate	
Brokerage fees charged to customers	Standard rate	
Interest received on fixed deposit placed with other banks	Exempt	
Interest charged to or earned from customers on facility granted for margin trading	Exempt	
Dividends received on investments	Outside scope	Not consideration for a supply for VAT purposes
Custody, processing fees etc.	Standard rate	
Operational Losses borne by the business and not recharged to the customer	Outside scope	Not a supply for VAT purposes
Supply of underlying commodity	Standard rate, Zero rate, Exempt	Will be dependent on the type of contract and the form of consideration
Initial/variation margin - futures	Outside scope	Not consideration for a supply
Option Premiums over equity and debt securities Arrangement fees, rollover fees	Exempt14 Standard rate	These are specifically exempt; other option premiums are taxable as they are explicit fees for a service
Upfront fees - premium for structured products	Standard rate	
Early Redemption fee	Standard rate	
Collection Fee in respect of Dividends, Interest, Coupons	Standard rate	
Securities Lending fee	Standard rate	
Manufactured dividends	Outside scope	Not a supply for VAT purposes
Manufactured interest	Exempt	
Advisory services, e.g. retainer, milestone and success fees	Standard rate	
Clearing fees	Standard rate	
Minimum Monthly Fees	Standard rate	

Transaction Banking

Fee Type/Activity	VAT Liability	Notes
Trade finance fees	Standard rate	
Letter of Credit fees	Standard rate	
Guarantee services fees	Standard rate	
Corporate lending - interest / profit which is akin to interest for Islamic loans	Exempt	
Corporate lending - all fees e.g. settlement, termination, upfront fees, etc.	Standard rate	
Commission in lieu of exchange	Standard rate	
Escrow fees	Standard rate	
Salary and pension payments - fees	Standard rate	

Institutional Banking

Fee Type/Activity	VAT Liability	Notes
Correspondent bank charges	Outside scope	It is important that the services are made by the correspondent bank to the customer and not by the financial institution in question for these to qualify as disbursements. Otherwise standard-rated.
Telex charges	Standard rate	
Interest received from other banks	Exempt	
Issue or transfer of debt securities	Exempt	
Securitisation of debt security	Exempt	
Transfer of a loan portfolio	Exempt	
Transfer of debt security	Exempt	
Sale of debts or receivables	Exempt	
Assignment of debt with full recourse	Exempt	
Asset finance - lending component of instalments	Exempt	If interest
Interest adjustment	Exempt	

Interest on late payment	Exempt	
Interest subsidy from dealer/ manufacturer	Exempt	Not a supply for VAT purposes
Admin and all other fees	Standard rate	
Principal component of instalments	Outside scope	

Corporate Finance / Investment Banking

Fee Type/Activity	VAT Liability	Notes
Interest on loans	Exempt	
All fee based services	Standard rate	

Treasury and Financial Markets

Fee Type/Activity	VAT Liability	Notes
All types of interest income:	Exempt	
Interbank Investment/ Placement:		
Hibah received on Wadiah placement	Exempt	
Profits from Mudarabah Interbank Investments (MII) and commodity Murabaha placement	Exempt	
Holding of Islamic Securities:		
Profits earned from holding of Islamic capital market instruments, i.e. IMTN, Sukuk, etc.	Exempt	
Profits earned from holding of Islamic money market instruments, i.e. Islamic negotiable instruments, etc.	Exempt	
Ta'widh (Late payment compensation)	Standard rate	Admin fee - the non-Islamic fee is also standard-rated
Trading gain on sales of Held-for-Trading (HFT) securities	Exempt	
Trading gain on Bonds / Notes /	Exempt	

Derivatives / Trading securities Trading as Principal - Government Stock, Treasury	Exempt	
Bills and Other Capital Market Transactions, Debentures etc.		
Marked-to-Market gain on HFT securities	Outside scope	Not a supply for VAT purposes
Actual revaluation on investments	Outside scope	
Market to market gains on derivatives / structured products	Outside scope	
Gain gain on sale of Islamic securities	Exempt	
Capital gain on sales of Available-for-Sales (AFS) securities	Exempt	
Discount on Purchase of Fixed Income Instruments	Exempt	
Dividend income on investments	Outside scope	
Income from FX forwards, FX revaluations, market to market, etc.	Exempt	
Capital gain on equity investments	Outside scope	Outside scope provided this is merely an accounting entry and consideration for a supply.
Issue of securities	Exempt	
Supply of underlying physical commodity requiring physical delivery	Standard rate, Zero rate	Dependent on the type of commodity
Supply of a futures / forward / swap / option agreement, where there is no physical delivery of the underlying commodity	Exempt	
Trading income earned on underlying securities	Exempt	
Trading gains	Exempt	
Full underwriting activity (where there is no explicit fee)	Exempt	
Issuance or sale of bonds	Exempt	

Redemption for the principal value	Outside scope	
Arrangement fee for underwriting, purchase or sale of bonds	Standard rate	
Managing the issue, placement, underwriting of new and existing securities	Standard rate	
Handling charges for payment or collection of dividends, principal or interest in respect of securities	Standard rate	
Fee for acting as receiving banker in connection with issue or placing of shares, stocks, etc.	Standard rate	

Islamic Finance

Fee Type/Activity	VAT Liability	Notes
Explicit fees (as per non-Islamic products)	Standard rate	
Fees made in accordance with Shariah law and considered to be the equivalent of non-Islamic products	Exempt	
Profit on deferred payment terms	Exempt	
Late payment charges (paid to charity)	Standard rate	Taxable as explicit fees like this are taxable for non-Islamic products
Murabaha / Tawaruq - purchase and sale of supplies	Outside scope	Generally, outside scope unless the non-Islamic product would be taxable
Commodity charges/fee	Standard rate	
Administration fee	Standard rate	
Ijarah - purchase of assets by bank	Outside scope	Generally, outside scope unless the non-Islamic product would be taxable
Principal component of instalments	Outside scope	
Administration fee	Standard rate	
Assessment fee	Standard rate	
Financing income (margin)	Exempt	This will be standard-rated if there is no credit charge in the non-Islamic equivalent

		(e.g. with some operating leases etc.)
Mudaraba - arrangement fee	Standard rate	
Administration fee	Standard rate	
Commissions based on profit margin or other implicit margin	Exempt	
Profit margins	Exempt	
Wakala - Management fee	Standard rate	
Administration fee	Standard rate	
Retention of excess profits	Exempt	
Profit margins	Exempt	

15.15.1 Bank Interest and Dividend[1]

The said Public Clarification discusses the VAT treatment applicable on passively earned interest income generated from bank deposits and dividend income.

a. Passively earned Interest Income

- When business does not do anything to earn Interest Income other than to merely deposit the money in the bank account, they are said to be earning Interest income passively.
- For earning such interest income, there is neither supply has been made by the business nor the received interest income is a consideration for a supply.
- Therefore, such passively earned Interest Income is outside the scope of VAT and should not be reported in the VAT Return.
- The above position only applies to interest derived from bank deposits and does not have any bearing to the interest generated from extending loans or credit, which are exempt supplies for VAT purposes.

b. Dividend Income

- The shareholder merely holds the shares to be eligible for the dividend income. Therefore, it can be constituted that Dividend is also a passive income
- To receive the dividend income, the shareholder is not neither making any supply and nor the dividend is consideration for a supply
- Therefore, such dividend income is outside the scope of VAT and are not to be reported in the VAT Return.

15.15.2 VAT Treatment of Options and Option Premiums

VATP014 clarifies the VAT treatment of financial options and option premiums in case of debt and equity securities and in case of commodity and non-debt and non-equity securities.

A financial option gives the holder the right to buy or sell the underlying financial instrument at a specific price, and an option premium is the fee received for selling an option.

The said Public Clarification states that supplies of options in respect of debt

[1]Section 15.15.1 - VATP010 - VAT Public Clarification
[2]Section 15.15.2 - VATP014 - VAT Public Clarification

securities and equity securities in return for premiums are exempt from VAT in accordance with clause 42 (1) of Executive Regulation.

However, it has been clarified that the same treatment should not be applied in respect of underlying commodities or other non-debt and non-equity instruments, where such options are supplied in return for explicit premiums, they will be taxable supplies.

Further, it also states that where a supplier has incorrectly treated the supply of exempt options as subject to VAT at 5% before 31 July 2019, they should issue a tax credit note for corrects the VAT treatment.

Output tax on such options which has been accounted for on a prior VAT return can be adjusted by the supplier in the VAT return for the period in which the credit note was issued.

Also in case of VAT-registered recipient of the supply that has already deducted input tax related to such a supply and receives a credit note to correct the VAT treatment would have to negative adjust the input tax in the tax return for the tax period in which the tax credit note was received.

Federal Tax Authority (FTA) has issued a public clarification to discuss the VAT Treatment on 'sale of options' in return for premiums. The clarification states whether sale of options for premium is an exempt supply or taxable supply and suggests the measures to adjust the wrong treatment of such sale done prior to 31 July 2019.

Meaning of option: A financial "option" gives the holder the right to buy or sell the underlying financial instrument at a specified price (premium).

Exempt supply: Article 42 of the Executive Regulation of UAE VAT Law specifies that the "issue, allotment, or transfer of ownership of an equity security or a debt security" is exempt for VAT purposes.

Definitions: Debt Security is defined as any interest in or right to be paid money that is, or is to be, owing by any Person, or any option to acquire any such interest or right. Equity Security is defined as any interest in or right to a share in the capital of a legal person, or any option to acquire any such interest or right.

Tax Implications: As may be seen from the definitions, debt securities and equity securities include options in acquiring underlying interest and rights. As

a consequence, options related to debt securities and equity securities are exempt from VAT.

Conclusion:

Below is the synopsis of the VAT treatment on sale of options for premium

Type of Securities	Tax Implications
Equity Securities	Exempt from VAT
Debt Securities	Exempt from VAT
Other than Equity and Debt Securities, for example, Commodities, etc.*	Taxable supply for VAT purpose

How to make the Adjustments:

The VAT Registered supplier who has incorrectly treated the exempt options as taxable at the rate of 5 percent before 31st July 2019, should issue a tax credit note to the recipient correcting the VAT treatments. Further, if a VAT Registered recipient has already deducted input tax in respect of the supply, the tax credit note will also trigger the requirement to make an input tax adjustment.

15.15.3 Financial Services Guide

Looking at the complexity involved in the Financial sector, the FTA issued detailed guide providing clarity on VAT treatment to be adopted for different nature of transactions and also provided for an extensive list of fees per (sub) category of financial services which it considers to be taxable for VAT purposes.

Standard-rated services

Supplies of financial services where an explicit fee, discount, commission, rebate or similar type of charge is made are subject to VAT at the standard rate of VAT (i.e. they are treated as taxable supplies) to the extent of the amount of that separately identifiable charge. VAT incurred on costs wholly attributable to the standard rated supply can be recovered in full.

