

7. The Authority shall notify the Person whether or not his application to be listed in the Register has been accepted or rejected within (20) business days from the date of the Authority's approval of the application.
8. Listing in the Register shall be valid for three years from the date of registration. The relevant Person shall be required to renew his listing before expiration of such period according to the mechanism determined by the Authority.
9. The Authority may de-list the Tax Agent from the Register in any of the following cases:
 - a. If it was proven to the Authority that the Person is not eligible to be a Tax Agent.
 - b. If the Authority found that the continued registration of the Person as a Tax Agent would adversely affect the integrity of the Tax system.
 - c. If he committed a significant violation of the provisions of Law or Tax Law.
10. Upon de-listing a Person from the Register, the Authority shall notify that Person regarding the de-listing within (5) business days of the decision and provide reasons for the decision.
11. Where a Person appoints a Tax Agent to act in his name and on his behalf, the Tax Agent shall:
 - a. Assist the Person with his Tax obligations according to a contractual agreement between the Person and the Tax Agent.
 - b. Without prejudice to any obligations in the Law, maintain the confidentiality of any information obtained in the course of performing his duties as a Tax Agent.
 - c. Refuse to participate in any work or plan which may result in a breach of any law by any Person or may jeopardize the integrity of the tax system.
12. In performing his duties as a Tax Agent, the Tax Agent may rely on information provided to him by the Person unless the Tax Agent has reasonable grounds for believing that the information may be incorrect.

22.3 TAX AGENT - GETTING STARTED GUIDE

FTA has come up with a guide on Tax Agent in order to provide guidance and assist any person aspiring to be a tax agent and get into the business of tax agency. The same has been produced below for quick reference.



Tax Agency - Getting Started Guide



Tax Agency- Getting Started Guide

1. Overview

You are about to apply for registration as a Tax Agency in the UAE.

You should read the following information before proceeding with the completion of your application for Tax Agency registration. It will help you understand whether or not you are eligible to register to be a Tax Agency and, if so, the information you will need to provide in order to complete your application. It also provides you with helpful information about how to use the online application system for Tax Agency registration.

2. Important basics about Tax Agent registration

a. What is a Tax Agency?

A Tax Agency is a legal entity which is licensed to operate as a Tax Agency and has registered with the FTA as a Tax Agency.

b. What registration enable a Tax Agency to do?

Once registered, a Tax Agency can operate as a Tax Agency business provided that it has at least one registered Tax Agent associated with it.

3. Registration criteria

You must meet **both** of the following conditions before you apply for registration as a Tax Agency:

1. You must hold a business or trade license that allows the applicant to operate as a Tax Agency (usually issued by the Department of Economic Development, "DED"); and
2. You must have professional indemnity insurance in respect of your Tax Agency business.

4. Important information about using the online Tax Agent application form

a. Information required to complete the registration application

During the application process, you will be asked for various documents. It is recommended that you have the following documents to hand prior to starting your application.

- business or trade license; and



- professional indemnity insurance

You are required to upload copies of documents in some cases. Accepted file types are PDF, JPG, PNG and JPEG. The individual file size limit is 2 MB.

b. How long will the application process take?

The online application form should take approximately 15 - 20 minutes to complete.

c. Save as you go

It is recommended that you save your form as you work through it by clicking the "save and next" button at the bottom of the form. **Your entries will not be saved automatically.**

For data security purposes, the online registration system will automatically **log you out after a period of 10 minutes of inactivity.**

d. Taking care

Please provide as much accurate information as you can. Failure to do so could lead to delays in processing your application and ultimately, could lead to your application being rejected. All sections marked with an asterisk (*) must be completed, otherwise you will not be able to submit the form.

5. What happens next?

Once your application has been submitted, the FTA may have to contact you should we have questions about your application or if we require additional information.

Your application will not progress and will be shown as "Pending" on your eServices portal until you have provided the necessary information required.

In all cases, if we do not believe that you have met the criteria necessary for Tax Agency registration, your application will be rejected.

If your application is approved, you will receive a **Tax Agency Number (TAN)**. You must then link a registered Tax Agent to your registered Tax Agency business before you will be able to represent any clients for tax related matters.

If you have a question about your application, you can submit a Service Request on the eServices portal.

PART - C

TRANSACTION SPECIFIC GUIDE

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MODULE 1

DESIGNATED ZONE

ARTICLES OF FEDERAL DECREE LAW ON VAT APPLICABLE TO THIS MODULE	
Article (50)	Designated Zone
Article (51)	Transfer of Goods in Designated Zones
Article (52)	Exceptions for Designated Zone
ARTICLES OF EXECUTIVE REGULATION ON VAT APPLICABLE TO THIS MODULE	
Article (51)	Designated Zone
CABINET DECISION NO. (59) OF 2017 ON DESIGNATED ZONES	
Article (1)	Designated Zones
Article (2)	Amending the list of Designated Zones
Article (3)	Issuance of Executive Decisions
Article (4)	Repeal of Conflicting Provisions

1.1 INTRODUCTION

Before we start our discussion on discussion on designated zones, we must first of all understand the meaning and significance of free zones for the businesses in UAE.

Free-trade zones in the United Arab Emirates are areas that have a special tax, customs and imports regime and are governed by their own framework of regulations (with the exception of UAE criminal law). The UAE has several free zones across all emirates of UAE. Free zones can be broadly categorized as sea port free zones, airport free zones, and mainland free zones. There are over 45 free zones in UAE and 20 in Dubai alone and each caters to a specific business category. These zones offer the following major advantages to the enterprise if they are set up in these zones.

1. **Allows 100 per cent foreign ownership** of firm with no requirement of local sponsor or local service agent.
2. **Waiver of corporate taxes** (time-bound and renewable for further periods).
3. **Exemption from personal taxes** as well as import and export taxes.
4. **100 per cent repatriation of revenue and profits.**

1.2 DESIGNATED ZONES

If we look at the definition of designated zone, VAT law has distinguished designated zones from free zones. These trade free zones are not necessarily be the “Designated or VAT Free” Zones.

The term “Designated Zone” has been defined under Article (1) of the Federal Law No. (8) of 2017 on VAT as *Any area specified by a Cabinet Decision issued at the suggestion of the Minister, as a Designated Zone for the purpose of this Decree-Law.* Accordingly, the following free zones have been notified by Cabinet Decision No. (59) of 2017 on Designated Zones.

1. Designated Zones (Abu Dhabi)	4. Designated Zones (Umm Al Quwain)
Free Trade Zone of Khalifa Port	Umm Al Quwain Free Trade Zone in Ahmed Bin Rashid Port
Abu Dhabi Airport Free Zone	Umm Al Quwain Free Trade Zone on Sheikh Mohammed Bin Zayed Road
Khalifa Industrial Zone	
2. Designated Zones (Dubai)	5. Designated Zones (Ras Al Khaimah)
Jebel Ali Free Zone (North-South)	RAK Free Trade Zone
Dubai Cars and Automotive Zone (DUCAMZ)	RAK Maritime City Free Zone
Dubai Textile City	RAK Airport Free Zone
Free Zone Area in Al Quoz	
Free Zone Area in Al Qusais	6. Designated Zones (Fujairah)
Dubai Aviation City	Fujairah Free Zone
Dubai Airport Free Zone	FOIZ (Fujairah Oil Industry Zone)
3. Designated Zones (Sharjah)	7. Designated Zones (Ajman)
Hamriyah Free Zone	Ajman Free Zone
Sharjah Airport International Free Zone	

1.3 CUSTOM DUTY APPLICABILITY IN DESIGNATED ZONES

The UAE has ratified the GCC unified customs duty law under which all imports within a GCC country, including imports from a Free Zone into the mainland, are subject to a customs duty at a flat rate of 5%. This levy is on the total value of the cost, insurance and freight. Tobacco and alcohol are subject to a higher customs duty.

Import of goods into Free Zones, is exempt from Customs duty as these Zones are deemed to be outside the UAE.

1.4 REGISTRATION UNDER VAT

Every natural person or a legal person shall be liable to get registered on satisfaction of conditions as mentioned below.

1. The person must have **place of establishment or fixed establishment in UAE**.

Place of establishment is the place where business is registered or significant management decisions are taken and management functions are executed.

Similarly, fixed establishment has been defined to mean a place sufficient human and Technology resources so as to facilitate supply of goods or services during normal course of business.

As per Article 51(9) of the Executive Regulation, 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. Thus, place of residence of person located in any designated zone shall be UAE only. According, **all designated zone companies shall get registration under VAT** on satisfaction of other conditions stipulated by the VAT Laws. For more details, refer Module "Registration and De-registration".

2. The person is **not already registered** with the Tax Authority.
3. The **value of Taxable Goods and Services exceeds the Mandatory Registration Threshold**.

1.5 VAT APPLICABILITY IN DESIGNATED ZONES

Article 51 of Executive Regulation on VAT:

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 by the Authority.
2. Where the Designated Zone changes the manner of operating or no longer meets any of the conditions imposed on it that led to it being specified as a Designated Zone under the Cabinet Decision, it shall be treated as if being inside the State.

However, Clause 9 of Article 51 of Executive Regulation provides that **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.

Article 30 (3) provides that **a movement of Goods into a Designated Zone from a place in the State or a supply of Goods to a Designated Zone shall not be considered an Export of those Goods.**

Similarly, **Clause 1 of Article 47 provides that Goods shall not be treated as imported into the State if imported into a Designated Zone from a place outside the State.**

1.5.1 SUPPLY OF GOODS - DESIGNATED ZONES

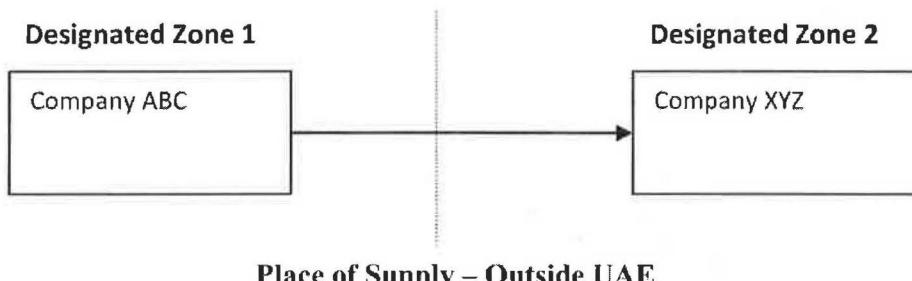
Let's now discuss the VAT aspect in case of supply of goods involving designated zones. Our discussion relating to place of supply involving designated zones can be broadly grouped into the following.

- i) **Goods supplied within or between designated zones**
- ii) **Goods supplied from UAE mainland to designated Zones**
- iii) **Goods supplied from designated zones to UAE mainland**
- iv) **Goods imported from overseas into designated zones**
- v) **Goods imported from outside UAE to designated zones**
- vi) **Goods exported from designated zones to Outside UAE**

I) GOODS SUPPLIED WITHIN OR BETWEEN DESIGNATED ZONES

As per Article 50 of the Federal Decree Law on VAT read with Article 51 (1) of Executive Regulation, **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 by the Authority.**



Since, a designated zone is considered as being Outside State (Outside UAE); the place of supply in case goods are supplied between two designated zones shall be Outside State only. Accordingly, no VAT is chargeable on such supplies.

Clause 3 of Article 51 further states that 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.

Example 1: Company "ABC" in the designated zone makes supplies of goods to company "XYZ" located in another designated zone. In this case, supply of goods will be made without charging VAT.