Examples listed in the guide are as mentioned below :

Types of financial service	Examples of fees liable to standard rate VAT
Operation of a bank account	▶ subscription fee ▶ transaction services fee ▶ account opening or closing fee ▶ withdrawal fee ▶ deposit fee ▶ replacement card fee ▶ cheque book fee ▶ bank statement fee ▶ maintenance fee
Money transfers	▶ transfer fee
Cash	▶ SWIFT transfer fee ▶ cash handling fee ▶ cheque cashing fee ▶ fee for provision of change
Mortgages (including commercial mortgages)	▶ application fee ▶ valuation fee ▶ early repayment fee ▶ administration fee ▶ variation fee ▶ sales agent commission fee ▶ refinancing fee ▶ mortgage statement fee ▶ processing fee
Loans, advances or credit (including business loans) Investment banking	▶ set up fee ▶ documentation fee ▶ renewal fee ▶ sales commission ▶ participation fee ▶ advisory fee

Card-related services	▶ agency fee ▶ administration fee ▶ card fee ▶ authorization fee ▶ cash withdrawal fee ▶ ATM transaction fee ▶ cardholder fee ▶ statement fee ▶ lost card fee ▶ commission fee ▶ overdraft fee ▶ balance transfer fee
Currency exchange	▶ exchange fee ▶ handling fee
Provision of safe custody facilities	▶ safety deposit box fee

A more detailed list of charges for specific financial services is set out in this chapter.

- The supply of investment grade precious metals is also subject to VAT at the zero rate. VAT incurred on costs wholly attributable to a zero-rated supply can also be recovered in full.
- Exemption

Financial services, insofar as they are remunerated by way of an implicit margin or spread (i.e. no explicit fee is charged in respect of them) will be exempt from VAT (i.e. they are not treated as taxable supplies). Accordingly, this VAT treatment will also apply to interest payable in respect of borrowing.
VAT incurred on costs wholly attributable to the exempt supply cannot be recovered at all.

In all cases, the following classes of financial services shall be exempt from VAT:

- the issue, allotment, or transfer of ownership of an equity security or a debt security;
- the provision, or transfer of ownership, of a life insurance contract or the provision of re-insurance in respect of any such contract (more details on insurance is included in the Insurance Guide VATGIN1).

A detailed list of charges for specific financial services is set out at Appendix A.

- Exported services

The supply of financial services to a recipient established outside the GCC (whether or not they would otherwise have been exempt where supplied in the GCC) will be zero- rated (i.e. they are treated as taxable supplies).

Supplies of financial services to a recipient established within the GCC Implementing States have the following VAT treatments:

- where the recipient is registered or registerable for VAT in the GCC state in which the financial service is received, the supply is outside the scope of UAE VAT and the recipient is liable to account for the reverse charge in the GCC member state in which the supply is received, at the prevailing rate of VAT applicable to that service in that state.

Input tax which is wholly attributable to such supplies is recoverable whether or not the supplies in question would have been exempt or taxable in the UAE.

- where the recipient is not registered nor registerable for VAT in the GCC state in which the financial service is received, the place of that supply will be the UAE. In such instances, the supply will have the normal UAE VAT liability and related VAT recovery.

15.15.4 Imported Services

Where services are received from outside the GCC, those services will be liable to VAT at the standard rate where the supplies would be standard-rated supplies were they to be made in the UAE. In this scenario, the imported services will be subject to the reverse charge mechanism as if the importer had supplied these services to itself. The importing financial services institution must therefore account for the VAT incurred on the imported services. It will also be entitled to claim for the input tax on such services, subject to the usual rules of recovery, including those of input tax apportionment (see below).

15.15.5 Recovery of input tax

VAT incurred on costs which is partly attributable to taxable supplies and also to exempt supplies of financial services must be apportioned; only that part which is reasonably attributable to the taxable supply can be recovered. The supplier in question must make use of an 'input tax apportionment' method in order to determine the amount of input tax which it may recover in such circumstances.

15.16 Directorships

Where an individual is involved in a number of companies, he or she may be a director of each. Quite often one company may pay, for convenience, the total emolument the individual receives in respect of all the businesses and then recover appropriate proportions from the others. What is the VAT position where charges related to common directorships cross between companies?

There may be an argument that these charges are consideration for taxable supplies of the individual's time or of management services. In general, however, these charges do not represent supplies for VAT purposes because any services to which the charges relate, such as purely attending meetings or approving expenditure, can only be the director's supplies to the very companies of which he or she is director. These services are supplied directly to the relevant businesses and not across from one to another.

Only if there is clear evidence of a contract for the supply of the individual or his/ her services between companies will there be a supply of services.

Let's understand as to whether the activities of the directors constituted supplies of management services from the parent. Where directors act in a dual capacity, an assertion could be drawn that one company is supplying services to the other must be viewed with circumspection. As a proposition of law, there could never be supplies in such circumstances.

If a person who is a director of his company but accepts a post of director of another company. The directorship in new company will be treated as the course or furtherance of his profession, rather than simply being an employee, and so the fee will be taxable.

Where a company is exercising a legal or contractual right to appoint a director to a board of another company, this will normally be seen as a supply. This usually occurs in situations where one company is investing in another and the director is appointed because of their specialist knowledge in order to give expert advice to the investee company. Therefore, their services are above that of simply acting as a director and are more akin to a supply of staff. The terms of the appointment and the duties required of the director will provide insights of its treatment.

15.17 VAT on Educational Services in the UAE

Taxability

Article 45 (13) of the Federal Law No.8 of 2017 on Value-added Tax provides that the supply of educational services and related Goods and Services for nurseries, preschool, school education, and higher educational institutions owned or funded by Federal or local Government, as specified in the Executive Regulation of this Decree-Law shall be zero -rated.

Article 40 of its Executive Regulation (ER) provides that:

1. The supply of educational services shall be subject to the zero rate if the following conditions are met:
   a. The educational services is provided in accordance with the curriculum recognized by the federal or local competent government entity regulating the education sector where the course is delivered.
   b. The supplier of the educational services is an educational institution which is recognized by the federal or local competent government entity regulating the education sector where the course is delivered.
   c. Where the Supplier of educational services is a higher education institution, the institution is either owned by the federal or local government or receives more than 50% of its annual funding directly from the federal or local government.
2. A supply of Goods or Services made by educational institutions identified in Clause (1) of this Article shall be zero-rated where the supply is directly related to the provision of a zero-rated educational service.
3. Printed and digital reading material provided by educational institutions identified in Clause (1) of this Article and which are related to the curriculum of an education shall be zero-rated.
4. As an exception to Clause (2) of this Article, the following supplies shall not be zero-rated:
   a. Goods and Services supplied by the educational institution referred to in Clause (1) that are made available to Persons who are not enrolled in the educational institution.
   b. Any Goods other than educational materials provided by the educational institution referred to in Clause (1) that are consumed or transformed by the students undertaking the educational service for the purposes of education.2.
   c. Uniforms or any other clothing which are required to be worn by the educational institution referred to in Clause (1), irrespective of whether or not supplied by the educational institutions as part of the supply of educational services.
   d. Electronic devices in relation to educational services, irrespective of

whether or not supplied by the educational institution referred to in Clause (1) as part of the supply of educational services.

e. Food and beverages supplied at the educational institution referred to in Clause (1), including supplies from vending machines or vouchers in respect of food and beverages.

f. Field trips, unless these are directly related to the curriculum of an education service and are not predominantly recreational.

g. Extracurricular activities provided by or through the educational institution referred to in Clause (1) for a fee additional to the fee for the education service.

h. A supply of membership in a student organisation.

Analysis of the Above Article:

The supply of educational services by recognized Financial Institutions falls within the definition of supply of services as per Article 6 of VAT Decree Law. Accordingly,

- The supply of educational services by a government recognized educational institution (i.e. nurseries, preschool, and school) shall be taxed at zero percentage if it is provided in accordance with the curriculum recognized by the government.

Example

XYZ School in UAE is registered under VAT. As it is a school, it is a qualifying educational institution. Hence, XYZ School will not charge VAT on the tuition fees charged to students.

- The supply of higher education services shall be subject to zero rates only if the institutions providing educational services are either owned by the government or receives more than 50% of its annual funding directly from the government and the curriculum is recognised by the government.

Example

A private college, ABC Medical College, is registered under VAT. Since this college is not a qualifying educational institution, the course fees charged by ABC Medical College will be subject to VAT @ 5%.

15.17.1 Taxability of the supply of Goods and Services in direct relation to zero rated educational services:

Clause 2 of Article 40 of ER to VAT Decree Law states that:

A supply of Goods or Services made by educational institutions identified in

Clause (1) of this Article shall be zero-rated where the supply is directly related to the provision of a zero-rated educational service.

Analysis: If a 'qualifying educational institution' supplies other goods and services that are directly related to a zero-rated supply of education, they qualify for zero-rating as well. For example, books and digital reading material supplied by educational institutions that are related to the curriculum being taught also qualify for zero-rating.

School transportation: The provision of transportation to students from home to location of the education institution and vice versa will be exempt as per Article 46 of VAT Decree law. Accordingly, the input tax credit on the related expenses such as uniforms for drivers, fuel expenses shall not be available.

Student Accommodation: Student accommodation is included within the definition of residential accommodation, therefore the supply of student accommodation (other than the first supply of a new residential building) will be exempt from VAT. Educational institutions which also supply accommodation to students will be unable to recover VAT incurred on costs which directly relate to the provision of the accommodation.

Grant Income or Sponsorship received: In some cases, educational institutions may receive grant income or sponsorships from the Government or third parties. The VAT treatment of grant/sponsorship income depends on whether you are providing the donor with a benefit in return for the funding received. Where a benefit is provided, you are likely to be making a taxable supply of services for VAT purposes and should account for the VAT on the income received. A benefit could include e.g. naming an event after a sponsor, giving free of charge or reduced-price tickets in return for the sponsorship, displaying the sponsors logo in a predominant place on flyers etc. However, where there is no significant benefit received, the income will be treated as outside the scope of VAT.

Grant funded research: The VAT treatment of grant income received to fund research depends on the extent of the benefit provided to the funder of the research. Where the educational institution is required to provide certain deliverables in return for the funding and is required to provide the intellectual property and other products of the research to the funder then this will be a supply of research services and subject to VAT at 5%. However, where the funder does not receive anything in return for the funding other than incidental information e.g. progress updates, records of expenses, evidence that the

research has been conducted as requested, then this is will not be considered to be a supply of services by the educational institution and the grant income received will be outside the scope of VAT. VAT incurred on costs which are linked to an outside the scope supply and not linked to a taxable supply made by the business should not be recoverable as an overhead cost of the business in line with the business' input tax apportionment percentage.

Place of Supply:
Article 30 of VAT Decree Law states that the place of supply in case of provision of educational services shall be the place where such services were performed.

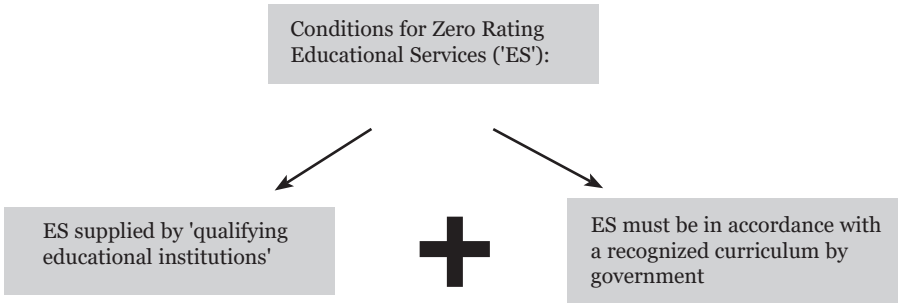
Accordingly, the place of supply in case of educational services shall be the place where the Educational Institution/School is located since that is the place from where the services are delivered/performed. Educational Institutes having branches in various Emirates should take into consideration the above while reporting the Emirate wise reporting in the VAT Returns.

Date of Supply:
Article 26 of VAT Decree Law states that the date of supply of Goods or Services for any contract that includes periodic payments or consecutive invoices shall be the earliest of any of the following dates, provided that it does not exceed one year from the date of the provision of such Goods and Services:

a. The date of issuance of any Tax Invoice.
b. The date payment is due as shown on the Tax Invoice.
c. The date of receipt of payment.

Accordingly, the date of supply in case of provision of educational services shall be triggered on the earliest of occurrence of above events.

Article in a Nutshell :



*The term ' educational services ' is not defined in UAE VAT Law.

*In the UAE at the Federal level, the education sector is regulated by the **Ministry of Education (MOE)**. At local level, Emirate wise authorities are responsible for regulating the education sector in their respective emirate for example; Department of Education and Knowledge in Abu Dhabi Emirate, **Dubai Education Council (DEC)** & Knowledge and Human Development Authority (KHDA) in Dubai Emirate etc.

Ready Reckoner of Applicable VAT rates for Education Sector:

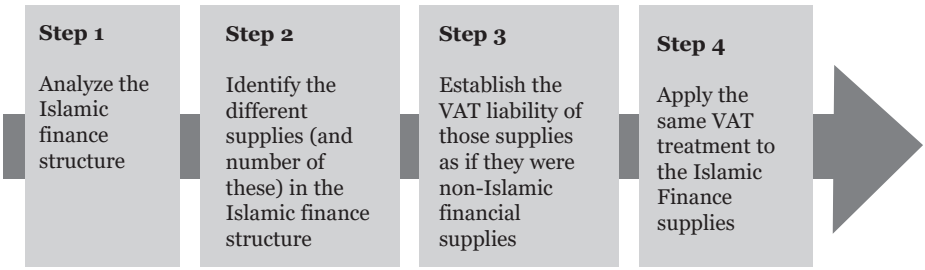
Sl. No.	Nature of transaction	Taxability
1	Nursery, Pre-school and School education by Educational Institution recognised by Government.	Zero - rated
2	Higher education provided by institutions owned by the Government or getting more than 50% of their funding from the Government	Zero - rated
3	Printed and digital reading material provided by qualifying educational institutions (Example : Books, textbooks)	Zero - rated
4	School Transportation to Students	Exempt Supply
5	Supply of Student Accommodation (other than the first supply of a new residential building)	Exempt Supply
6	School Uniforms	Standard rated (@5%)
7	Electronic Equipment Eg: Tablets, laptops.	Standard rated (@5%)
8	Food & Beverages provided in the canteen	Standard rated (@5%)
9	School trips for recreation	Standard rated (@5%)
10	Extracurricular Activities provided for an additional fee	Standard rated (@5%)
11	Supply of membership in a student organization.	Standard rated (@5%)
12	Goods/services provided by a business that is not an educational institution. (Example : Soft Skill Development courses, leadership trainings, etc. provided by professional firms)	Standard rated (@5%)

mechanism as if the importer had supplied these services to itself. The importing financial services institution must therefore account for the VAT incurred on the imported services.
It will also be entitled to claim for the input tax on such services, subject to the usual rules of recovery, including those of input tax apportionment (see below).

15.18 Islamic finance - VAT treatment

Principles
Any supply made under an Islamic financial arrangement10, which is certified as Shariah compliant, and which has the intention of and achieves effectively the same result as a non-Islamic financial product, shall be treated in such a way as to give an outcome for the purposes of the Law comparable to that which would be the case for its non-Islamic counterpart.
This is to ensure equality of VAT treatment between Islamic and non-Islamic finance products.

Article 42(1)(d): "Islamic financial arrangement" means a written contract which relates to a supply of financing in accordance with the principles of Shariah.
In determining the correct VAT treatment for Islamic finance products, the purpose, structure and pricing of the Islamic product will be considered Accordingly, in order to ascertain the VAT liability of an Islamic financial product, the following process should be followed.



Example
For example, a commodity Murabaha entered into for lending purposes will be treated as a loan for VAT purposes. Any explicit fees will be taxable, unless the fees are only made explicit as a requirement of Shariah law and where their non-Islamic equivalents would also be treated as exempt.

Accordingly, the profit derived from the supply of the commodity on deferred payment terms would be exempt if this is used de facto as a loan and the non-Islamic equivalent consideration is interest.

Non-equivalent products

It is recognized, however, that certain aspects of Islamic finance may preclude direct equivalence in VAT treatment being applied. In such cases, the underlying purpose, features and circumstances of the product concerned must be taken into account when determining the appropriate VAT treatment.

Any significant difference in the overall liability between an Islamic financial product and any non-Islamic counterpart arising as a consequence of differential treatment being applied will be addressed on a product by product basis.

Providers of particularly complex or non-standard Islamic financial products should analyse these carefully and consider seeking advice on the VAT liability of such products.

15.19 Other financial services - VAT treatment

Returns on investment

Where a financial service provider makes a payment which is a return on an investment, such as interest on deposits, dividends, drawings, etc. and where there is no service nor transaction provided in return for such a payment, then these returns on investment will be outside the scope of VAT.

Equity securities and debt securities

The issue, allotment, or transfer of ownership of an equity security or a debt security will be exempt from VAT. This also includes stocks and other securities.

Fees charged by brokers or dealers who act as intermediaries to the above types of transactions will be subject to VAT at the standard rate.

Share registrar, trading and settlement services which are provided in exchange for a fee, etc, will also be standard-rated. This includes fees charged for facilities provided by exchanges etc.

Where assistance is provided to a company with the management of shareholders and other financial stakeholders, payment of dividends, arranging annual general meetings and providing annual reports to shareholders, such services are standard-rated.

Portfolio management

The management of a portfolio of investments is subject to VAT at the standard rate.

Trustee services
Trustee services are subject to VAT at the standard rate.

Pensions and collective investments
Payments into a pension or a collective investment scheme are outside the scope of VAT. However, fees for the management of a pension fund or collective scheme are standard- rated.

Stock lending
The lending of shares is not subject to VAT. However, if a fee is charged for this service, it will be subject to VAT at the standard rate.

Interest Rate Swaps
Where banks and other financial institutions exchange fixed interest rates on their debts and there is no explicit fee for this service, this is exempt from VAT.

Currency Swaps
Where banks and other financial institutions undertake currency swaps and there is no explicit fee for this service, this is exempt from VAT.

Other Derivatives
Derivatives are financial instruments whose price depends on the value of the underlying financial instrument, commodity or currency to which the derivative relates.

Devising, advising on, originating and the issuing of derivatives and similar structured products is liable to VAT at the standard rate, where this is carried out for an explicit fee (e.g. arranger's fee, rollover fee, upfront fee). Where consideration is derived from an explicit premium, this is also standard-rated.
Trading in derivatives where income is derived from arbitrage, or gains from net margin or spread is exempt from VAT.

Trading income earned on the underlying financial instruments is also exempt.
The transfer of ownership of derivatives or of a futures contract in relation to commodities, where there is no delivery of the underlying commodity, is exempt from VAT where carried out on a margin (i.e. non-explicit fee) basis.
However, settlement of futures contracts by delivery of commodities is taxable at the appropriate rate of VAT for the underlying supply of those commodities.

Intermediation services
Services of intermediation are subject to VAT. For example, a financial advisor may act as intermediary in the arranging or sale of a financial product. Any fees or commissions they receive from either their customer or the financial service

provider for their services are standard-rated.

Preparatory services
Preparatory services that are carried out separately to and before a supply of a financial service, whether the financial service is exempt or taxable, are themselves standard-rated, for example, the preparation and delivery of data or undertaking a due diligence.

Debt recovery and litigation
Services related to debt recovery, litigation and the management of the recovery of debts due from debtors are subject to VAT at the standard rate. This includes all services related to debt factoring.

Leasing
The hire or leasing of equipment is subject to VAT at the standard rate. Ownership of the equipment does not transfer to the lessee under this type of contract; rather, the contract grants the right to use the equipment for a specified period of time. Where equipment is subsequently sold to a third party at the end of the lease, this sale is also subject to VAT.

Hire purchase, credit sales agreements, etc.
The supply of credit is exempt from VAT (where there is no explicit fee etc.), but if goods or services that are subject to VAT are supplied on credit, and the finance charge is included in the total amount payable by the buyer in instalments, then the total amount payable will be liable to VAT, as it will be subject to the same VAT treatment as the goods or services themselves.

However, if separate charges of interest are made for the provision of the credit and these are not included in the charge for the goods, these interest charges will be exempt from VAT.

NB: This treatment will apply to any business which provides credit facilities of this type,

e.g. retailers which have in-house credit providers or departments will be subject to this VAT treatment as well as banks or other financial service providers.

As noted above, explicit fees which are charged for the provision of credit, such as administration or set-up fees are subject to VAT at the standard rate.

15.20 VAT implications of outright sale of Cars

The supply of cars is subject to VAT at 5%. The date of supply is typically triggered by the earlier of one of the following events:

- the date on which the car is transferred to the customer;
- the date on which the customer took possession of the car;
- the date of receipt of payment; or
- the date of issuance of a tax invoice.

Where the contract for the sale of cars involves periodic payments or consecutive invoices, the date of supply2 is the earliest of any of the following dates provided that it does not exceed one year from the provision of the car:

- the date of issuance of a tax invoice;
- the date payment is due as shown on the tax invoice;
- the date of receipt of payment.

It should be noted that where the date of supply is triggered because a payment is made or a tax invoice is issued in respect of a supply of a car, VAT will only be due to the extent of the payment made or stated on the tax invoice, and the remainder of the due tax on that supply will be payable as and when further dates of supply are triggered.

15.20.1 VAT treatment under Hire purchase agreements

Under Hire-purchase agreement, there are 2 separate supplies take place.

Where a motor vehicle trader sells cars to customers under hire-purchase arrangements, two separate supplies take place for VAT purposes. The first supply is by the motor vehicle trader to the finance company; and the second supply is by the finance company to the customer.

For a car sold under such an arrangement, the motor vehicle trader transfers the ownership of the car to the finance company which lets the hirer use the car during the period of hire. The ownership of the car is passed to the hirer upon full payment of all the hire instalments.

a. VAT treatment: Motor Vehicle Trader

As a supplier making a supply of a car to the finance company, a motor vehicle trader is required to issue a tax invoice to the finance company and account for VAT on the sale price of the car.

b. VAT treatment: Finance company

The finance company is in turn required to issue invoices to the customer which

will generally have two components:

a. the hire instalments which are subject to VAT;
b. the interest amounts which are exempt for VAT purposes. However, if the finance charge is included in the total amount payable by the customer in instalments, then the total amount payable will be liable to VAT, as the amount will be subject to the same VAT treatment as the car itself.

VAT treatment on repossession of cars sold under Hire-purchase arrangements

It is possible that a finance company may have issued tax invoice(s) to a customer for a certain period but is not able to collect the debt before repossessing the car. As the finance company would have accounted for VAT at the time of issuing the invoice, it will be entitled to adjust the output tax under the Bad Debt Scheme provided the prescribed conditions are met.
In case finance company further sell the car to another customer, normal VAT treatment should be applicable.

15.20.2 Trade-Ins

It is a common practice for a customer to trade in an old car for a new car. In a trade-in situation, two separate supplies take place for VAT purposes:

a. The sale of the new car to the customer; and
b. The customer's sale of the old car to the motor vehicle trader.

For (a), the motor vehicle trader should account for VAT on the sales price of the new car. In computing the amount of VAT to charge on the sale of the new car, the motor vehicle trader should not net-off the trade-in value of the old car against the sales price of the new car.