Example 2: Company "ABC" in the designated zone makes supplies of goods to company "XYZ" located in the same designated zone. Again in this case too, supply of goods will be made without charging VAT.

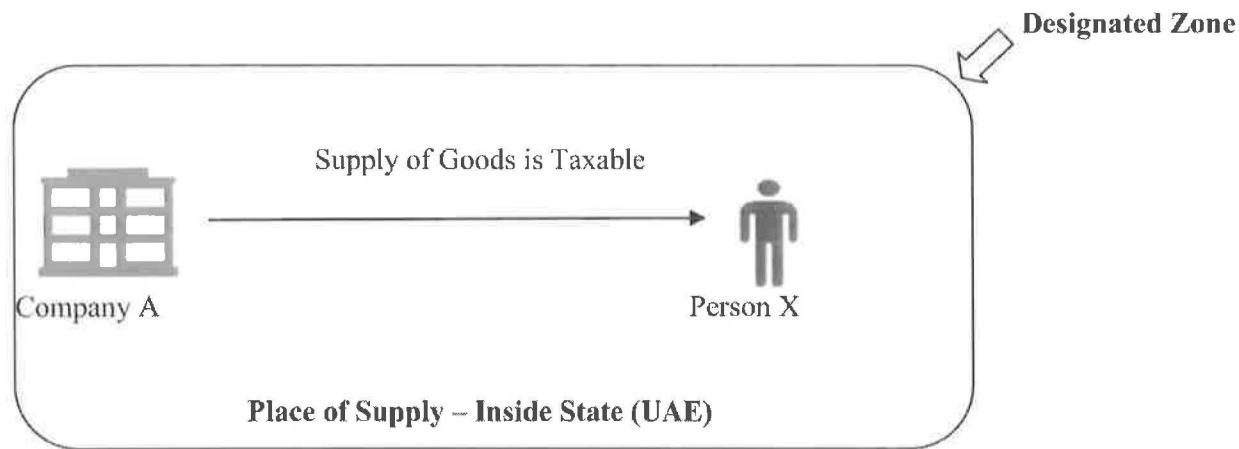
Clause (4) of Article 51 of the Executive Regulations of this Decree Law states that where Goods are moved between Designated Zones, the Authority may require the owner of the Goods to provide financial guarantee for the payment of Tax, which that Person may become liable for should the conditions for movement of Goods not be met.

The above Clause gives the Authority the right to require financial guarantee for payment of tax to be furnished by the owner of the goods, for moving goods from one Designated Zone to another so that the tax amount can be appropriated and collected in case of non compliance.

Consumption of Goods in Designated Zone

Clause 5 of Article 51 of Executive Regulation provides that 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.

Say for instance, company "A" in the designated zone makes supplies into the same designated zone to a consumer. This supply will be subject to VAT @ 5% as the place of supply shall be considered inside UAE in this case.



Similarly, in accordance with Clause 8 of Article 51 of Executive Regulation on VAT, goods located in a Designated Zone on which the owner has not paid Tax on will be treated as Imported into the State by the owner if:

- a. The Goods are consumed by the owner unless the Goods 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. The Goods are unaccounted for.

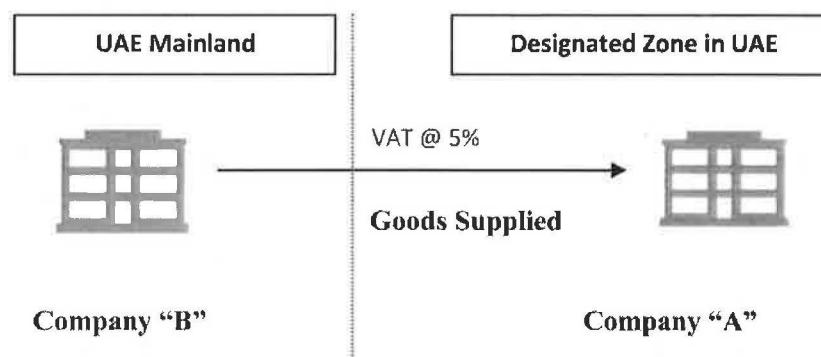
II) SUPPLY OF GOODS BETWEEN UAE MAINLAND (WITHIN STATE) AND DESIGNATED ZONES

Goods Supplied from the State to Designated Zone

As per Article 50 the designated zones that meets the conditions specified in the Executive Regulations, would be considered to be places outside the UAE. But it is clarified in Clause 3 of Article 30 of Executive Regulation that **supply of Goods to a Designated Zone shall not be considered Export of those Goods. Place of Supply in such a case is the State i.e. UAE and accordingly, such supplies to designated zones will be subjected to VAT at standard rate i.e. 5 %.**

Let's consider an example.

Company "B", a supplier of goods inside the State, makes supplies to company "A" located in the designated zone. In such a scenario, company B shall charge 5 % VAT to company "A" and collect tax on the behalf of A. A can accordingly claim credit of the VAT paid to company "B".



Goods Supplied from Designated Zone to the State (UAE)

Let's consider 2 scenarios here.

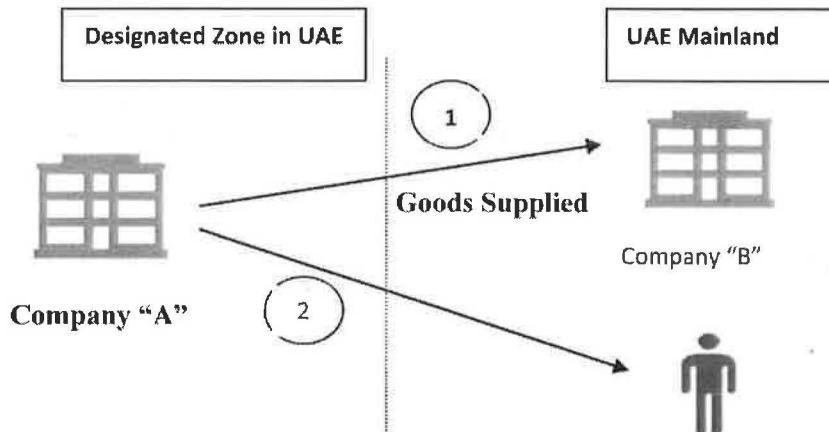
Scenario 1: Company "A" in the designated zone makes supplies of goods to company "B", then the importer of record into the State from the designated zone to the State accounts for the VAT as the same will be treated as import and place of supply shall be the State i.e. UAE.

Scenario 2: Company "A" in the designated zone makes supplies of goods to individual, (i.e. recipient who is not registered inside the State):

If Company "A" is registered: it shall charge 5% of VAT to the individual.

If Company "A" is not registered: tax shall be charged at customs point for goods by importer of record.

In this context it should be noted that 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 [Article 51 (9) of Executive Regulation]



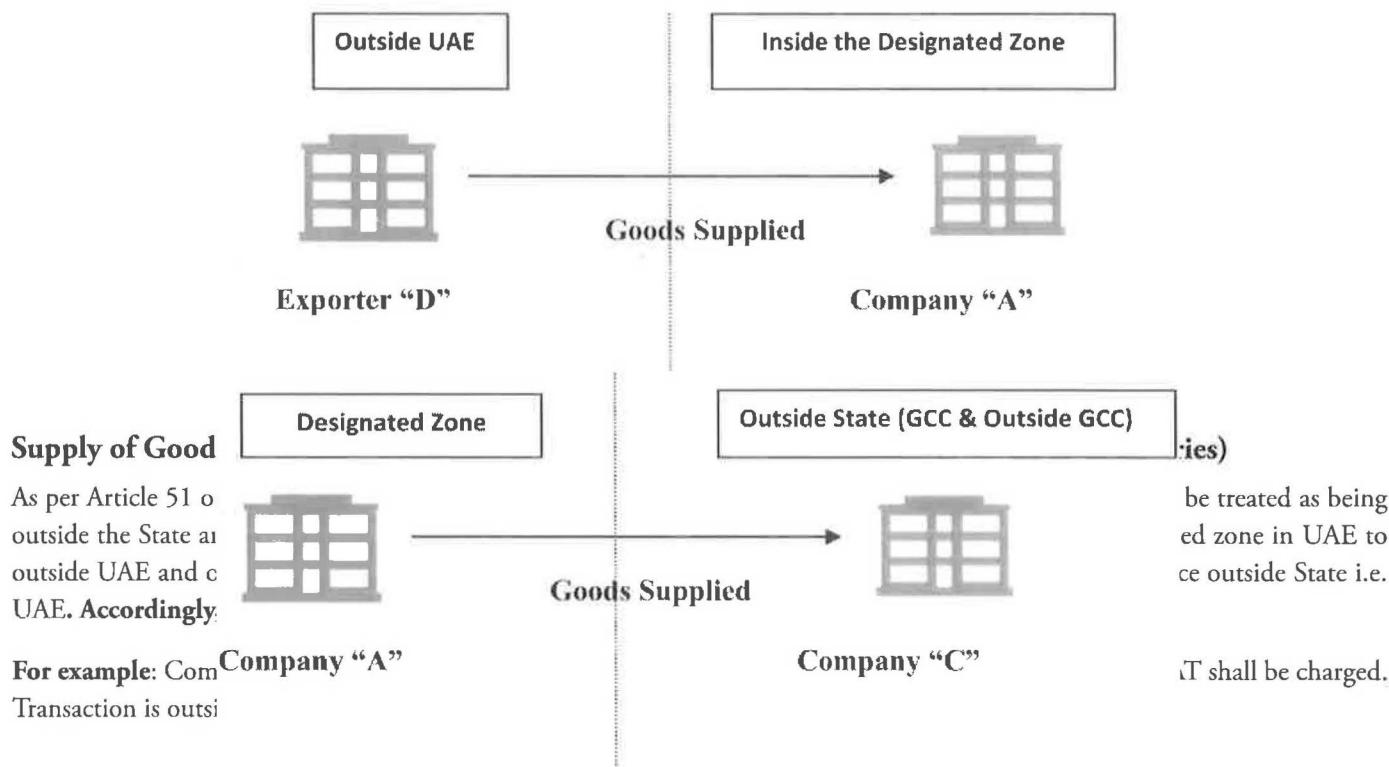
III) SUPPLY OF GOODS BETWEEN DESIGNATED ZONE AND OUTSIDE STATE

Supply of Goods from Outside State (GCC & Outside GCC Countries) to Designated Zone

Article 47 of the Executive Regulations that lays down the general rules regarding Import of Goods, specifies that Goods shall not be treated as imported into the State where they are imported into a Designated Zone from a place outside the State.

Designated Zones will thus be treated as being outside of the UAE for imports under the VAT Decree Law. **Place of supply in such cases will be outside UAE** and hence, VAT will not be applicable. The recipient of goods in designated zone will not be required to account for tax under reverse charge mechanism as the same is treated as out of scope supply.

For example: Exporter "D" from outside the State shall make supplies of goods to company "A" located in the designated zone without charging for VAT. Transaction is deemed performed outside the State and cannot be treated as import.



1.5.2 SUPPLY OF SERVICES - DESIGNATED ZONES

The place of supply of Services shall be the **Place of Residence of the Supplier** with the exception of special rules for certain categories of supplies.

As per Article 29, the place of supply of services is treated as made in the country where the supplier belongs. Therefore, the place of supply of services shall be UAE if the supplier has a place of residence in UAE.

Clause 9 of Article 51 of Executive Regulation provides that **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.

Taking inference from the above, it can be concluded that if the supplier of the services is located in designated zone, the place of supply shall generally be treated as taking place inside UAE and accordingly, such supply will be subject to UAE VAT.