The position stated above also applies to 'trade-in over allowances' where a motor vehicle trader agrees to purchase an old car for a value higher than the market value. In such a case also, while accounting for VAT on the new car, the motor vehicle dealer should not net-off the trade-in value (including the over allowance) of the old car.

Cars are often displayed by motor vehicle traders in their showrooms. For sales of cars to the public, a motor trader vehicle must display, advertise, publish or quote VAT-inclusive prices. This is required so that the customer knows upfront the price that is payable for the car. For example, if the car is priced at AED 100,000 and the VAT applicable on the sale is AED 5,000, a motor vehicle trader must advertise the price as AED 105,000 with a stipulation that the price includes VAT.

There are two exceptions to the above rule where the advertised price is not

required to be inclusive of VAT: (a) Where the supply of car is for export; and (b) Where the customer is registered for VAT. If any of the exceptions apply and a motor vehicle trader advertises the price as exclusive of VAT, it must clearly specify that the price is exclusive of VAT.

15.20.3 Price Display

Cars are often displayed by motor vehicle traders in their showrooms. For sale of cars to the public, a motor trader vehicle must display, advertise, publish or quote VAT-inclusive prices.

There are two exceptions to the above rule where the advertised price is not required to be inclusive of VAT: (a) Where the supply of car is for export; and (b) Where the customer is registered for VAT. If any of the exceptions apply and a motor vehicle trader advertises the price as exclusive of VAT, it must clearly specify that the price is exclusive of VAT.

15.20.4 Sale of cars to foreign governments, international organisations, diplomatic bodies and missions

Sale of cars to foreign governments, international organisations, diplomatic bodies and missions, or an official thereof, are also subject to VAT at 5%. The foreign governments, international organisations, diplomatic bodies, missions or an official thereof may, however, seek a refund of such VAT incurred under the special VAT refund 5 scheme prescribed in the VAT legislation.

Sale of used car in the UAE will be subject to VAT @5%. Supplier can account for Profit Margin scheme if eligibility conditions are fulfilled.

Leasing of car whether long/short lease of car will be subject to VAT @5%.

VAT treatment on recharge of salik by motor vehicle trader - This can be illustrated by below example :

A motor vehicle trader, XYZ LLC, leased a car to a tourist for three months. The customer regularly used one of the toll roads which resulted in salik being deducted from the vehicle's account. The lease contract stipulated that the cost of salik will be recharged by XYZ LLC to the customer.

The salik deducted from the account is essentially a cost incurred by XYZ LLC to provide car leasing services to the customer. The recharge of such a cost is subject to VAT and should be included in the taxable value of the supply.

Conditions for direct and indirect export of cars

15.20.5 Direct export from car delear to overseas customer :

1. Where the motor vehicle trader is responsible for arranging the transport of sold cars from the UAE or appoints an agent to do so on its behalf (this is known as a "direct export"), the supply can be zero-rated if the following conditions are met:
   - The cars are physically exported to a place outside the Implementing States (currently, this is any country outside the UAE) or are put into a customs suspension regime in accordance with GCC Common Customs Law within 90 days of the date of the supply.
   - Official and commercial evidence of export or customs suspension is retained by the exporter i.e. the motor vehicle trader.
2. Where the "overseas customer" is responsible for arranging the collection of the cars from the motor vehicle trader in the UAE and then exporting the cars or has appointed an agent to do so on his behalf (this is known as an "indirect export"), the supply can be zero-rated if the following conditions are met:
   - The cars are physically exported to a place outside the Implementing States or are put into a customs suspension regime in accordance with GCC Common Customs Law within 90 days of the date of the supply under an arrangement agreed by the motor vehicle trader and the overseas customer at or before the date of supply.
   - The overseas customer obtains official and commercial evidence of export or customs suspension in accordance with GCC Common Customs Law, and provides the motor vehicle trader with a copy of this.
   - The cars are not used or altered in the time between supply and export or customs suspension, except to the extent necessary to prepare the cars for export or customs suspension.

It should be noted that one of the common conditions for zero-rating of exports is that the supplier (in the case of a direct export) or the recipient (in the case of an indirect export) must obtain official and commercial evidence of export.

Official evidence means export documents issued by the local Emirate Customs Department in respect of any car leaving the UAE - this would require the exporter to retain a certificate issued by the relevant Customs Department proving the exit of the car from the UAE (for example, an exit certificate or a similar document evidencing the export).

On the other hand, commercial evidence refers to a document issued by commercial parties which provides evidence of the transportation of the car to outside the UAE. Acceptable commercial evidence includes airway bills, bills of

lading, consignment notes, and certificates of shipments.

The purpose of the requirements to obtain official and commercial evidence of export is to ensure that there is sufficient proof that the transaction has taken place and the car has actually left the UAE. As such, the official and commercial evidence of export must identify the following:

- the supplier;
- the consignor;
- the goods (i.e. car);
- the value of the goods (i.e. car);
- the export destination; and
- the mode of transport and route of the export movement.

Where the above conditions for zero-rating are not met, or if the car in question is not exported from the UAE or put into a customs suspension regime within the required period of 90 days, the motor vehicle trader should account for VAT on the supply at the default rate of 5%.

Due to nature of business in case exporter is not in a position to obtain evidence prescribed under Article 30 of ER, exporter can apply for an exception from FTA.

Multiple sale of cars resulting in single export
It is common in the automotive sector that a single export is supported by two or more underlying sales of cars. In such instances where a single export is supported by two or more underlying supplies, only the final supply can be zero-rated.

For example:

- A Customer based in the USA orders a car from a motor vehicle trader "X" (based in the UAE);
- "X" purchases the car from another motor vehicle trader "Y" (also based in the UAE) but does not take delivery of the car;
- "Y", at the request of "X", exports the car directly to the customer in USA.

In the above example, there are two separate underlying transactions but one export of car and accordingly the VAT treatment will be:

- The supply of the car from Y to X is a local supply in the UAE and VAT at the rate of 5% must be accounted for on this supply;
- The supply of the car from X to the customer in the USA is zero-rated as an export subject to the satisfaction of the relevant conditions. It is important to note that in this example, Y is acting as an agent to export the car on behalf of X and, therefore, the export documents must demonstrate this fact clearly, for

example, in the remarks section of the customs declaration

15.20.6 Warranty services included in the price of the car

As VAT would have already been accounted for on the original supply of the car (including on the price for the warranty), no further VAT implications will arise at the time of providing the actual repair services. It should be noted that the input tax incurred on carrying out the warranty repair services will be recoverable since it was incurred in the making of taxable supplies. This position will also apply to the sale of used cars where a motor vehicle dealer has accounted for VAT under the Profit Margin Scheme (provided the cost of warranty is included in the price of the used car).

15.20.7 Warranty services supplied for extra charge

The extended warranty is provided for a separate charge and the supplier undertakes to rectify any defect in the car during the additional period and does not charge any further amount to carry out actual repair service. The supply of an extended warranty is a taxable supply of services which is subject to VAT at 5%.

15.20.8 Reimbursement of repair costs by distributor from manufacturers

Where a distributor is involved in the supply chain, the manufacturer's warranty is essentially passed on to the end customer. Such arrangements, therefore, allow the distributor to recover the costs incurred in honoring the warranty on behalf of the manufacturer. The supply made by the distributor under a warranty arrangement with the manufacturer is a separate supply for VAT purposes and taxable at standard rated as the services are provided directly in connection with goods (i.e. the car) situated in the UAE.

15.20.9 Auctions

The VAT treatment of auctions depends on whether the auctioneer is acting as a principal supplier or as an agent on behalf of another person.

15.20.10 Auctioneer acting as the principal supplier

This arrangement is also known as "undisclosed agency" where two supplies take place for VAT purposes i.e.
(i) between the seller and the auctioneer; and
(ii) between the auctioneer and the end customer

15.20.11 Auctioneer acting as the agent of principal supplier

Under this arrangement, auctioneer provides the marketplace and assistance in

the process of selling the cars belonging to others through the auction. This arrangement is also known as "disclosed agency".

It should be noted that in situations where the auctioneer makes a sale of car as an agent on behalf of a principal seller, it is the obligation of the principal seller, rather than the auctioneer, to correctly comply with their tax obligations in respect of the sale. It is common for auctions that payments for the sold cars are made by the buyer to the principal supplier through the auctioneer. Where this is the case, the auctioneer would be expected to pass on the VAT charged by the principal supplier to that supplier, in order to enable the supplier to account for this VAT to the FTA.

The FTA expects the auctioneer to maintain sufficient documents to establish that the sale was made directly by the principal supplier to the customer and the auctioneer only acted as an intermediary. Such documents could include: a contract (if any) between the principal seller and the auctioneer; a copy of an invoice issued by the principal seller to the customer; the invoice issued by the auctioneer to the principal seller for his commission etc.

15.20.12 Issuance of tax invoices by auctioneer on behalf of the principal supplier

In the event that a taxable supply is made at an auction, it is a requirement that a tax invoice is both issued and delivered to the buyer of the car

Pursuant to Article 59(11) of the Executive Regulation, a VAT-registered agent which makes a supply on behalf of a VAT-registered principal supplier may issue their own tax invoice in respect of the supply with the particulars of the agent, as if that agent had made the supply of goods or services itself (the invoice should, however, contain a reference to the principal supplier, including the supplier's name and TRN on the invoice). If the agent does issue a tax invoice on behalf of the principal supplier under this provision, the principal supplier should not issue any other tax invoice in respect of the same supply. Furthermore, the principal supplier remains responsible for accounting for the VAT on the supply to the FTA and still must comply with all other tax obligations in respect of the supply

15.20.13 Commission charged by auctioneer

VAT treatment for the commission/premium charged by auctioneer is standard-rated and auctioneer must charge VAT on commission and should report in the VAT return.

Promotions and discounts

Free promotional gifts

Where the motor vehicle trader recovers input tax on the purchase of the gift and in turn supplies such a gift free of charge, the free supply will be subject to the deemed supply provisions specified in Article 11 (1) of the Decree Law. However, if the motor vehicle trader does not recover input tax on the purchase of the gift, the deemed supply provisions specified in Article 12(1) will not apply.

15.20.14 Discounts

Where the discount/payment actually reduces the original value of the car, the manufacturer should issue a credit note to reduce the value. Alternatively, if the discount/payment is received because the motor vehicle dealer has performed a specific activity, the motor vehicle dealer should issue a tax invoice and charge VAT at the appropriate rate depending on the nature of the supply.

15.10.15 Input tax recovery on the purchase, rent or lease of a company car

Please note that the fact that a car is taken home by an employee will not of itself preclude a taxable person from recovering input tax provided the reason for this is to ensure that the vehicle is available for emergency purposes, or the nature of the job (and vehicle) is such that it requires the employee to keep the vehicle with himself/herself. The key point, however, is whether the vehicle will be available for personal purposes as well. Where the vehicle is available for personal purposes, the input tax incurred on the purchase, rent or lease of the vehicle is blocked in full.

It is important to note that where the input tax on the purchase, rent or lease of a company car is blocked, a taxable person should not recover input tax incurred on associated expenses such as insurance, maintenance, servicing etc

15.20.16 Demo cars

As a demo car cannot be sold at the full retail value, the manufacturer may agree to make a one-off payment in respect of each demo car to compensate the trader for the lower retail value. Where the payment made by the original manufacturer is a genuine reduction of the original sales price, such a payment will be considered as a retrospective discount. In such a case, the original manufacturer should issue a credit note to reduce the original sales price. In contrast, if the payment relates to any obligations assumed by the motor vehicle trader to perform a specific activity (such as marketing services), the payment will be treated as consideration for a taxable supply and the motor vehicle trader will be required to issue a tax invoice and charge VAT at the appropriate rate depending on the nature of the supply.