Let's now discuss the VAT aspect in case of services rendered involving designated zones in all possible scenarios.

- I) Services supplied within or between Designated Zones
- II) Supply of Services between UAE Mainland and Designated Zones
- III) Supply of Services between Designated Zone and Outside GCC State

I) SERVICES SUPPLIED WITHIN DESIGNATED ZONES

As per Article 29, the place of supply of services is treated as made in the country where the supplier belongs. Therefore, the place of supply of services shall be UAE if the supplier has a place of residence in the UAE State.

Clause 9 of Article 51 of Executive Regulation provides that **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.

Thus, if both supplier and recipient have Place of Residence in the designated zone, the supply of services will be subject to standard rate of tax i.e. 5% as the place of supply will be considered as Inside UAE State. The supplier shall charge VAT @ 5% and the recipient shall be able to recover Input VAT paid to the supplier.

Figure 1:

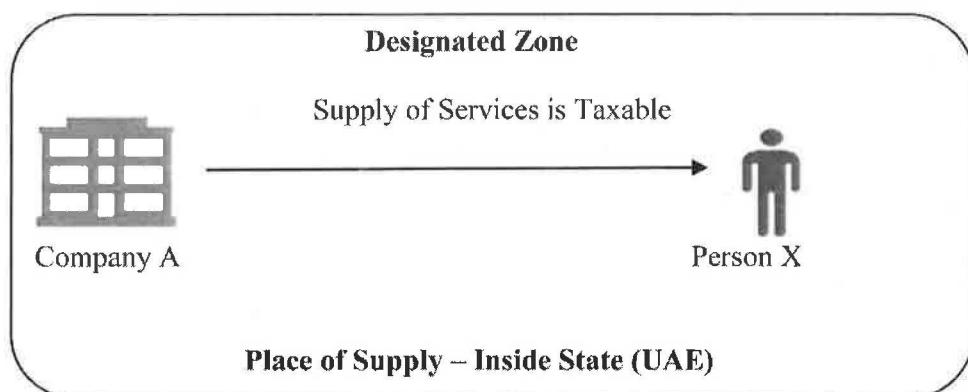
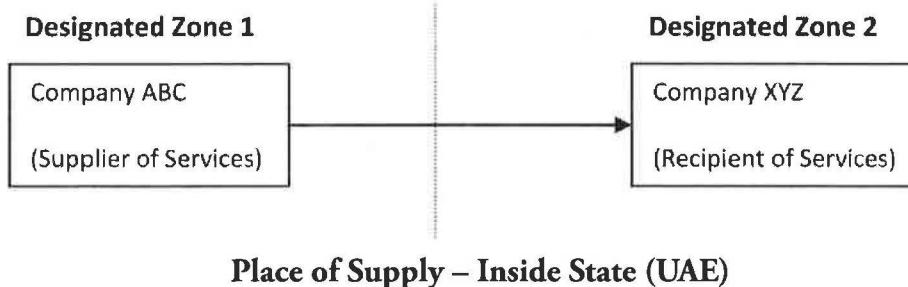


Figure 2:



II) SUPPLY OF SERVICES BETWEEN UAE MAINLAND (WITHIN STATE) AND DESIGNATED ZONES

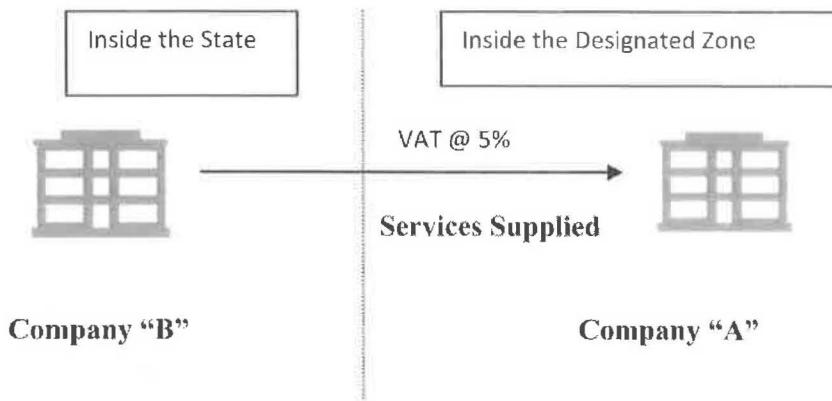
We can have 2 scenarios in this case.

A. Place of Residence of Supplier of Services is UAE Mainland whereas Place of Residence of Recipient is in Designated Zone

In such a scenario, the place of supply of services is treated as Inside UAE State as the place of supplier of service is UAE. It is thus, subject to UAE VAT. The supplier shall charge standard rate of VAT on such supplier and the recipient in designated zone can avail input tax credit in respect of the tax so paid.

Example:

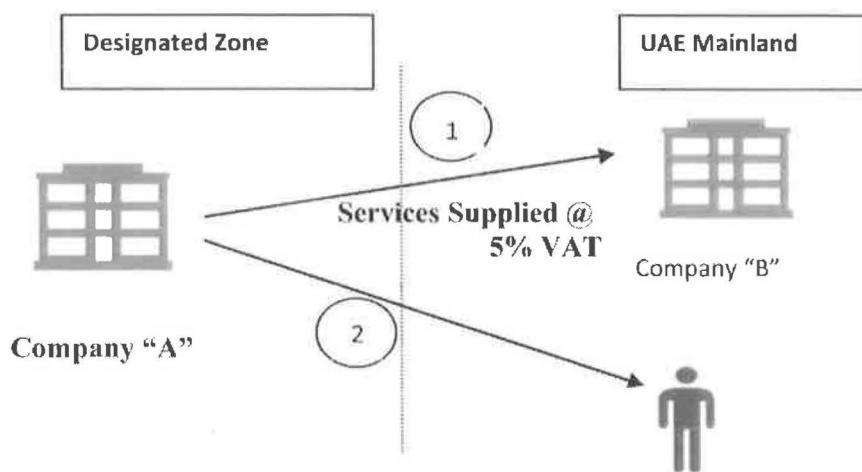
Company "B", a supplier of goods inside the State, makes supplies to company "A" located in the designated zone. In such a scenario, company B shall charge 5 % VAT to company "A" and collect tax on the behalf of A. A can accordingly claim credit of the VAT paid to company "B".



B. Place of Residence of Supplier of Services is Designated Zone whereas Place of Residence of Recipient is UAE Mainland

In this case too, place of supply shall be considered inside UAE State in accordance with the provisions of Clause 9 of Article 51 of Executive Regulation which inter-alia provides that **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.**

Thus, supplier in designated zone shall charge VAT @ 5% in respect of taxable supply of services to a person having place of residence in UAE Mainland.



III) SUPPLY OF SERVICES BETWEEN DESIGNATED ZONE AND OUTSIDE STATE

We can have 2 scenarios in this case.

A. Supply of Goods from Outside UAE State (Outside GCC Countries) to Designated Zone

As discussed previously that **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.** [Article 51(9) of ER]

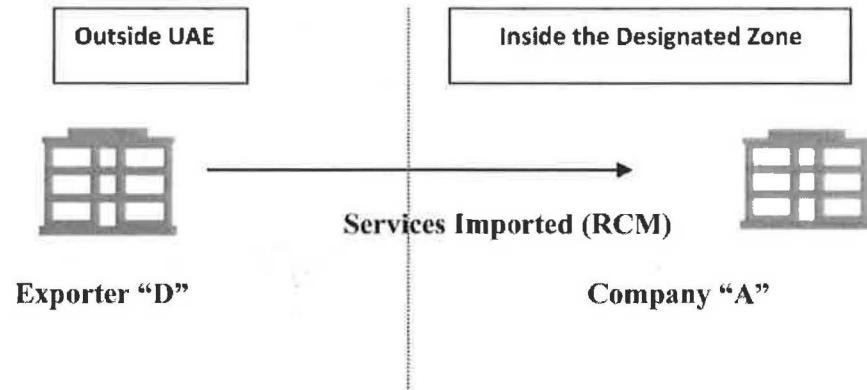
Moreover, clause 2 of Article 30 of Federal Decree Law on VAT provides that where the Recipient of Services is in Business and has a Place of Residence in the State, and the Supplier does not have a Place of Residence in the State, **the place of supply shall be in the State.**

On combined reading of above provisions, we can conclude that place of supply of services in this scenario will be the UAE State only and the supply shall be treated as being of Concerned Goods or Concerned Services. In simple words, it will be **treated as import of services by the recipient having place of residence in Designated Zone.**

Clause 3 of Article 48 of the Executive Regulation should be referred to in this regard. The clause provides that where a Taxable Person who has a Place of Residence in the State receives a supply of Goods or Services 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.

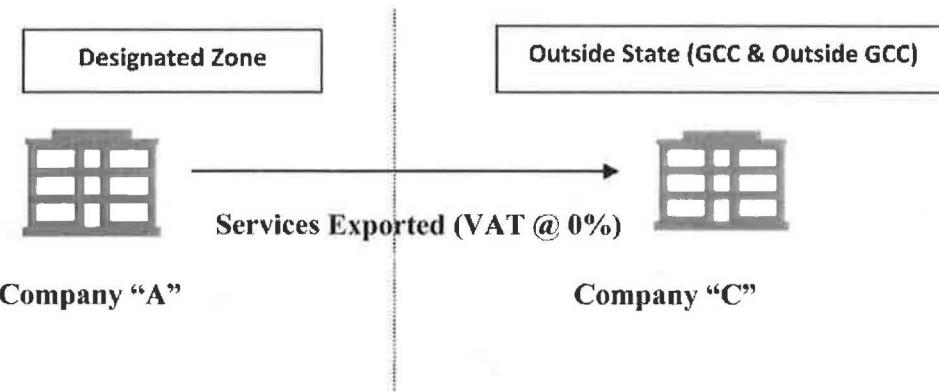
For example: Company "D" from outside the State provides services to company "A" located in the designated zone. Transaction is deemed performed Inside the State and will be treated as import of services. Accordingly, Company will account for VAT under Reverse Charge Mechanism.



B. Supply of Goods from Designated Zone to Outside State (Outside GCC Countries)

In these cases, place of residence of the recipient is Outside GCC Implementing State, therefore the same shall be considered as an export of services. The place of supply thus, shall be inside UAE State. As per Article 31 of the Executive Regulation, the supply shall be zero-rated.

For example: Company "A" in the designated zone made supplies of taxable services to company "C" of UK. VAT shall be charged on such supply @ zero-rate as the transaction is treated as export of services.

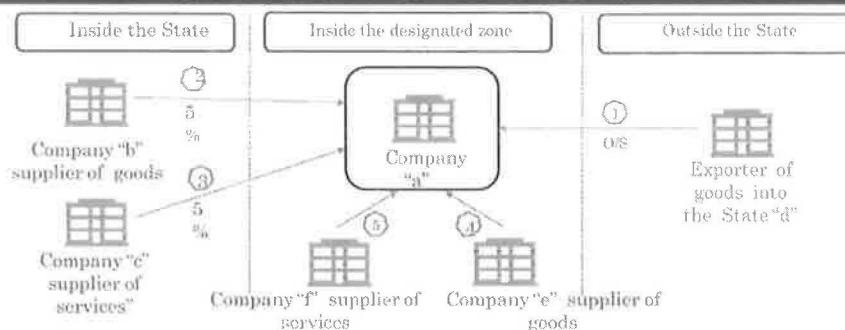


1.6 CONCLUSION

VAT implications of supply of goods and services in relation to Designated Zone have been summarized in the appendix I & II given below.

APPENDIX - I

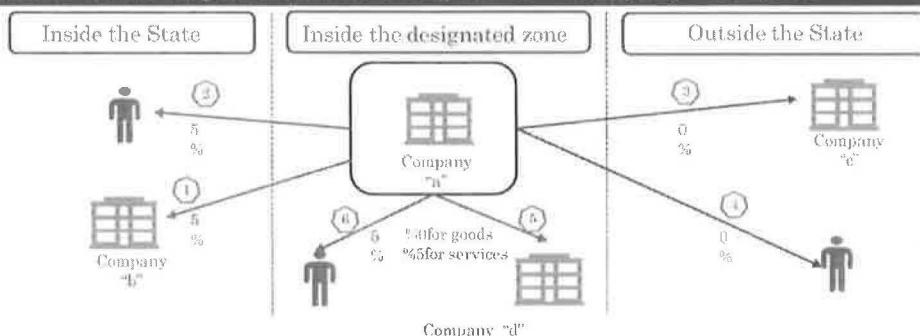
Tax Treatment for Designated Zone Companies - Company Inputs (3/3)



No.	Statement	Impact on "a"
1	Exporter "d" from outside the state, makes supplies of goods to company "a" located in the designated zone without charging for VAT. Transaction is deemed performed outside the State.	-
2	Company "b", a supplier of goods inside the State, makes supplies to company "a" located in the designated zone. Company "b" charges 5% VAT to company "a" and collects tax on behalf of the government	No impact, if the company is registered. 5%, if the company is a not-registered.
3	Company "c" makes supplies of services that will be used inside the State, to company "a" located in the designated zone (e.g.. insurance). Company "c" charges 5% of VAT to company "a".	No impact, if the company is registered. 5%, if the company is a not-registered.
4	Company "e" supplies goods to company "a" inside the designated zone. No VAT is charged.	-
5	Company "f" supplies services to company "a" inside the designated zone. Company "f" charges 5% of VAT to company "a"	No impact, if the company is registered. 5%, if the company is a not-registered.

APPENDIX - II

Tax Treatment for Designated Zone Companies - Company Outputs



No.	Statement	Impact on "a"
1	Company "a" makes supplies of services to company "b", then 5% VAT is charged. Company "a" makes supplies of goods to company "b", then the importer of record into the State from the designated zone to the State accounts for the VAT.	-
2	Company "a" makes supplies of goods or services to individual, (i.e. recipient who is not registered inside the State): If Company "a" is registered: it charge 5% of VAT to the individual. If Company "a" is not registered: tax shall be charged at customs point for goods by importer of record.	
3	Company "a" in the designated zone made supplies to company "c" outside the State. No VAT shall be charged.	
4	Company "a" in the designated zone makes supplies to consumer outside the State. No VAT shall be charged.	-
5	Company "a" in the designated zone makes supplies of goods in the designated zone to company "d" located inside the designated zone without charging VAT. Company "a" in the designated zone makes supplies of services in the designated zone to company "d" located inside the designated zone and charges 5% VAT on behalf of government.	
6	Company "a" in the designated zone makes supplies into the designated zone to a consumer. The company charges 5% VAT and collects it on behalf of government.	

MODULE 2

INTRA GCC TRANSACTIONS

2.1 INTRODUCTION

The **Cooperation Council for the Arab States of the Gulf** originally known as the **Gulf Cooperation Council (GCC)** is a regional intergovernmental political and economic union consisting of all Arab states of the Persian Gulf, except for Iraq. **Its member states are Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates.** The Charter of the Gulf Cooperation Council was signed on 25 May 1981, formally establishing the institution. All current member states are monarchies, including three constitutional monarchies (Qatar, Kuwait, and Bahrain), two absolute monarchies (Saudi Arabia and Oman), and one federal monarchy (the United Arab Emirates, which is composed of six member states, each of which is an absolute monarchy).

The supreme council is the highest authority of the organization. It is composed of the heads of the member states. It is the highest decision-making entity of the GCC. The supreme council sets the vision and the goals of the Gulf Cooperation Council. Decisions on substantive issues require unanimous approval, while issues on procedural matters require a majority. Every member state has one vote.

In order to reduce their dependence on oil for its revenue, the GCC states are pursuing unprecedented structural reform initiatives. As a part of these initiatives, the GCC countries had agreed to impose VAT across the region. Accordingly, **the Unified Agreement for VAT of the Cooperation Council for the Arab States of the Gulf** was published by UM AL-QURA in its issue number 4667 dated Hijri 1438/7/24 corresponding to 27/11/2016. This agreement is to set forth the unified legal framework to introduce VAT in the GCC states, which will be imposed on the supply of goods & services.

In February 2017, Saudi Arabia ratified the GCC VAT framework and committed to impose VAT with effect from January 1, 2018. As of date all countries had signed "The Unified Agreement for VAT" with Bahrain as the last member state of GCC bloc to sign the same. The Six GCC member countries have agreed to implement VAT in the period commencing from January 1, 2018, and by latest January 1, 2019.

The GCC common VAT framework forms the basis for the national value added tax legislation to be issued in each GCC country. The VAT framework only sets out key VAT principles and once ratified, it clears the way for each GCC member to release its own national VAT laws based on those principles.

2.2 DEFINITIONS

Before we discuss exports and tax implications thereon, let's peruse the definitions of important terms given below:

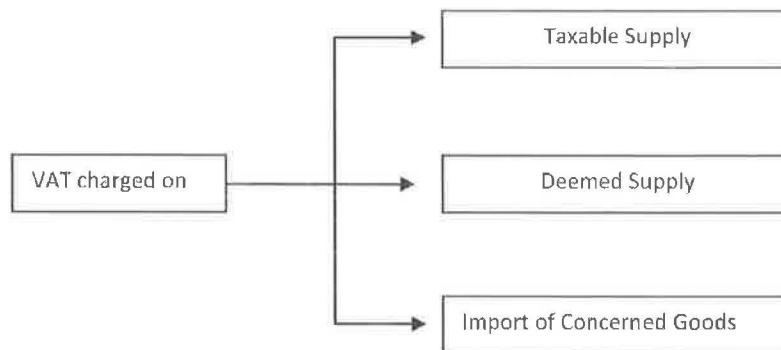
- **State:** United Arab Emirates
- **Minister:** Minister of Finance
- **Value Added Tax:** A tax imposed on the import and supply of Goods and Services at each stage of production and distribution, including the Deemed Supply
- **Tax:** Value Added Tax (VAT).
- **GCC States:** All countries that are full members of The Cooperation Council for the Arab States of the Gulf, pursuant to its Charter.
- **Implementing States:** The GCC States that are implementing a Tax law pursuant to an issued legislation.
- **Goods:** Physical property that can be supplied including real estate, water, and all forms of energy as specified in the Executive Regulation of this Decree-Law.

- **Services:** Anything that can be supplied other than Goods
- **Taxable Supply:** A supply of Goods or Services for a Consideration by a Person conducting Business in the State, and does not include Exempt Supply.
- **Deemed Supply:** Anything considered as a supply and treated as a Taxable Supply according to the instances stipulated in this Decree-Law.
- **Import:** The arrival of Goods from abroad into the State or receipt of Services from outside the State
- **Concerned Goods:** Goods that have been imported, and would not be exempt if supplied in the State.
- **Concerned Services:** Services that have been imported, where the place of supply is in the State, and would not be exempt if supplied in the State.
- **Recipient of Goods:** Person to whom Goods are supplied or imported
- **Person:** A natural or legal person.
- **Taxable Person:** Any Person registered or obligated to register for Tax purposes under this Decree-Law
- **Taxpayer:** Any person obligated to pay Tax in the State under this Decree-Law, whether a Taxable Person or end consumer.
- **Taxable Trader:** A Taxable Person in the Implementing States, whose main activity is the distribution of water and all types of energy as specified in the Executive Regulation of this Decree-Law.
- **Tax Registration:** A procedure according to which the Taxable Person or his Legal Representative registers for Tax purposes at the Authority.
- **Consideration:** All that is received or expected to be received for the supply of Goods or Services, whether in money or other acceptable forms of payment.
- **Business:** Any activity conducted regularly, on an ongoing basis and independently by any Person, in any location, such as industrial, commercial, agricultural, professional, service or excavation activities or anything related to the use of tangible or intangible properties.
- **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.
- **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.
- **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.
- **Exempt Supply:** 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 this Decree Law.
- **Input Tax:** Tax paid by a Person or due from him when Goods or Services are supplied to him, or when conducting an Import.
- **Non-Resident:** Any person who does not own a Place of Establishment or Fixed Establishment in the State and usually does not reside in the State.
- **Another Implementing States:** The GCC States other than UAE that are implementing a Tax law pursuant to an issued legislation.

2.3 SCOPE OF TAX

The power to impose Value Added Tax has been conferred by Article 2 of Federal Law No. 8 of 2017 on Value Added Tax. **Article 2** of the said law reads as under:

"Tax shall be imposed on every taxable supply and deemed supply made by the taxable person, including imports of concerned goods except as specified".



Here, the definition of taxable supply and deemed supply is relevant. If there is no taxable or deemed supply, no tax can be imposed. The term "Taxable Supply" has been defined under Article 1 as a supply of Goods or Services for a Consideration by a Person conducting Business in the State, and does not include Exempt Supply. Thus, any supply

Deemed supply, under UAE VAT law is the transfer by a Taxable Person of Goods forming part of his business assets from the UAE to another implementing state, or from the Taxable Person's business in another implementing state to his business in the UAE, **except in the case where such transfer**

- Is treated as temporary under the Customs Legislation;
- Is made as part of another Taxable Supply, under UAE VAT law, of these Goods

If any person transfers the goods which are part of business asset from UAE to any other implementing business asset, then such transfer will be deemed as supply. However, such deeming provision will not be applied when such transfer is treated as either a temporary transfer as per customs legislation or if it was taxed as part of another taxable supply.

Thus, it can be concluded that transfer of goods from UAE State to another Implementing State shall be subject to UAE VAT and the same shall not be out of scope supply.

2.4 REGISTRATION

Every (Natural or Legal) Person, who is **not already registered for Tax and who has a Place of Residence either in UAE or other implementing State**, shall register in the following situations. [Article 13(1) of Decree Law]

- a. Where the total value of all supplies referred to in Article (19) 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) will exceed the Mandatory Registration Threshold in the next thirty (30) days.

Explanation: If a person has a place of residence in KSA and provides total value of taxable supplies to UAE customer that exceeds the threshold limit under UAE VAT law, then that person (having place of residence in KSA) has to be registered under UAE VAT law.

In accordance with above provisions of law, an exporter needs to register under UAE VAT if the value of total taxable supplies including exports to Implementing States exceeds the threshold for Mandatory Registration, over the previous 12-month period or is anticipated to exceed the threshold limit in the upcoming thirty (30) days period.

2.5 PLACE OF SUPPLY

The place of supply is very important determine whether a supply is made within the UAE (in which case the UAE VAT law will apply), or outside the UAE for VAT purposes.