Where the payment made by the original manufacturer is a genuine reduction of the original sales price, such a payment will be considered as a retrospective discount. In such a case, the original manufacturer should issue a credit note to reduce the original sales price.

In contrast, if the payment relates to any obligations assumed by the motor vehicle trader to perform a specific activity (such as marketing services), the payment will be treated as consideration for a taxable supply and the motor vehicle trader will be required to issue a tax invoice and charge VAT at the appropriate rate depending on the nature of the supply.

VAT was implemented in the UAE on 1 January, 2018. Over the span 5 years, there has been remarkable developments; we have outlined below the major amendments, which may have bearings on businesses.

The UAE VAT law No. 18 of 2022 is (as published in the Gazette No. 736 on 28 September, 2022) to become effective from 1 January, 2023. We have outlined below key changes, along with our comments for the reader's reference:

Article No.	Extract from Federal Decree-Law No. 18 of 2022	Andersen Comments on key changes
1	Pure Hydrocarbons: Any of the various pure compounds of the chemical formula consisting solely of hydrogen and carbon (CxHY). **Relevant Charitable Activity:** An activity for the purpose other than profit or benefit to any proprietor, member, or shareholder of the Charity, which is undertaken by the Charity in the course or furtherance of its charitable purposes or objectives to carry out a charitable activity in the State as approved by the competent authorities, or under the conditions of its establishment as a charity under Federal or Emirate legislation, decree or decision, or as otherwise licensed to conduct a charitable activity by an entity that grants such licenses on behalf of the Federal or Emirate Government. **Business:** Any activity conducted regularly, on an ongoing basis and independently by any Person, in any location, such as industrial, commercial, agricultural, professional, **vocational**, service or excavation activities or anything related to the use of tangible or intangible properties. **Tax Evasion:** The Person's use of illegal means, resulting in the reduction of the amount of the Due Tax, non-payment thereof, or a refund of Tax that the Person did not have the right to have refunded. **Tax Audit:** A procedure undertaken by the authority to inspect the commercial records, or any information, data or goods related to a person to verify the fulfilment of its obligations in accordance with the provisions of this Decree Law or the Tax Procedures Law. **Tax Assessment:** Shall mean the tax assessment as	▶ Certain terms have been defined in the new UAE VAT law - most of these definitions are already from the Tax Procedures law. ▶ The Amendment of VAT Law has a few minor additions/ clarifications/ language changes to the existing definitions.

Article No.	Extract from Federal Decree-Law No. 18 of 2022	Andersen Comments on key changes
	defined in the Tax Procedures Law. **Voluntary Disclosure:** A form prepared by the authority pursuant to which the taxpayer notifies the authority of any error or omission in the tax return, tax assessment or tax refund application in accordance with the provisions of the tax procedures law.	
5	**Tax Procedures Law:** Federal Law No. 7 of 2017 on tax procedures and its amendments, and any other federal law replacing it. The following shall be considered a supply of Goods: 1. Transfer of ownership of the Goods or the right to use them to another Person according to what is specified in the Executive Regulation of this Decree-Law. 2. Entry into a contract between **two or more parties** entailing the transfer of Goods at a later time, pursuant to the conditions specified in the Executive Regulation of this Decree-Law	Definition of the supply of goods is expanded to include the instance wherein more than two parties enter into a contract entailing transfer of goods on a later date.
7	As an exception to what is stated in Articles 5 and 6 of this Decree-Law, the following shall not be considered a supply: 1. The sale or issuance of any Voucher unless **the Consideration received in respect thereof** exceeds its advertised monetary value, as specified in the Executive Regulation of this Decree-Law. 2. The transfer of whole or an independent part of a Business from a Person to a Taxable Person for the purposes of continuing the Business that was transferred. 3. **Any other supply specified in the Executive Regulation of this Decree-Law.**	▶ Definition of the supply of services is expanded to include any other supply specified in the Executive Regulation (ER).

Article No.	Extract from Federal Decree-Law No. 18 of 2022	Andersen Comments on key changes
13	1. Every Person, who has a Place of Residence in the State or an Implementing State, shall register for Tax in the following situations: a) Where the total value of all supplies referred to in Article 19 **of this Decree-Law** exceeded the Mandatory Registration Threshold over the previous 12-month period. b) Where it is anticipated that the total value of all supplies referred to in Article 19 of this Decree-Law will exceed the Mandatory Registration Threshold in the next 30 days. 2. Every Person, who does not have a Place of Residence in the State or an Implementing State, shall register for Tax if he makes supplies of Goods or Services, and where no other Person is obligated to pay the Due Tax on these supplies in the State. 3. The Executive Regulation of this Decree-Law shall specify the time limits **within which the** Person has to inform the Authority of his liability to register for Tax and the effective date of Tax Registration.	
15	1. The Authority may except a Taxable Person from Tax Registration **whether a Registrant or not**, upon his request if his supplies are only subject to the zero rate. 2. **Where any changes in the Business of the Taxable Person excepted from Tax Registration according to Clause 1 of this Article, result or may result in the absence of the reason based on which the Taxable Person was excepted, the Taxable Person shall inform the Authority of such changes within the time limits and pursuant to the procedures determined by the Executive Regulation of this Decree-Law.** 3. The Authority shall have the right to collect any Due Tax and Administrative Penalties for the period **during which the Taxable Person was excepted where it is established by the Authority** that the Taxable Person was not entitled to this exception.	▶ A tax registrant (person already registered for VAT) could also request for an exception from VAT registration if all the supplies made by it qualifies for zero-rating.

Article No.	Extract from Federal Decree-Law No. 18 of 2022	Andersen Comments on key changes
21	1. A Registrant shall apply to the Authority for Tax deregistration in any of the following cases: a) If he stops making Taxable Supplies. b) If the value of the Taxable Supplies made over a period of 12 consecutive months is less than the Voluntary Registration Threshold and the Registrant does not meet the condition stipulated in Clause 2 of Article 17 of this Decree-Law. **2. The Authority may, in accordance with the controls and conditions specified in the Executive Regulation of this Decree-Law, issue a Tax deregistration decision, if the Authority finds that continuity of such Tax Registration may prejudice the integrity of the Tax system.** **3. Tax deregistration shall not result in the relinquishment of the Authority's right to claim any Due Tax or Administrative Penalties.**	▶ Tax de-registration does not relinquish FTA's right to claim the due tax or impose penalties. ▶ FTA has right to deregister any registered person if they may cause any harm to the tax system.
26	1. The date of supply of Goods or Services for any contract that includes periodic payments or consecutive invoices shall be the earliest of any of the following dates: a) The date of issuance of any Tax Invoice. b) The date payment is due as specified on the Tax Invoice. c) The date of receipt of payment. **d) The date of expiration of one year from the date the Goods or Services were provided.** 2. The date of supply, in cases where payment is made through vending machines, shall be the date on which funds are collected from the machine. 3. The date of Deemed Supply of Goods or Services shall be the date of their supply, disposal, change of usage or the date of deregistration, as the case may be.	▶ It is now more explicitly clear that in the case where the date of supply was not triggered earlier (i.e. by the date of tax invoice, or date of payment, or payment's due date), the date of supply will be determined maximum on the date on which one year has passed from the date on which the goods or services are provided.

Article No.	Extract from Federal Decree-Law No. 18 of 2022	Andersen Comments on key changes
	4. The date of a supply of a Voucher shall be the date of issuance or supply thereafter.	
27	1. The place of supply of Goods shall be in the State if the supply was made in the State and does not include Export from or Import into the State. 2. The place of supply of installed or assembled Goods if exported from or imported into the State shall be: a) In the State, if assembly or installation of the Goods was done in the State. b) Outside the State, if assembly or installation of the Goods was done outside the State. 3. The place of supply of Goods that includes Export or Import shall be as follows: a. Inside the State in the following instances: 1. If the supply includes exporting to a place outside the Implementing States. 2. If the Recipient of Goods in an Implementing State is not registered for Tax in the state of destination, and the total exports from the same supplier to this state does not exceed the Mandatory Registration Threshold for such state. 3. **If** the Recipient of Goods in the State does not have a Tax Registration Number, and the total exports from the same supplier in an Implementing State to the State exceeds the Mandatory Registration Threshold. **4. If Clause 1 of Article 26 of this Decree-Law applies, and the ownership of Goods is transferred in the State.** b) Outside the State in the following instances: 1. **If** the supply includes an Export to a customer registered for Tax purposes in one of the Implementing States. 2. **If** the Recipient of Goods is not registered for Tax in the Implementing State to which export is made, and the total exports from the same supplier to this Implementing State exceeds the Mandatory Registration Threshold for such	For export of goods wherein Article 26 (i.e., contracts including periodic payments or consecutive invoicing) of the VAT law applies, the date of supply will be in the UAE.

Article No.	Extract from Federal Decree-Law No. 18 of 2022	Andersen Comments on key changes
	state. 3. **If** the Recipient of Goods does not have a Tax Registration Number and the Goods are Imported from a supplier registered for Tax in an Implementing State from which import is made, and the total value of **imported Goods** from the same supplier to the State do not exceed the Mandatory Registration Threshold. 4. Goods shall not be treated as exported outside the State and then reimported if such Goods are supplied in the State and this supply required that the Goods exit and then re-enter the State according to the instances specified in the Executive Regulation of this Decree-Law.	
30	As an exception to what is stipulated in Article 29 of this Decree-Law, the place of supply in special cases shall be as follows: 1. Where the Recipient of Services has a Place of Residence in an Implementing State and is registered for Tax therein, the place of supply shall be the Place of Residence of the Recipient of Services. 2. Where the Recipient of Services is in Business and has a Place of Residence in the State, and the Supplier does not have a Place of Residence in the State, the place of supply shall be in the State. 3. For the supply of Services provided on Goods, such as installation of Goods supplied by others, the place shall be where said Services were performed. 4. For the supply of means of transport to a lessee who is not a Taxable Person in the State and does not have a TRN in an Implementing State, the place shall be where such means of transport were placed at the disposal of the lessee. 5. For the supply of restaurant, hotel, and food and drink catering Services, the place shall be where such Services are actually performed. 6. For the supply of any cultural, artistic, sporting, educational or any similar services, the place shall be where such Services were performed. 7. For the supply of Services related to real estate as specified in the Executive Regulation of this	

Article No.	Extract from Federal Decree-Law No. 18 of 2022	Andersen Comments on key changes
	Decree-Law, the place of supply shall be where the real estate is located. 8. For the supply of transportation Services or Transport-related Services, the place of supply shall be where the transportation starts. The Executive Regulation of this Decree-Law shall specify the place of supply for transportation Services and Transport-related Services if the trip includes more than one stop.	
33	The Place of Residence of the **principal** shall be **considered** as being the Place of Residence **of the agent in any of the following cases:** 1. If the agent regularly exercises the right of negotiation and enters into agreements in favor of the principal. 2. If the agent maintains a stock of Goods to fulfil supply agreements for the principal regularly.	▶ The amended Article outlines the instances wherein the place of residence of principal shall be considered as the place of residence of the agent.
36	As an exception to Articles 34, 35 and **37** of this Decree-Law, the value of the supply or Import of Goods or Services between Related Parties shall be considered equal to the market value if **all of the following** conditions are met: 1. The value of the supply is less than the market value. 2. If the supply is a Taxable Supply and the Recipient of Goods or Recipient of Services does not have the right to recover the full Tax that would have been charged on such supply as Input Tax.	▶ The provisions of Article 36 are also an exception from Article 37 of the VAT law ▶ Amendment of VAT Law clarifies that where a deemed supply occurs between related parties, the value of supply would be determined by the market value.
45	The zero rate shall apply to the following Goods and Services: 1. A direct or indirect Export **of Goods and Services** to outside the Implementing States as specified in the Executive Regulation of this Decree-Law. 2. International transport of passengers and Goods which starts or ends in the State or passes through its territory, including Transport-related Services. 3. Air passenger transport in the State if it is considered an "international carriage" pursuant to Article 1 of the Warsaw Convention for the	▶ Import of qualifying means of transport/ import of concerned goods related to the supply of qualifying means of transport would also be eligible for zero-rating. ▶ Import of air or sea rescue and assistance aircrafts or vessels would also be eligible for zero-rating.