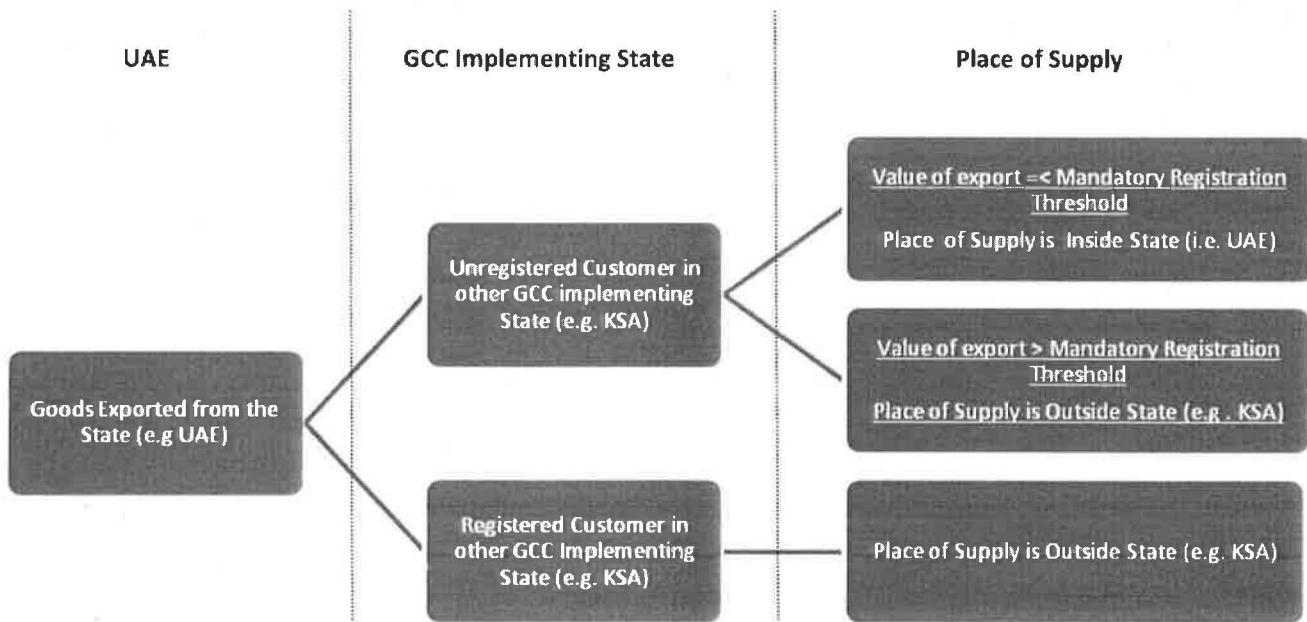
2.5.1 Place of supply of goods

As per the general rule, the place of supply of goods is the place from where the goods are delivered by the supplier.

Place of Supply = Supplier's place of residence.

However, while dealing with other implementing states, this basic rule is overridden by specific set of rules stipulated under Article 27 of Federal Decree Law on VAT.

A. Exports of Goods from UAE to another VAT Implementing State



As per Article 27 of Federal Decree Law on VAT, **Place of Supply shall be the State i.e. UAE** in case of exports to a customer in another implementing states SUBJECT TO THE CONDITION that **the customer is not registered for VAT in that another implementing state and if the value of the exports to that another implementing state does not exceed the mandatory registration threshold of that another implementing state.**

However, the Place of Supply will be outside UAE i.e. Implementing State if either of the below conditions are fulfilled in case of exports from UAE to customers in another GCC Implementing State.

- i) The customer is unregistered in such another implementing state and the value of export to that another implementing state exceeds mandatory registration threshold.
- ii) The customer is registered in that another implementing state where the goods are exported from the state i.e. UAE.

Example 1: A dealer exported goods from UAE to an unregistered customer in KSA and the total value of supplies (exports) made by such dealer to KSA is below mandatory registration threshold in KSA i.e. he is not required to get himself registered in KSA, then in such a case, POS will be UAE

Conclusion:

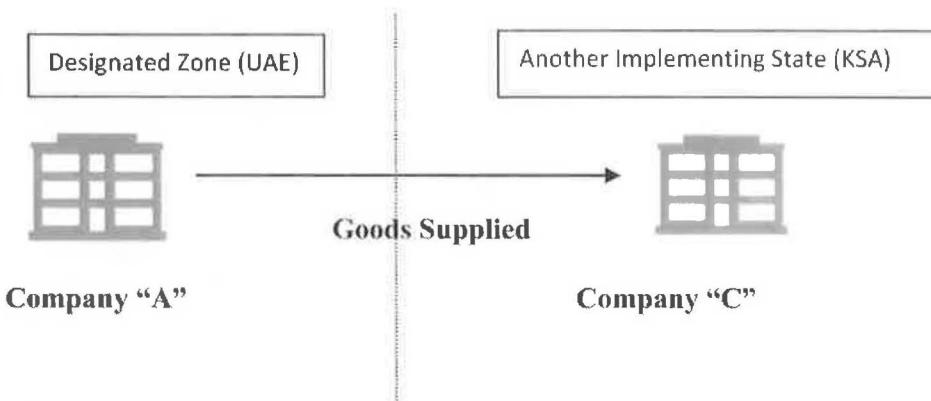
It can be summarized that place of supply will always be outside state in case of exports from UAE to another Implementing State. The rationale behind this provision is that place of final consumption will be another Implementing State and not the UAE in case of exports from UAE. This is aligned with Destination based consumption principle.

However, there is an exception. Where the goods are exported to unregistered customers in another VAT Implementing State and the value of such export doesn't exceed the mandatory registration threshold, Place of Supply will be the State i.e. UAE. This provision has been made only for the purpose of exercising greater administrative control.

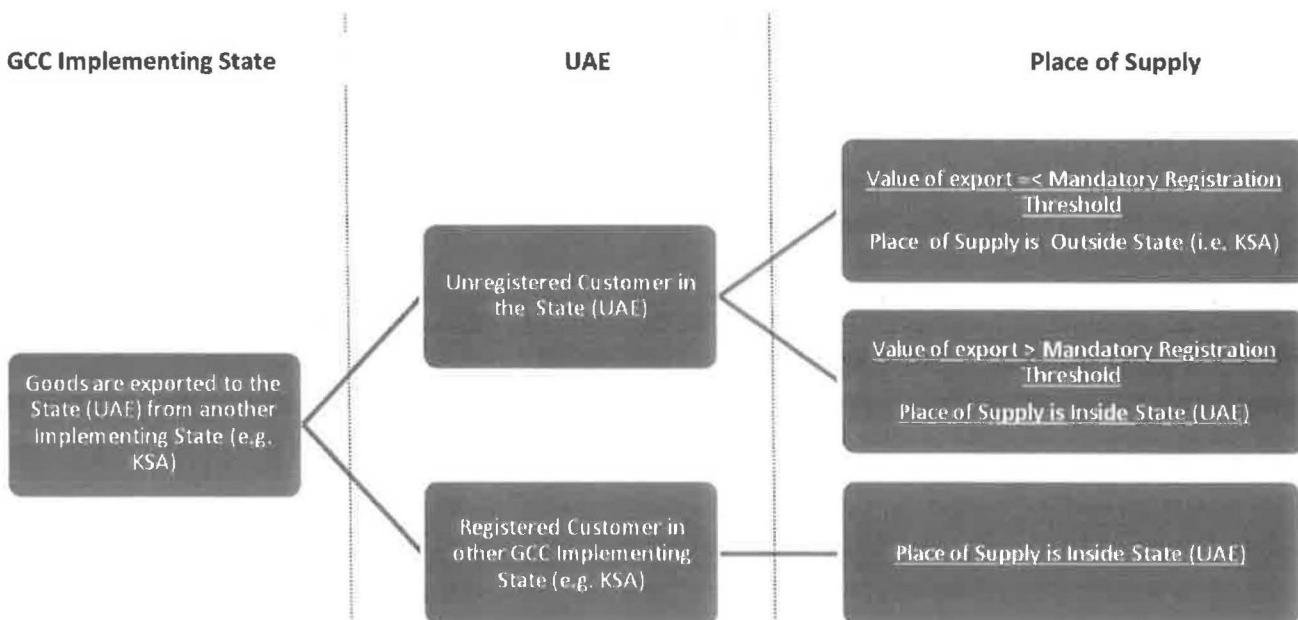
B. Supply of Goods from Designated Zone to another Implementing State

As per Article 51 of Executive Regulation, any Designated Zone specified by a decision of the Cabinet shall be treated as being outside the State and outside the Implementing States. So, in cases where goods are supplied from designated zone in UAE to another VAT Implementing state, the supply of the same will be considered as taking place outside State i.e. UAE. **Accordingly, such supplies shall not be subjected to UAE VAT.**

For example: Company "A" in the designated zone made supplies to company "C" of KSA. No VAT shall be charged. Transaction is outside scope of UAE VAT and no VAT shall be charged.



C. Imports into UAE from another VAT Implementing State



As per Article 27 of Federal Decree Law on VAT, **Place of Supply shall be the State i.e. UAE** in case of imports of goods from another implementing states and if the recipient in the State is not registered for VAT in the State and if the value of the such import to State exceeds the mandatory registration threshold in the State.

As regards, exports from UAE to customers in another GCC Implementing State, the same Article 27 also states that, **Place of Supply will be outside UAE i.e. another Implementing State** if both of the below stated conditions are fulfilled.

- i) The customer is unregistered in UAE; and
- ii) The value of such import from another implementing state doesn't exceed mandatory registration threshold.

Example 2: A dealer in KSA exported goods to an unregistered customer in UAE. The total value of supplies (exports) made by such dealer to UAE customer is above mandatory registration threshold in UAE i.e. he is required to get himself registered in UAE, then in such a case, POS will be inside State i.e. UAE. Such import will be subjected to UAE VAT.

Example 3: A dealer in KSA exported goods to an unregistered customer in UAE. The total value of supplies (exports) made by such dealer to UAE customer is below mandatory registration threshold in UAE i.e. he is not required to get himself registered in UAE, then in such a case, POS will be Outside State i.e. UAE. Such import will not be subjected to UAE VAT.

Example 4: A dealer in KSA exported goods to a registered customer in UAE. The total value of supplies (exports) made by such dealer to UAE customer is above mandatory registration threshold in UAE. In this case, POS will be Inside State i.e. UAE. Such supplies will be subjected to UAE VAT.

Conclusion:

It can be summarized that place of supply will always be Inside State in case of imports to UAE from another Implementing State. The rationale behind this provision is that place of final consumption will be UAE in such cases. This is aligned with Destination based consumption principle.

However, there is an exception. Where the recipient of goods is not registered in UAE and the value of such export doesn't exceed the mandatory registration threshold i.e. AED 375,000. Place of Supply will be "Outside State" i.e. it will not be subjected to UAE VAT. This provision has been made only for the purpose of exercising greater administrative control only.

C. Imports into UAE from outside GCC Implementing States followed by movement of Goods with in GCC

When at the time of arrival of goods in the State i.e. UAE, the intention of the importer is that the goods will be transferred to another GCC Implementing State, the **Place of Supply shall still be UAE**.

The importer in such a case pay import VAT without using reverse charge. Article 48 (2) clearly provides that 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

This import VAT should be recoverable in the GCC Implementing State to which the goods are transferred.



2.5.2 Place of supply of installed or assembled goods

Article 27 (2) deals with place of supply where goods are supplied with installation or assembly. It provides that

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.

In other words, it can be concluded that supply of goods with installation is thus, subject to VAT in the country where the goods are installed or assembled.

For instance, a company in UAE supplies to an Egyptian company, components of machinery which needs to be installed in Egypt. In this case, place of supply shall be outside UAE and accordingly, UAE VAT will not be applicable on such supply.

2.5.3 Place of supply of water and energy

Supply of water and all forms of energy does not follow the general principles of place of supply.

Article 28 of the Federal Decree Law on VAT provides as under.

1. The supply of water and all forms of energy 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 an Implementing State.
2. **The supply of water and all 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.

The above provision regarding the place of supply of water and energy can be summarized as under.

Supply	Supply By	Supplied To	Place of Supply		Place of Supply (Inside UAE/ Outside UAE)
Water & Energy	Taxable Person in UAE	Taxable Trader in UAE	Place of Residence of Taxable Trader	UAE	Inside UAE
		Non Taxable Person i.e. Final Consumer in UAE	Place of Actual Consumption	UAE	
	Taxable Person in UAE	Taxable Trader in Implementing State	Place of Residence of Taxable Trader	GCC Implementing State	Outside UAE
		Non Taxable Person i.e. Final Consumer in Implementing State	Place of Actual Consumption	GCC Implementing State	

As per the above table, it can be concluded that the place of supply shall be UAE where water and electricity is supplied or consumed inside UAE. However, if the same is supplied to a Taxable Trader in another Implementing State or consumed in another Implementing State, place of supply shall be Implementing State. Hence, supply to an implementing state from UAE will be outside the purview of UAE VAT and no tax shall be imposed thereon.

2.5.4 PLACE OF SUPPLY OF SERVICES

Where the supplier having place of residence in UAE makes supply of services to Recipient having place of residence in another GCC Implementing State, place of supply shall be the Place of Residence of Recipient i.e. another GCC Implementing State and on such supply no UAE VAT shall be charged in accordance with Clause 1 of Article 30 of Federal Decree Law on VAT. The said clause provides that 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**.

Example: A Company based in Dubai provides consultancy services in relation to a Saudi (KSA) based company. The place of supply of services shall be KSA because the place of residence of recipient is KSA. No UAE VAT will be applicable on such supply.

Where the supplier having place of residence in any other GCC Implementing State makes supply of services to Recipient having place of residence UAE, **place of supply shall be the State** i.e. UAE. Such supply shall be subjected to UAE VAT as per Clause 2 of Article 30 of Federal Decree Law on VAT. The said clause provides that 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

Example: A Company based in KSA provides consultancy services to a UAE based company. The place of supply of services shall be UAE and accordingly UAE VAT will be applicable on such supply.

2.5.5 Place of supply - special cases

Although the general rule regarding place of supply for services appears to be the origin based as we have seen in previous sections, this article provides the exception to the principle. As per the general rule of the place of supply of services is the place of residence of supplier. However, Place of supply of services in relation to special cases deviates from principle of origin to "destination principle. Let's discuss all these exceptional cases below one by one.

1. Installation Services

- For the Supply of Services related to Goods, such as installation of Goods supplied by others, the place of supply shall be the place where the said installation Services were performed.

For example, place of supply of installation services provided by a Dubai based company to its client based in another Implementing State i.e. KSA shall be KSA.

2. Lease of Means of Transport

For the Supply of means of transport to a person who is not a Taxable Person in the State and does not have a TRN in any of the GCC Implementing State, the place shall be where such means of transport were placed at the disposal of the person.

3. Restaurant Services

For the Supply of restaurant, hotel, and food and drink catering Services, the place shall be where such Services are actually performed.

For Example: "ABC Restaurant LLC" operates food outlets in Dubai. Although the owner of the restaurant is a citizen of KSA, the place of supply is UAE because the services are performed in UAE. Therefore, such food outlets are subjected to UAE VAT.

4. Cultural, Artistic, Educational Service

For the Supply of any cultural, artistic, sporting, educational or any similar services, the place shall be where such Services were performed. The taxability of these services is again based on destination based consumption principle.

Example: A singer from UAE provided services in KSA at a cultural event then the Place of Supply shall be KSA.

5. Real Estate Services

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.

Example: In case of architect's services provided from UAE to KSA in relation to real estate situated in KSA the Place of Supply shall be KSA.

6. Transportation Services

For the Supply of transportation Services, the place of supply shall be where transportation starts. The Executive Regulation of this Decree-Law specifies the place of supply for transportation related Services and cases of multiple supplies.

Example: For a person providing transport services from UAE directly to KSA, the Place of Supply will be UAE. Similarly, for a person providing transport services from UAE to KSA, via Bahrain, the Place of Supply will be UAE.

7. Telecommunication Services

For telecommunications and electronic Services specified in the Article 23 of the Executive Regulation of the Decree-Law, the place of supply shall be:

- In the State, to the extent of the use and enjoyment of the supply in the State
- Outside the State, to the extent of the use and enjoyment of the supply outside the State
- Regardless of the place of contract or payment, POS will be where the services are actually used

Example: If the services are used in KSA for the services provided by UAE is made, the Place of Supply shall be KSA. The place of payment is immaterial while determining POS.

2.6 RATE OF TAX

Export of Goods and services from UAE are subject to zero rate of VAT provided such goods and services are provided to countries other than implementing state (Article 45 of UAE VAT Law) e.g. Supply of goods from UAE to KSA would be export of goods from UAE but that export is to a state in GCC so it will not be eligible for zero rate as specified in article 45 (1) of Federal Decree Law on VAT.

2.7 RECOVERABLE INPUT TAX

General rule regarding recoverability of Input Tax is that Input Tax paid in respect of supplies can be recovered only in the country where the same has been incurred. In other words, if the Input Tax in respect of the supply is incurred in UAE, the same can be recovered in the UAE only. However, there are certain exceptions to this general rule which is being described below.

Where Goods are imported by a Taxable Person through another Implementing State and the intended final destination of those Goods was UAE 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 other Implementing State as Recoverable Tax if the relevant Goods will be used or intended to be used in accordance with Clause (1) of Article 54 of this Decree Law and the conditions specified in the Clause (3) of Article 52 of the Executive Regulation of UAE VAT Law, are satisfied.

The conditions specified in Clause (3) of Article 52 of the Executive Regulation of UAE VAT Law are:

- a. The Taxable Person keeping evidence that he has paid VAT in another Implementing State in respect of the relevant Goods;
- b. The Taxable Person has not recovered the VAT paid in any other Implementing State.
- c. The Taxable Person has complied with any additional reporting requirement that the Authority may specify.

Example: When UAE importer imports goods from KSA, goods to be utilized in UAE itself in accordance with Clause (1) of Article 54 of this Decree Law, the VAT paid by UAE importer in KSA would be eligible for Input tax credit in UAE as per UAE VAT Law.

Moreover, 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 in accordance with Article 54 (3) of Federal Decree Law on VAT.

2.8 RECORD KEEPING REQUIREMENTS

As per Article 66 of Federal Decree Law on VAT, registrant who supplies Goods or Services considered as supplied in another Implementing State, shall provide the Recipient of Goods and Recipient of Services with a document that includes all the information that must be included in the Tax Invoice and any other information as specified in the Executive Regulation of this Decree-Law, provided that this document is not labelled

“Tax Invoice” and does not include any Tax charged.

Clause (12) of the Article 59 of the Executive Regulation of this Decree Law specifies the additional particulars that such document issued to Recipient of Goods or Services in another Implementing State, should contain, which are as follows:

- a. The tax registration number of the recipient of Goods or Services issued to him by the competent authority of the Implementing State in which the supply is treated as taking place.
- b. A statement identifying the supply as between the State and an Implementing State.
- c. Any other information specified by the Authority.

MODULE 3

EXPORTS

3.1 DEFINITONS

Before we discuss exports and tax implications thereon, let's peruse the definitions of important terms given below:

Export: Goods departing the State or the provision of Services to a person whose place of establishment or fixed establishment is outside the State.

Goods: Physical property that can be supplied including real estate, water, and all forms of energy as specified in the Executive Regulation of this Decree-Law.

Services: Anything that can be supplied other than Goods.

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.

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

State: United Arab Emirates

Implementing States: GCC States that are implementing a Tax law pursuant to an issued legislation

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 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.

Overseas Customer: a Recipient of Goods who does not have a Place of Establishment or Fixed Establishment in the State, or otherwise resides in the State, and who does not have a Tax Registration Number.

3.2 EXPORT OF GOODS AND SERVICES

To qualify as export, **goods should be departing from UAE** whereas to qualify as export of services, it is necessary that **place of establishment or fixed establishment of the recipient of services is outside the UAE**.

As per Article 50 of the Executive Regulation, the designated zones that meet the conditions specified in the Executive Regulations would be considered to be places outside the UAE. But it is clarified in Executive Regulation that **supply of Goods to a Designated Zone shall not be considered Export of those Goods**. Any export of goods from one designated zone to another is without VAT. However, this rule is applicable only for supply of goods. Normal place of supply rule would apply for supply of services (and VAT is applicable on supply services between two designated zone entities).

Rules regarding direct and indirect export of goods are available in the Article 30 clause (1) and (2) and for export of services in Article 31 of Executive Regulation.

3.2.1 Direct or indirect exports of goods

Direct or indirect exports outside the Implementing states in the GCC are zero-rated as per Article 30 of the Executive Regulation on VAT.

A. Direct Export: It is an Export of Goods to a destination outside of the Implementing States (GCC member countries implementing VAT), where **the supplier is responsible for arranging transport or appointing an agent** to do so on his behalf.

This clause even states that zero rate of VAT shall apply in case goods are put under custom suspension regime. Customs duties can be temporarily suspended either fully or partially for certain goods under certain conditions. "Duty suspension schemes" are generally referred to as "Inward Processing Relief". Under this scheme, goods that are imported temporarily for certain purpose and for further export are subjected to certain relief provided by the custom authority. Relief can be given in 2 forms namely the 1) Drawback and 2) Suspension Relief

Drawback system allows the repayment of import duties paid in respect of imported raw materials used in the manufacture of goods to be exported outside the country.

Under the Suspension Scheme, goods that are temporarily admitted into UAE for certain purpose (e.g. processing, repair) and are used for re-export are suspended for payment of duties and taxes. In simple words, no import duty is levied on such goods at the time of import subject to fulfilment of certain conditions. Suspensions from payment of custom duties are generally granted for imported raw materials used in the country for processing, heavy machinery for completion of projects, machinery and equipment imported into the country for repair.

B. 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**. A typical example of indirect export as stipulated under clause 8 above will be **sale goods from duty-free shops**. In other words, sale from duty-free shops to outbound passengers are subject to zero rate of tax provided below conditions are fulfilled.

- a. Passenger in possession of the goods intends to leave the State. The final destination must be outside Implementing State.
- b. The Supplier i.e. Duty-free shop has obtained and retained evidence, such as the details of the boarding pass of the passenger

The basic difference between a direct and indirect export is that in case of direct export the domestic supplier in the State is responsible for export of goods whereas in the case of indirect export, the overseas customer is himself responsible for arranging the collection of the Goods from the supplier in the State and for export of such goods. Retaining official and commercial evidence as defined above is an important pre-condition for effecting such export supply whether direct or indirect as a zero-rated. So, in case of indirect exports, the domestic supplier in the state must obtain documentary evidence from the overseas customers so that the same is chargeable at zero rate of VAT.

Article (30) of the Executive Regulations clearly lays down rules regarding direct and indirect export of goods which are as follows.