Article No.	Extract from Federal Decree-Law No. 18 of 2022	Andersen Comments on key changes
	Unification of Certain Rules Relating to International Carriage by Air 1929. 4. Supply **or Import** of air, sea and land means of transport for the transportation of passengers and Goods **as per the criteria and conditions** specified in the Executive Regulation of this Decree-Law. 5. Supply of Goods or Services, or **Import of Concerned Goods**, related to the supply of the means of transport mentioned in Clause 4 of this Article and which are designated for the operation, repair, maintenance or conversion of these means of transport. 6. Supply or **Import of air or sea** rescue and assistance aircrafts or vessels. 7. Supply of Goods and Services related to the transport of Goods or passengers aboard air, sea and land means of transport pursuant to the provisions of Clauses 2 and 3 of this Article, designated for consumption on board; or anything consumed by any means of transport, any installations or addition thereto or any other use during transportation. 8. The supply or Import of investment precious metals. The Executive Regulation of this Decree-Law shall specify the precious metals and the standards based on which they are classified as being for investment purposes. 9. The first supply of residential buildings within 3 years of its completion, either through sale or lease in whole or in part, according to the controls specified in the Executive Regulation of this Decree-Law. 10. The first supply of buildings specifically designed to be used by Charities through sale or lease according to the controls specified in the Executive Regulation of this Decree-Law. 11. The first supply of buildings converted from non-residential to residential through sale or lease according to the conditions specified in the Executive Regulation of this Decree-Law. 12. The supply or **Import of** crude oil and natural gas. 13. The supply of educational services and related	▶ Import of concerned goods related to the supply of preventive and basic healthcare Services.

Article No.	Extract from Federal Decree-Law No. 18 of 2022	Andersen Comments on key changes
	Goods and Services for nurseries, preschool, school education, and higher educational institutions owned or funded by Federal or local Government, as specified in the Executive Regulation of this Decree-Law. 14. The supply of preventive and basic healthcare Services and related Goods and Services, and **Import of concerned related Goods** according to what is specified in the Executive Regulation of this Decree-Law.	
46	The following shall be exempt from Tax: 1. **Supply of** financial services that are specified in the Executive Regulation of this Decree-Law. 2. Supply of residential buildings through sale or lease, other than that which is zero-rated according to Clauses 9 and 11 of Article 45 of this Decree-Law. 3. Supply of bare land. 4. Supply of local passenger transport. The Executive Regulation of this Decree-Law shall specify the conditions and controls for exempting the supplies mentioned in the preceding clauses of this Article.	
48	1. If the Taxable Person imports Concerned Goods or Concerned Services for the purposes of his Business, then he shall be treated as making a Taxable Supply to himself and shall be responsible for all applicable Tax obligations and accounting for Due Tax in respect of these supplies. 2. As an exception to Clause 1 of this Article, in case the final destination of the Goods when entering the State is another Implementing State, the Taxable Person shall pay the Due Tax on Import of Concerned Goods pursuant to the mechanism specified by the Executive Regulation of this Decree-Law. 3. If a Registrant makes a Taxable Supply in the State to another Registrant of any crude or refined oil, unprocessed or processed natural gas, or **Pure Hydrocarbons**, and the Recipient of these Goods intends to either resell the purchased Goods as	▶ The term any hydrocarbons is replaced with pure hydrocarbons. The definition or pure hydrocarbons is also included in Article 1, this narrows down the scope only to Pure Hydrocarbon. ▶ Procurement of any crude or refined oil, unprocessed or processed natural gas, or Pure Hydrocarbons would for the purposes of use for production or distribution of any form of energy would not trigger reverse charge mechanism implications.

Article No.	Extract from Federal Decree-Law No. 18 of 2022	Andersen Comments on key changes
	crude or refined oil, unprocessed or processed natural gas, or Pure Hydrocarbons, or use these Goods to produce or distribute any form of energy, the following rules shall apply: a) The Registrant making the Supply shall **not account** for Tax on the value of the supply of the Goods **referred to in this Clause**. b) The Recipient of the Goods shall calculate the Tax on the value of the Goods supplied to him and shall be responsible for all applicable Tax obligations and for calculating the Due Tax in respect of such supplies. 4. The provisions of Clause 3 of this Article shall not apply in any of the following situations: a) Where, before the Date of Supply, the Recipient of Goods has not provided a written declaration to the supplier that his acquisition of the Goods is for the purpose of resale**, or use for production or distribution of any form of energy**. b) Where, before the Date of Supply, the Recipient of Goods has not provided a written declaration to the supplier that he is a Registrant and the supplier has not verified the Tax Registration of the Recipient of Goods by means approved by the Authority **based on the data provided in the declaration.** c) Where the Taxable Supply would be subject to Tax at the **zero rate** in accordance with Clause 1 of Article 45 of this Decree-Law. d) Where the Taxable Supply includes a supply of Goods or Services other than the Goods referred to in Clause 3 of this Article. 5. Where a Recipient of Goods of any crude or refined oil, unprocessed or processed natural gas, or **Pure Hydrocarbons** declares in writing to the supplier that he is a Registrant for the purposes of applying Clause 3 of this Article, the following shall apply: a) The supplier shall not be liable for **accounting** for the Tax in relation to the supply unless he was aware or supposed to be aware, that the	▶ A cabinet decision is awaited outlining the other Goods or Services that are subject to the reverse charge mechanism. ▶ Taxable person shall adjust output tax after the date of supply not only if the tax was charged in error but also if the application of the tax treatment was incorrect (e.g., where it was treated as exempt/zero rated instead of taxable at 5%)

Article No.	Extract from Federal Decree-Law No. 18 of 2022	Andersen Comments on key changes
	Recipient was not a Registrant at the Date of Supply. b) The Recipient shall be liable for the calculation of Due Tax in respect of the supply. 6. If the supplier mentioned in Paragraph (a) of Clause 5 of this Article is supposed to be aware that the Recipient of Goods was not registered at the Date of Supply, the supplier and the Recipient of Goods shall be jointly and severely liable for any Due Tax and relevant penalties in respect of the supply. 7. The Executive Regulation of this Decree-Law shall specify: a) Conditions and instances where the mechanism in Clause 1 of this Article applies. b) Additional obligations related to record keeping in relation to accounting for Tax according to the mechanism in Clause 1 of this Article. 8. **The Cabinet may issue a decision specifying other Goods or Services that are subject to the reverse charge and specify the relevant conditions and provisions.**	
55	1. Taking into consideration the provisions of Article 56 of this Decree-Law, the recoverable Input Tax may be deducted through the Tax Return relating to the first Tax Period in which the following two conditions have been satisfied: a) **If any of the following cases has occurred:** 1. The Taxable Person receives and retains the Tax Invoice as per the provisions of this Decree-Law, provided that the Tax Invoice includes the details of the supply related to such Input Tax, or keeps any other document pursuant to Clause 3 of Article 65 of this Decree-Law in relation to the Supply on which Input Tax was paid. **2. The Taxable Person imports the Goods, and receives and retains invoices and Import documents in accordance with the provisions of this Decree-Law and its Executive Regulation in relation to the Import on which Input Tax was paid or declared.**	▶ Condition for recovery of input VAT upon import of goods/services is included. ▶ Addition of the requirements to keep **invoices and import documentation** (i.e. for goods only) in the scenarios where input VAT is recovered as per the reverse charge mechanism applicable to the importation of goods or services.

Article No.	Extract from Federal Decree-Law No. 18 of 2022	Andersen Comments on key changes
	3. The Taxable Person imports the Services, and receives and retains invoices in accordance with the provisions of this Decree-Law and its Executive Regulation in relation to the Import on which Input Tax was declared. b) The Taxable Person pays the Consideration or any part thereof, as specified in the Executive Regulation of this Decree-Law. 2. If the Taxable Person entitled to recover the Input Tax fails to do so during the Tax Period in which the conditions stated in Clause 1 of this Article have been satisfied, he may include the recoverable Input Tax in the Tax Return for the subsequent Tax Period.	
57	**1. Without prejudice tothe general provisions of Input Tax recovery**, Government Entities and Charities entitled to recover the full amount of Input Tax shall be determined in a Cabinet Decision issued upon the recommendation of the Minister, according to the following: a) Input Tax paid by the Government Entity for the purposes of its Sovereign Activities. b) Input Tax paid by the Charity for the purposes of its Relevant Charitable Activity. 2. As an exception to the provisions of Clause 1 of this Article, the following shall be excluded from recovery: a) Tax excluded from recovery as specified in the Executive Regulation of this Decree-Law. b) Tax paid for Goods and Services used to perform Exempt Supplies.	▶ Input tax paid by government entities/ charitable activities included in the cabinet decision yet to be published for conducting their respective sovereign activities/charitable activities shall be recoverable in full except the input tax specially disallowed.
61	1. A Registrant shall adjust Output Tax after the date of supply in any of the following instances: a) If the supply was cancelled. b) If the Tax treatment of the supply has changed due to a change in the nature of the supply. c) If the previously agreed Consideration for the supply was altered for any reason.	▶ Taxable person shall adjust output tax after the date of supply not only if the tax was charged in error but also if the application of the tax treatment was incorrect (e.g., where it was treated as exempt/ zero rated instead of

Article No.	Extract from Federal Decree-Law No. 18 of 2022	Andersen Comments on key changes
	d) If the Recipient of Goods or Recipient of Services returned them to the Registrant in full or in part and the Consideration was returned in full or in part. e) If the Tax was charged **or Tax treatment was applied** in error. 2 Paragraph (e) of Clause 1 of this Article shall not apply where the place of supply was treated by the supplier at the Date of Supply as being subject to Clause 1 of Article 27 of this Decree-Law, but, as a result of a movement of the Goods, it **transpired** that the Place of Supply sh**o**uld have been subject to Sub-Paragraph 1 of Paragraph (b) of Clause 3 of the same Article. 3. In order to adjust the Output Tax any of the following conditions shall be met: a) If the Output Tax amount charged on the supply stated in the Tax Invoice does not match the Tax that should actually be charged on the supply as a result of any of the events mentioned in Clause 1 of this Article. b) If the Registrant submits a Tax Return for the Tax Period during which the supply occurred and an amount was incorrectly calculated as being the amount of Output Tax due for this supply as the result of any of the events mentioned in Clause 1 of this Article.	taxable at 5%)
62	The Output Tax shall be adjusted according to the following: 1. If the Output Tax due for the supply exceeds the Output Tax calculated by the Registrant, the Registrant shall issue a new Tax Invoice for the additional amount of Tax and calculate the additional Tax due for the Tax Period during which such an increase was identified. 2. If the Output Tax calculated by the Registrant exceeds the Output Tax which should have been charged on the supply, the Registrant shall issue a Tax Credit Note according to the provisions of this Decree-Law **within 14 days from the date in which any of the situations provided for in Clause 1 of Article 61 of this Decree-Law took place**.	▶ A Tax Credit Note should be issued within 14 days from the date in which the requirement for its issuance is triggered.