1. 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 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.
 - b. Official and commercial evidence of Export or customs suspension is retained by the exporter.
2. 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 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 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 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.
3. For the purposes of this Article, a movement of Goods into a Designated Zone from a place in the State or a supply of Goods to a Designated Zone shall not be considered an Export of those Goods.
 4. For the purposes of Clauses (1) and (2) of this Article:
 - a. "Official evidence" means Export documents issued by the local Emirate Customs Department in respect of Goods leaving the State.
 - b. "Commercial evidence" shall include any the following:
 - 1) Airway bill.
 - 2) Bill of lading.
 - 3) Consignment note.
 - 4) Certificate of shipment.
 5. 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. The Export destination.
 - f. The mode of transport and route of the export movement.
 6. The Authority may specify alternative forms of evidence according to the nature of the Export or the nature of the Goods being exported.
 7. The Authority may extend the 90-day period mentioned in Clauses (1) and (2) of this Article, if the Authority has determined, after the supplier has applied in writing that either of the following apply:
 - 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.
 8. 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.
 9. If the Person required to Export the Goods in accordance with this Article does not do so within the period of 90 days or a longer period that the Authority has allowed under Clause (7) of this Article, Tax shall be charged on the supply at the rate that would have been due on the supply if it was made in the State.

10. For the purposes of this Article a supply of Goods shall be subject to the zero rate 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.
11. Customs Departments shall check to confirm the type and quantity of the exported goods with its export documents.

3.2.2 Export of services:

A. Export of Services shall be zero rated in the following cases

i) Services performed outside Implementing States

The services are actually performed outside the Implementing States or are the arranging of services that are actually performed outside the Implementing States. It will also cover cases where the Services are supplied directly in connection with real estate situated outside the State or any improvement to the real estate situated outside the State even if the recipient of such service in the State.

Example: A Dubai based Construction Company providing services to a property builder based in Abu Dhabi in respect of building situated in Egypt. Such services will be zero rated as it is performed outside State.

ii) Place of Recipient of Services outside Implementing State

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. A Person shall be considered as being “outside the State” if they only have a short-term presence in the State of less than a month, or the only presence they have in the State is not effectively connected with the supply.

Example: An IT consulting firm in Dubai enters into contract with UK based company to develop accounting software for its subsidiary in Ireland. Supply of services in this case will be zero-rated.

iii) Outbound Tour Packages

Supply consisting of the facilitation of outbound tour packages shall be zero rated. Services that consist of the “facilitation of outbound tour packages” means the services that a Taxable Person provides in packaging one or more tourism products and also services outside the Implementing States, including but not limited to such goods and services as accommodation, meals, transport, and other activities.

As per Article (31) Zero-rating the Export of Services

1. 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 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 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.
2. For the purpose of paragraph (a) of Clause (1) of this Article, a Person shall be considered as being “outside the State” if they only have a short-term presence in the State of less than a month, or the only presence they have in the State is not effectively connected with the supply.

3. 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.
4. For the purposes of paragraph (c) of Clause (1) of this Article, services that consist of the “facilitation of outbound tour packages” means the services that a Taxable Person provides in packaging one or more tourism products and also services outside the Implementing States, including but not limited to such goods and services as accommodation, meals, transport, and other activities.

As per Article (32) Zero-Rating Exported Telecommunications Services

1. The export of telecommunications services shall be subject to the zero rate in the following situations:
 - a. A supply of telecommunications services by a telecommunications supplier who has a Place of Residence in the State to a telecommunications supplier who has Place of Residence outside the Implementing States.
 - b. A supply of telecommunications services by a telecommunications supplier who has a Place of Residence in the State to a Person who is not a telecommunications supplier and who has Place of Residence outside the State States.
2. For the purposes of paragraph (b) of Clause (1) of this Article, the place where a supply is initiated shall be identified according to the following:
 - a. The place of the Person who commences the supply.
 - b. If paragraph (a) of this Clause does not apply, the Person who pays in return for the services.
 - c. If paragraphs (a) and (b) of this Clause do not apply, the Person who contracts for the purposes of the supply.
3. For the purposes of this Article, a “telecommunications supplier” means a Person whose main activity is the supply of telecommunications services.

B. Exceptions where supply of services are not zero-rated.

i) Supply of Services to Non Resident but Services are received in the State by another person.

Supply of services shall not be zero-rated if the supply is made under the agreement with Non Resident and performance of the services are received or likely to be received in the State by another person including the employee or director of Non Resident recipient of services.

Example: B a UAE company, under the direction of its overseas customer A, provides accounting services to A's subsidiary in Dubai and invoice A against such services. Such services cannot be zero rated as per Clause 3 of Article 31 of Executive Regulation.

3.3 RATE OF TAX ON EXPORTS

Article 44 of the Federal Decree Law provides that the supply and import of Goods and Services specified in this Chapter made by a Taxable Person shall be a Taxable Supply subject to the zero rate.”

According to Article 45 of Federal Decree Law, **export of taxable goods and services made by a person would be taxable at zero rate of tax.** The said article specifies 14 goods and services that are subject to zero-rated VAT.

3.4 PRICE EXCLUSIVE OF TAX

As per clause 2 of Article (27) of Executive Regulations on VAT, the Taxable Person may declare prices as being exclusive of Tax in case the supply of Goods or Services for Export.

3.5 PLACE OF SUPPLY

Under Article 2 of Decree Law, VAT will be applicable on taxable supply made by a taxable person. The term taxable supply is defined to mean 'supply of goods or services for a consideration by a person **conducting business in the State**'. Thus, if the goods / services are supplied within the UAE, then such supply shall be taxable in the UAE. Given this, it is critical to establish the place of supply of goods / services in order to determine its taxability in the UAE.

In this regard, for place of supply of goods, reference can be had to Article 27 and Article 28 and for place of supply of services, Article 29 of Decree Law. Further, there are specific Articles for determining place of supply for water, energy, tele-communication etc. which may also be referred to examine the taxability in those cases. Further, Article 20 to 24 of Executive Regulation also provides guidance on Place of Supply.

3.5.1 Place of supply in case of export of goods

In the following cases, supply is determined to have taken place within the UAE:

- (i) Supply is made to a place outside the implementing States (Ex. India, Pakistan, China etc.) In other words, **place of supply in case of export of goods and services shall be UAE State**. Accordingly, export shall be subject to UAE VAT but at zero rate of tax as per Article 44 of Federal Decree Law on VAT.
- (ii) If the recipient of goods in another implementing state is not registered for tax and total exports from UAE to that country for the supplier does not exceed the mandatory registration threshold for that State.
- Example:** ABC LLC in UAE supplies goods to an unregistered recipient XYZ LLC in KSA. If XYZ is not a tax registered dealer and the total sale to KSA of ABC is less than AED 375,000, then place of supply is determined to be UAE and tax is payable in the UAE)
- (iii) If Supplier is registered in UAE and sells goods from UAE to KSA and Customer in KSA is not registered for tax. Total amount of exports by supplier exceeds the mandatory registration threshold in KSA then the Place of supply is KSA and KSA VAT should be charged
- (iv) 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 following instances specified in the Article 20 of the Executive Regulation of this Decree-Law:

Exit and Re-entry of Goods

Where as part of a supply of Goods, those Goods are required to exit and re-enter the State in the course of being delivered from one location in the State to another location in the State, the Goods shall not be treated as exported or imported where all of the following conditions are met:

- a. Where the exit from and re-entry into the State takes place in the course of a journey between two points in the State.
- b. Where there is no significant break in transportation whilst outside of the State, and any break 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 of the State;
- e. Where the nature, quantity or quality of the Goods does not change as a result of exiting and re-entering the State.

In the following cases, the supply is determined to have taken place outside the UAE:

- (i) Supply to a tax registered customer in one of the Implementing states
- (ii) If the recipient of goods in another implementing state is not registered for total exports from UAE to that state for the supplier does exceed the mandatory registration threshold for that State.

For Example: A supplier ABC LLC in the UAE supplies goods to unregistered recipient XYZ LLC in KSA. If XYZ LLC is not a tax registered dealer and the total sale to XYZ LLC is more than AED 375,000 then the place of supply is determined to be outside UAE.

In case of supply of installed or assembled goods, if the assembly was done outside UAE, it will be treated as an export of goods.

In cases where supply requires the goods to exit UAE and then re-enter, these will not be deemed as exports. In this regard, detailed conditions are available in Executive Regulation in its Article 20

3.5.2 Place of supply in case of export of services

According to Article 29, the place of supply of services shall be the place of residence of the supplier. However, eight exceptions to Article 29 are carved out in Article 30 (such as 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, etc.). In accordance with the aforesaid article, place of supply in case of export of services shall be the UAE State as the place of residence of exporter is in the UAE.

3.6 REGISTRATION

As per the Mandatory Registration requirement under Article 13, a person making taxable supplies shall be required to be registered under VAT. All supplies which are subject to zero rate of tax are taxable supplies for the purpose of the law. Thus, in order to determine the mandatory and voluntary registration threshold, zero rated (e.g. export of goods and services) supplies shall be included.

As an exception to Article 13, a person making only zero rated supplies (e.g. exports of goods and services) can apply for an exception from mandatory tax registration requirement even in cases where the value of taxable supplies made by him exceed the limit of AED 375,000/. Persons exclusively making zero rated supplies (e.g. exports) do not have any obligation to charge tax and as such they have been exempted from mandatory registration.

The effect of the exemption from registration to a person making wholly zero-rated supplies is that, the exempted person cannot claim input tax credit on any input tax incurred for the purpose of his business. If such person wants to claim refund of recoverable input tax, he may choose to apply for registration.

As per Article 15 of Federal law No. 8 of 2017 on VAT, any taxable person may be exempted from registration only if he supplies zero rated goods or services. For getting this exemption, the person is required to make an application to the tax authority.

Article 15 of this decree law reads as below.

1. The Authority may exempt a Taxable Person from mandatory Tax Registration upon his request if his supplies are only subject to the zero rated.
2. Anyone exempted 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.

Moreover, **Article 16 of the Executive Regulation on VAT** provides as follows.

1. A Taxable Person that wants to apply for an exception from Tax Registration on the basis that all of his supplies are zero rated, shall apply to the Authority in a manner and by means specified by the Authority.
2. The Authority shall review the exception from registration application and either accept the exception from Tax Registration or notify the Taxable Person that his application is rejected.
3. A Person excepted from Tax Registration must notify the Authority if he makes any supplies or Imports of Goods or Services that are subject to Tax at the standard rate.
4. A Person shall give the notice referred to in Clause (3) of this Article within not more than 10 business days of making the supply or import which is taxable at the standard rate.
5. Where the Person ceases to satisfy the requirement of being excepted from Tax Registration, he shall be required to register for Tax.

3.7 RECOVERY OF TAX ON EXPORTED GOODS

Any input tax paid by the business in making an export shall be recoverable against output tax. In case there is no output tax to be set off, the business can claim refund of the input tax paid from the tax authority. This may happen in a number of situations, but this will be most common in cases of supply of zero rated goods and services, **particularly exports**. A supplier of "Zero-rated Goods and Services receives inward supplies of goods and services by paying Input VAT for which he is allowed to get credit. His Output Tax will be Nil as the supply of goods and services are zero-rated. Thus, the supplier of zero-rated goods and services will always be in a position to recover or claim refund of VAT paid on Input goods and services procured by him.

3.8 REFUND OF TAX ON EXPORTED GOODS

In special cases, where goods are being exported by a non-resident from the UAE, the Executive Regulation has specific provisions for this (Article 67 and 68) to grant refund of the tax paid (e.g. A tourist buys an iPhone in Dubai for the purposes of carrying it back to the home country). Procedure for this refund of tax is yet to be defined.

3.9 RECORD KEEPING REQUIREMENTS FOR EXPORTERS

As per Article 65(1) of Federal Decree Law on VAT, a Registrant making a **Taxable Supply** is required to issue an original Tax Invoice and deliver it to the Recipient of Goods or Recipient of Services. As explained earlier, taxable supply includes both standard-rated supply and zero-rated supply. Therefore, on a plain reading of the said provision, it can be interpreted that a registrant making even a zero-rated supply of goods and services shall issue a Tax Invoice.