Article No.	Extract from Federal Decree-Law No. 18 of 2022	Andersen Comments on key changes
65	1. A Registrant making a Taxable Supply shall issue an original Tax Invoice and deliver it to the Recipient of Goods or Recipient of Services. 2. A Registrant making a Deemed Supply shall issue an original Tax Invoice and deliver it to a Recipient of Goods or Recipient of Services if available or keep it in his records if there is no Recipient of Goods or Recipient of Services. 3. The Executive Regulation of this Decree-Law shall specify **all of the** following: a) Data to be included in the Tax Invoice. b) The conditions and procedures required to issue an electronic Tax Invoice. c) Instances where the Registrant is not required to issue and deliver a Tax Invoice to the Recipient of Goods or the Recipient of Services. d) Instances where other documents may be issued in place of the Tax Invoice as well as the conditions thereof and the data to be included therein. e) Instances where a Person may issue a Tax Invoice on behalf of the registered supplier. 4. Any Person receiving an amount as Tax or **issuing a Tax Invoice in respect of an amount,** must pay such amount to the Authority, and **this amount shall be regarded as being similar to Due Tax under the provisions of this Decree-Law.**	▶ The tax amount captured in a tax invoice is liable to be paid to the FTA.
67	1. The Registrant shall issue a Tax Invoice within 14 days from the date of supply as stated in Article 25 **or Article 26** of this Decree-Law. **2. The Executive Regulation of this Decree-Law shall determine the cases that are subject to periods other than that specified in Clause 1 of this Article, or the cases in which the Tax Invoice shall be issued immediately in accordance with the controls specified therein.**	Amendment of VAT Law included a reference to Article 26 (i.e. continuous supplies) requiring the registrant to issue a tax invoice within 14 days as of the date of supply determined by it.
74	1. Subject to the provisions of the Tax Procedures Law and its Executive Regulation, and **without prejudice to the Authority's right to offset in accordance with the provisions of Clause 2**	

Article No.	Extract from Federal Decree-Law No. 18 of 2022	Andersen Comments on key changes
	of this Article, the Taxable Person shall be entitled to apply to the Authority to recover excess Recoverable Tax, or part thereof, in accordance with the time limits and procedures specified in the Executive Regulation of this Decree-Law, in the following cases: a) If the Taxable Person's Recoverable Input Tax set forth in this Decree-Law exceeds the Output Tax payable for the same Tax Period. b) If the Tax paid to the Authority by the Taxable Person exceeds the Payable Tax according to the provisions of this Decree-Law, other than in the instance mentioned in Paragraph (a) of Clause 1 of this Article. 2. The Authority shall offset the excess Recoverable Tax against the Payable Tax, or any Administrative Penalties imposed in accordance with the provisions of this Decree-Law or Tax Procedures Law. 3. If no request is submitted to recover the excess after offsetting, the excess Recoverable Tax will be carried forward to the subsequent Tax Periods.	
74	Without prejudice to the provisions of the **Tax Procedures Law**, the Authority shall issue an Administrative Penalty Assessment to the Person and notify the Person of the same within 5 business days from the date of issuance in any of the following cases: 1. Failure by the Taxable Person to display prices inclusive of Tax according to Article 38 of this Decree-Law. 2. Failure by the Taxable Person to notify the Authority of applying Tax based on the margin according to Article 43 of this Decree-Law. 3. Failure to comply with the conditions and procedures related to keeping the Goods in a Designated Zone or moving them to another Designated Zone. 4. Failure by the Taxable Person to issue the Tax invoice or an alternative document when making any Supply. 5. Failure by the Taxable Person to issue a Tax Credit	

Article No.	Extract from Federal Decree-Law No. 18 of 2022	Andersen Comments on key changes
	Note or an alternative document. 6. Failure by the Taxable Person to comply with the conditions and procedures regarding the issuance of electronic Tax Invoices and electronic Tax Credit Notes.	
77	**Without prejudice to the instances of Tax Evasion referred to in the Tax Procedures Law**, if it is proven that a Person who is not a Registrant acquires Goods referred to in Clause 3 of Article 48 of this Decree-Law, claiming that he is a Registrant, he shall be considered as having committed Tax Evasion and shall be penalised in accordance with the Tax Procedures Law.	
79 (bis)	1. Except in cases under Clauses 2, 3, 6, 7 of this Article, the Authority may not conduct a Tax Audit or issue a Tax Assessment to the Taxable Person after the expiration of 5 years from the end of the relevant Tax Period. 2. The Authority may conduct a Tax Audit or issue a Tax Assessment to the Taxable Person after 5 years from the end of the relevant Tax Period, if he has been notified of the commencement of such Tax Audit's procedures before the expiration of the 5-year period, provided that the Tax Audit is completed or the Tax Assessment is issued, as the case may be, within 4 years from the date of notification of the Tax Audit. 3. The Authority may conduct a Tax Audit or issue a Tax Assessment after the expiration of 5 years from the end of the relevant Tax Period if such Tax Audit or Tax Assessment issuance relates to a Voluntary Disclosure submitted in the fifth year from the end of the Tax Period, provided that the Tax Audit is completed or the Tax Assessment is issued, as the case may be, within one year from the date of submission of the Voluntary Disclosure. 4. The Cabinet may, according to a suggestion by the Minister, issue a Decision to amend the period specified for the completion of the Tax Audit or the issuance of the Tax Assessment as per Clauses 2 or 3 of this Article. 5. No voluntary disclosure may be submitted after the expiration of 5 years from the end of the relevant Tax Period.	▶ Given the recent surge in audits conducted by FTA in, the inclusion of this Article clearly demonstrates the seriousness with which FTA would treat a non-compliance from a VAT perspective. ▶ The FTA in general cannot conduct a tax audit or issue a tax assessment after the expiration of 5 years from the end of the relevant tax period. However, as an exception to the general rule, the instances wherein the general rule would be overruled are outlined below: 1) If a notification of tax audit is issued before the expiry of the 5-year period, the tax audit could be completed, or the tax assessment could be issued, within four years from the date of the notification of the tax audit. For instance: If the notification for conducting the tax audit

Article No.	Extract from Federal Decree-Law No. 18 of 2022	Andersen Comments on key changes
	6. In the case of Tax Evasion, the Authority may conduct a Tax Audit or issue a Tax Assessment within 15 years from the end of the Tax Period in which the Tax Evasion occurred. 7. In case of Tax Registration failure, the Authority may conduct a Tax Audit or issue a Tax Assessment within 15 years from the date on which the Taxable Person should have registered for Tax. 8.The statute of limitation set forth in this Article shall be interrupted for any of the reasons provided for in the Federal Law No. 5 of 1985, promulgating the Civil Transactions Law, or any other Federal law replacing it.	is issued on 31 October 2022, then even after completion of a five-year period from the end of the tax period October 2017 FTA could still audit the same within a four-year period. 2) In cases wherein the tax audit or tax assessment issuance relates to a submission of Voluntary Disclosure in the fifth year from the end of the relevant tax period, the tax audit could be completed, or the tax assessment could be issued, within one year from the date of submission of the Voluntary Disclosure 3) In instance of tax evasion, the FTA may conduct a tax audit or issue a tax assessment within 15 years from the end of the tax period in which the tax evasion occurred. 4) If a Taxable Person fails to apply for VAT registration within the prescribed period, the FTA may conduct a tax audit or issue a tax assessment within 15 years from the date on which the Taxable Person was liable to register. As Voluntary Disclosures could not be submitted after five years from the end of the relevant tax period, the mechanism to report the unpaid VAT pertaining to such periods upon identification after a

Article No.	Extract from Federal Decree-Law No. 18 of 2022	Andersen Comments on key changes
		period of five years still remain in question.
80	1. If the supplier receives Consideration or part thereof or issues an invoice for Goods or Services before the Decree-Law comes into effect, the date of supply shall **be considered to be** the effective date of the Decree-Law in the following instances if they occur after the effective date of the Decree-Law: a) Transfer of Goods under the supervision of the supplier. b) Placing the Goods at the recipient's disposal. c) The completion of assembly or installation of the Goods. d) The issuance of the customs declaration. e) The acceptance by the Recipient of Goods of the supply. 2. If a contract has been concluded prior to the enforcement of this Decree-Law, regarding a supply to be wholly or partly made after the effective date of this Decree-Law, but such contract does not contain clauses related to Tax on the supply, it shall be treated as per the following: a) The Consideration shall be considered inclusive of Tax if chargeable according to this Decree-Law. b) Tax shall be calculated on the supply regardless of whether it has been taken into account when determining the Consideration for the supply. 3. The Executive Regulation of this Decree-Law shall **determine the provisions for the application of the Decree-Law where a contract has been concluded before the effective date of this Decree-Law but the Goods and Services were supplied wholly or partly after the effective date of this Decree-Law.**	

Article No.	Extract from Federal Decree-Law No. 18 of 2022	Andersen Comments on key changes
83	In the absence of any special provision in this Decree-Law, the provisions of the Tax Procedures Law shall be applied.	

The FTA also made amendments to the VAT Executive Regulations (ER). The Cabinet issued Cabinet Decision No. 99 of 2022 amending the provisions of articles 3 and 72 of the ER on 21 October, 2022 which shall be effective from 1 January, 2023. We have outlined below key changes along with our comments for the reader's reference:

Article Number	Cabinet Decision No. 99 of 2022 - Issued 21 Oct 2022 (Effective from 1 Jan 2023)	Andersen Comments on key changes
Article 3 - Supply of Services	1. A supply of Services shall be every supply that is not considered a supply of Goods, including any of the following: a. The granting, assignment, cessation, or surrender of a right. b. The making available of a facility or advantage. c. Not to participate in any activity, or not to allow its occurrence, or agree to perform any activity. d. The transfer of an indivisible share in a Good. e. The transfer or licensing of intangible rights, for example rights of authors, inventors, artists, rights in trademarks, and rights which the legislation of the State deems to be within such category. 2. As an exception to Clause 1 of this Article, the functions of a member of a board of directors, performed by a natural person appointed as such, for any government entity or private sector establishment, shall not be considered a supply of Services.	Article 3 of the VAT ER introduced a new clause (No.2) stipulating that the functions of a member of a board of directors, performed by a natural person appointed as such, for any government entity or private sector establishment, are no longer considered a supply of services for VAT purposes. FTA also issued Public Clarification VATP031 clarifying certain aspects of the amendment in more detail. Public Clarification clarified that for the provision of directors' services not to be considered as a supply of services for VAT purposes provided. ▶ Services are provided by a natural person - this amendment does not extend to a legal person ▶ Appointed person is a director on a Board of any government entity or private sector establishment *Normal provisions of the UAE VAT Law shall apply for other services*

Article No.	Cabinet Decision No. 99 of 2022 - Issued 21 Oct 2022 (Effective from 1 Jan 2023)	Andersen Comments on key changes
		provided by the person.
Article 72 - Record Keeping of the Supplies Made	1. The records of all Goods and Services supplied by the Taxable Person or on his behalf showing the Goods and Services, suppliers and their agents, shall be kept and retained in sufficient detail to enable the Authority to readily identify Goods and Services, suppliers, and agents. 2. Without prejudice to Article 78 of the Decree-Law, the Taxable Person who makes a Taxable Supply of Goods or Services in the State must keep records of the transaction to prove the Emirate in which the Fixed Establishment related to this supply is located. 3. As an exception to Clause 2 of this Article, if the Taxable Person who makes any Taxable Supply of Goods or Services does not have a Fixed Establishment in the State, the following shall apply: a. If he has a Place of Establishment in the State, he must keep records of the transaction to prove the Emirate in which the Place of Establishment is located. b. In the event that he does not have a Place of Establishment in the State, he must keep records of the transaction to prove the Emirate in which the supply is received. 4. As an exception to Clauses 2 and 3 of this Article, if the value of the Taxable Supplies made by the Taxable Person through electronic commerce exceeded (100,000,000) one hundred million dirhams during the calendar year, he must keep records of the transaction to prove the Emirate in which the supply is received in the period specified in Clause 6 of this Article. 5. For the purposes of Clause 4 of this Article, electronic commerce refers to the process of selling Goods or Services through electronic means, an electronic platform, a store in social media, or electronic applications in accordance with criteria and conditions determined by the Minister. 6. For the purpose of implementing the provisions of Clause 4 of this Article, the provisions of Taxable Supplies via electronic commerce shall apply to a Taxable Person as follows:	Cabinet Decision amended the provisions of Article 72 of the VAT ER to introduce specific record keeping requirements for taxable supplies made through electronic commerce. The amendment to Article 72 introduced: ▶ a definition for electronic commerce, ▶ a threshold of which taxpayers would be required to apply the record keeping mechanism, and ▶ a specific time period to comply with the amendments. Electronic commerce definition As per clause 5 of Article 72, electronic commerce refers to the process of selling goods or services through electronic means, an electronic platform, a store in social media, or electronic applications in accordance with criteria and conditions determined by the Minister. Threshold ▶ Taxable persons making taxable supplies through electronic commerce are required to keep records of the transaction to prove the Emirate in which the

Article No.	Cabinet Decision No. 99 of 2022 - Issued 21 Oct 2022 (Effective from 1 Jan 2023)	Andersen Comments on key changes
	a. From the first Tax Period that begins on or after 1 July 2023 for 18 months for the Taxable Person whose Taxable Supplies made via electronic commerce exceeded the threshold prescribed in Clause 4 of this Article during the calendar year ending 31 December 2022. b. For two years commencing from the first Tax Period of the calendar year that begins after the date on which the Taxable Supplies made by the Taxable Person through electronic commerce exceeded the threshold prescribed in Clause 4 of this Article.	supply is received. ▶ The new record keeping requirements applies to Taxable Persons making taxable supplies through electronic commerce exceeding AED 100 million per calendar year. Effective start date The new record keeping requirements shall apply: - Starting from the first tax period beginning on or after 01 July 2023 and for a period of eighteen (18) months for the Taxable Person whose taxable supplies made through electronic commerce exceed the AED 100 million threshold during the calendar year ending on 31 December 2022. ▶ For a period of two (2) years starting from the first tax period of the calendar year that begins after the date of which taxable electronic commerce supplies exceed the AED 100 million threshold.

Amendments and Changes in Law: A Ready Reference

Federal Decree Law No.28 of 2021 on Tax Procedures Law (TPL) shall be replaced with the Federal Decree law No. 28 of 2022 on Tax Procedures with effect from 1 March, 2023. We have outlined below salient amendments to the new version of the TPL for the reader's ready reference.

- Certain definitions have been amended and there are certain new terms which have been defined in the amended law.
- FTA would have the right to allocate the excess money or excess tax credit of a taxpayer to settle/allocate outstanding tax liabilities.
- Submission of Voluntary Disclosures (VD) application would be required to rectify any errors even including those with no tax impact (reporting of zero-rated supplies, exempted supplies, etc.).
- Tax audit notification shall be provided before 10 business days of the initiation of an audit (It was 5 business days in the previous version).
- Maximum limit on administrative penalties imposed in a tax assessment would be reduced to 2 times the tax amount (3 times in the previous version) and the minimum penalty limit of AED 500 has been removed. This would provide a major relief to the taxpayers.
- Tax refunds would not be kept on hold during the tax audit, subject to certain conditions.
- Revised penalties for Tax crimes (evasion cases) have been outlined, including prison sentence, monetary penalty up to AED 1 million, depending on circumstances. Various other provisions are also included in the list of penalties for tax evasion cases.
- Statute of limitation of 5 years from the end of the relevant Tax period, would not apply provided an audit notice is issued before the expiry of 5 years and the FTA completes the audit or issues a Tax Assessment within 4 years from the date of the notice.
- Statute of limitation will be extended by one year in case the VD application is filed in the fifth year from the end of the relevant tax period.
- VD application cannot be filed after the end of 5 years from the end of the relevant tax period.
- New provisions are included outlining the responsibilities, conditions for registration and record-keeping requirements for Tax Agents, along with the penal implications on Tax agents for non-compliances.
- Taxpayers would be able to Request a Tax Assessment Review within 40 business days of receiving the Tax Assessment subject to certain conditions. This is an addition of a new layer to the tax dispute process prior to the

submission of reconsideration application.

The Federal Tax Authority (FTA) issued cabinet decision Numbers 68 and 69 of 2022 amending the list of charities **eligible for input tax recovery** outlined in Cabinet Decision No 55 of 2017. We have attached the decision for your ready reference. The said cabinet decision is effective from **10 August, 2022** and the charities included in the decisions will be able to recover the input tax incurred by them in full except the input tax incurred for making exempt supplies. Further, we have outlined below the noteworthy nuances in respect of charities and designated charities in a nutshell.

- VAT is a general consumption tax imposed on most supplies of goods and services in the UAE. In that respect it will, by default, be chargeable on goods and services supplied by charities in the UAE, where the charity is registered for VAT. Charities will, therefore, be subject to the usual rules of VAT regarding the making of supplies.
- Charities will typically make a mixture of supplies of goods and services with differing VAT liabilities. Where such goods and services are supplied for a charge, this becomes a business activity, which may result in the making of a taxable supply for VAT purposes and VAT will have to be charged where the charity is considered to be a Taxable Person. Charities will be able to recover VAT on costs, which directly relate to onward activities, which are liable to VAT, subject to the normal VAT recovery rules applicable to all businesses.
- **Designated charities*** have a 'special VAT recovery rule', wherein they may recover VAT on any expenses incurred (included for supplies made for charity) provided:
  - Expenses do not relate to exempt supplies made by the charity or
  - Recovery of input tax related to those expenses is not specifically 'blocked' from recovery.

Therefore, where a designated charity is not engaged in exempt activities, it may treat all VAT incurred on costs as fully recoverable unless the VAT is explicitly blocked from recovery.

**Charity needs to meet the following 4 criteria to be recognised as a designated charity for VAT purposes:*

1. *The charity must be:*
   a. *approved by the Ministry of Community Development to carry out a charitable activity in the UAE as a designated charity, or*
   b. *established as a charity under Federal or Emirate Decree, or*
   c. *otherwise licensed to operate as a designated charity by an agency of the Federal or Emirate Governments authorised to grant such licenses,*

with its objectives including for instance, advancing health, education, public welfare, religion, culture, science, and similar activities;

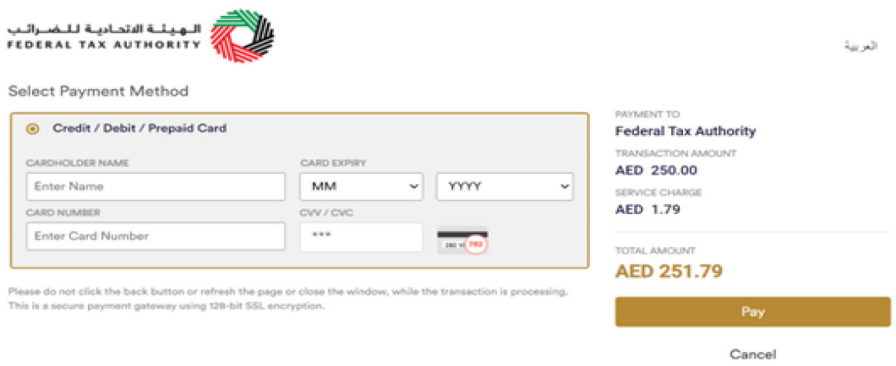
2. *The charity must operate within the terms of any approval, license or other authorisation which has been granted by the aforementioned bodies in respect of its charitable activities;*
3. *The charity must operate on a not-for-profit basis;*
4. *The charity must be funded primarily by means of grants or donations.*

The FTA launched a new electronic payment method 'MAGNATI' for paying all types of liabilities effective from 30 October, 2022.
Below we have outlined salient features for the reader's ready reference:

- Payments on the Magnati platform could be made through Credit card/ Debit card/Prepaid card.
- It is pertinent to note that the service charges have been reduced substantially from 2% to 0.714% and these service charges are inclusive of all taxes.

It is expected that the payment user guide is to be updated with the new payment methods very soon. We have included two screenshots from the payment tab of the FTA e-services portal depicting the Magnati platform.

Screenshot 1



Implementation of EmaraTax

To minimise disruption to taxpayers, the FTA has has migrated to EmaraTax with effect from 5 December 2022.

EmaraTax significantly enhances the way that taxpayers can access the FTA's services, pay their taxes and obtain refunds. The new online platform also greatly enhances the ability of the FTA to administer taxes in the UAE, and enables better, faster decision-making and earlier engagement with taxpayers who need support.

The new online platform aligns with the UAE Digital Government Strategy 2025 and the directives of His Highness Sheikh Mohammed bin Rashid Al Maktoum, Vice President and Prime Minister of the UAE, Ruler of Dubai, to leverage emerging technologies and build a solid digital infrastructure that serves the people and business community of the UAE.

Taxpayers will be able to benefit from the improved and feature-rich online platform designed to revolutionise the way they manage their taxes. Additionally, the FTA will continue until the first quarter of next year to launch additional services and features in phases, including an EmaraTax application for mobile phones.

Emaratax has introduced numerous features and forms with which taxpayers can manage their tax compliances/ obligations in an efficient manner.

Processes of submission of tax returns, claiming of tax refunds, administrative exceptions, technical clarifications, etc has enhanced.

A ready rechoner of the ever-changing Value Added Tax (VAT) law in the United Arab Emirates (UAE), this book provides deep insights, practical solutions and an overview of the associated regulations.

Intended for practicing tax consultants, students, teachers, entrepreneurs or simply those who are interested in learning, Essentials of *UAE VAT Law* explains the rules, regulations, processes and procedures of the VAT law in a systematic way, with examples and simulated situation analysis. The interpretation of the letter of the law and its implementation, along with a detailed guide to the litibation process in the UAE, are provided in extremely simple terms, without losing the finer nuances of the legal aspect. The rationale behind each aspect of the law, too , have been thoroughly covered.

A few highlights of this edition are:

- Legal aspects - interpretation of UAE VAT Law
- Practical insights
- Illustrative examples
- Scenario-based concepts with tax implications
- Industry-specific guidance
- Guidance on tax litigation in the UAE

Anurag Chaturvedi is a Chartered Accountant and has been practicing tax law in the global financial markets for over 20 years. Currently, he is the Chief Executive Officer & Managing Partner of Andersen in the United Arab Emirates and the former Chairman of the Institute of Chartered Accountants of India, Dubai Chapter.