However, an exception has been provided under Clause 3 of Article 59 of Executive Regulation which provides that **If there are or will be sufficient records available to establish the particulars of a supply, a Taxable Person is not required to issue a Tax Invoice for the supply where the supply is a wholly zero-rated supply.**

It is important to note here that the said provision is applicable only when there is a wholly zero-rated supply particularly direct and indirect export. In simple words, Tax Invoice is not required to be issued against the supply if the supply is a wholly zero-rated supply.

Article (24) and (30) of the Executive Regulations on VAT lay down the documentation document in case of export of goods. It provides as follows.

1. Where a Taxable Person makes a supply of Goods from the State to a Person who has a Place of Residence in another Implementing State, and the supply requires the Goods to be physically moved to that other Implementing State, the Taxable Person shall retain official and commercial evidence of Export of those Goods to that other Implementing State.

2. The Authority may require a Taxable Person who make supplies of Goods or Services to another Implementing State to collect, retain and provide any evidential information other than required under Clause (1) of this Article, by the means determined by the Authority.
3. The Customs Departments shall confirm the type and quantity of the exported goods with its exported documents.
4. All taxable persons are required to keep proper records of exported goods and services. In addition to the regular books and records, the exporter has to retain Official and commercial evidence of Export or customs suspension.
 - a. "Official evidence" means Export documents issued by the local Emirates Customs authority in respect of Goods leaving the State.
 - b. "Commercial evidence" shall include any the following:
 - 1) Airway bill
 - 2) Bill of lading
 - 3) Consignment note
 - 4) Certificate of shipment.
5. 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. The Export destination
 - f. The mode of transport and route of the export movement.

Further, as per Article 70 (11) of Executive Regulation supplier and recipient should maintain records of communication for the purposes of transitional provisions.

MODULE 4

IMPORTS

4.1 DEFINITONS

Before we discuss exports and tax implications thereon, let's peruse the definitions of important terms given below:

Import: The arrival of Goods from abroad into the State or receiving Services from outside the State.

Goods: Physical property that can be supplied including real estate, water, and all forms of energy as specified in the Executive Regulation of this Decree-Law.

Services: Anything that can be supplied other than Goods.

Concerned Goods: Goods that have been imported, and would not be exempt if supplied in the State

Concerned Services: Services that have been imported where the place of supply is in the State, and would not be exempt if supplied in the State

Person: Natural or legal person.

Taxable Person: Any Person registered or obligated to register for Tax purposes under the Decree-Law.

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.

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

State: United Arab Emirates

Implementing States: GCC States that are implementing a Tax law pursuant to an issued legislation

Overseas Customer: a Recipient of Goods who does not have a Place of Establishment or Fixed Establishment in the State, or otherwise resides in the State, and who does not have a Tax Registration Number.

Non-Resident: Any person who does not own a Place of Establishment or Fixed Establishment in the State and usually does not reside in the State.

4.2 SCOPE OF TAX AND TAX RATE

Article 2 of the Federal Decree Law Tax shall be imposed on:

1. Every Taxable Supply and Deemed Supply made by the Taxable Person.
2. Import of Concerned Goods.

The arrival of Goods from abroad into the State or receiving Services from outside the State is called Import.

Concerned Goods are defined as Goods that have been imported, and would not be exempt if supplied in the State. In other words, all standard-rated and zero-rated goods when imported are referred to as Concerned Goods.

Generally, all imported goods into UAE are subject to VAT. However, those goods and services that are exempt under UAE VAT laws, no VAT shall be applicable on import of these goods and services. As per Article 46 of the Decree Law, following 4 supplies are 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.
3. Supply of bare land.
4. Supply of local passenger transport.

So, practically all the goods and services are either taxable at standard rate or zero rate. Thus, the import of all such goods and services are subject to UAE VAT rate of 5%. The only exception is import of precious metals, on which VAT rate of 0% is applicable as the same is zero-rated. The rate of VAT applicable on imports is kept same as the VAT rate applicable on domestic supplies, in order to ensure that VAT on imports are same as VAT on domestic supplies.

VAT is not chargeable on goods imported from a place outside UAE to any designated zones in UAE as Designated Zones are considered to be a place outside UAE for VAT Purpose. As per Article 47 (1) (b) of Executive Regulation on VAT, **Goods shall not be treated as imported into the State if the goods are imported into a Designated Zone from a place outside the State.**

4.3 VALUE OF IMPORTS

In case of import of goods, VAT is charged under reverse charge mechanism. The registered taxpayer importing goods will have to book Output VAT and pay the same at the time of filing VAT Return. Input Credit is also available to the importer in respect of such imports. Although the payment of VAT is deferred to the VAT return filing date, the value of goods on which VAT needs to be paid is determined at the time of customs clearance.

In case of domestic supplies, the value of supplies is normally the transaction value i.e. Consideration received by the supplier. However in case of imports, the value of goods is determined in accordance with the provisions of Custom Legislation.

Article 35 of the Federal Decree Law in this regard stipulates as follows;

The Import value of Goods consists of:

1. **The customs value pursuant to 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 pursuant to Clause (1) of this Article, the value shall be determined based on alternate valuation rules stated in the applicable Customs Legislation.**

Thus as per the aforesaid provision, the import value of goods shall consist of:

- Customs value determined in accordance with Customs Legislation
- Including the value of insurance, freight and
- Any customs fees and Excise Tax paid on the Import of the Goods.

The valuation method adopted for valuation of imported goods consists broadly of the CIF Values (Cost, Insurance, and Freight). Customs duties have been fixed to 5% of the CIF value for most products. However, alcoholic products are subject to 50% duty and tobacco products are assessed at 100% customs duty.

Once the value discussed above is determined, the customs duty will be levied on CIF Value and then on the sub-total (CIF + Customs duty), excise duty if applicable will be levied. The Rate of Excise Duty in UAE differs based on the product. Excise Duty is charged at 50% on carbonated drinks, 100% for tobacco products and energy drinks.

Finally, on the total value (CIF + Customs Duty + Excise Duty, if any), VAT at 5% will be levied.

- Value of Goods
- + Value of Fright and Insurance
- + Customs Duty
- + Excise Duty

Practically, the Custom value shown in the Bill of Entry can be taken as a basis for calculation of VAT.

Let's understand the calculation of import value with the help of examples given below:

Case 1: Import of Goods without Excise Duty

Import Value	Amount in AED
Value of Goods (FOB Value)	100,000
(+) Value of Freight and Insurance	10,000
Customs Declared Value (CIF Value)	110,000
(+) Customs Duty at 5% (110,000*5/100)	5,500
Total Value of Import	115,500
VAT at 5% (115,500*5/100)	5,775

Case II: Import of goods with Excise Duty @ 50%

Import Value	Amount in AED
Value of Goods (FOB Value)	100,000
(+) Value of Freight and Insurance	10,000
Customs Declared Value (CIF Value)	110,000
(+) Customs Duty at 5%	5,500
Total Value of Import	115,500
(+) Excise Duty at 50%	57,750
Total Value of Import after Excise duty	173,250
(+) VAT at 5%	8,662.5

In the above case, the value of import goods for the purpose of VAT includes the value of goods + Freight and Insurance + Customs Duty + Excise Duty.

4.4 PLACE OF SUPPLY OF GOODS AND SERVICES

Place of Supply of Goods

In case of import of goods from outside GCC Implementing countries, **Place of Supply is UAE**. Provisions of Article 48 of Federal Decree Law on VAT may be taken as a reference for this purpose as it provides that

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.**

Place of Supply of Services

In situations where a VAT registered person imports services into the UAE which would be subject to VAT if purchased in the UAE, the **VAT registered purchaser has to account for VAT in respect of those supplies**. The place of supply in case of import of services shall also be UAE State.

RCM is typically used for cross-border transactions to relieve a non-resident supplier from the requirement to register and account for VAT in the country of the purchaser. The purchaser will account for VAT on its normal VAT return and he may be able to claim that VAT back on the same return, subject to the normal VAT recovery rules.

4.5 DATE OF SUPPLY

As per clause 4 of Article (25) of Federal Decree Law on VAT, The date of supply in case of import of goods shall be the **date on which the goods are imported under the Customs Legislation**. Normally, the date of filing declaration for import of goods is considered as the date of supply.

4.6 VAT PAYMENT ON IMPORT OF GOODS

There can be various scenarios for import of goods. These can broadly be divided into 2 categories:

- i. Import of goods by a registrant
- ii. Import of goods by a non-registrant
- iii. Import of goods by Agents

As a general rule, the importer is liable to pay VAT on reverse charge basis if he is registered under VAT. If the importer is not registered, he will have to pay VAT before actual clearance of concerned goods.

4.6.1 VAT payment on import of goods by registered person (reverse charge mechanism)

In case the recipient in the State is a registered person with the Federal Tax Authority for VAT purposes, VAT would be due on that import using a reverse charge mechanism except where goods will be re-exported to another GCC State. It should be noted that Import has been defined under Article 1 of Decree Law as “The arrival of Goods from abroad into the State or receipt of Services from outside the State.”

Under Reverse Charge, the businesses will not have to physically pay VAT at the point of import. The responsibility for reporting of a VAT transaction is shifted from the seller to the buyer (importer) under Reverse Charge Mechanism. Here the buyer reports the Input VAT (VAT on purchases) as well as the output VAT (VAT on sales) in their VAT return for the same quarter.

The importer has to disclose the amount of VAT under both Input VAT as well as Output VAT categories of the VAT return of relevant tax period. Thus, Reverse Charge Mechanism eliminates the obligation for the overseas seller to register for VAT in the UAE.

As an exception to above rule, 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 at the time or before the import of the goods as directed by the Authority. [Article 49 of Executive Regulation]

UAE VAT Reverse Charge Mechanism



Case Study: Company ABC LLC is into production and distribution of a special kind of machinery used in construction. The main factory is in London. All the operations in the Middle East are controlled from their office in Dubai. **Goods are imported to Dubai from the factory in London.** Please advise how VAT in UAE will be applicable

When goods are imported to Dubai (UAE) there will be customs duty as applicable now. Place of supply will be UAE and VAT will be applicable on this import. VAT in UAE will be calculated on the gross price (purchase value + customs duty). However, the importer need not pay the VAT at the time of import. Here reverse charge mechanism will be applied for VAT purpose. The importer will record the 5% VAT on the gross value of import as output tax and the same amount will be recorded as input tax in the VAT return for the same period. This is only a book entry. There is no actual payment during import of goods. This is called reverse charge under VAT.

The various scenarios of import of goods by a person registered under VAT and the mode of VAT payment in each of these scenarios are tabulated below.

Scenario	Mode of payment of VAT
Import of taxable goods into the UAE mainland	File VAT returns and pay the VAT due at the time of filing returns using RCM
Import of goods into UAE and then exporting the goods to another country	VAT is not applicable
Transfer taxable goods from one VAT designated zone to another VAT designated zone	VAT is not applicable
Import of taxable goods into a VAT designated zone	VAT is not applicable

4.6.2 VAT payment on import of goods by unregistered person

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.**

There are 2 ways for payment of VAT on import by unregistered persons which are stated below.

- Pay VAT on import
- Pay VAT through e-guarantee/financial guarantee.

When a person registered under VAT imports goods, he/she has to pay VAT on the import while filing the VAT returns, wherever VAT is applicable. When a person who is not registered under VAT imports goods, he/she has to either pay the VAT on import or provide an e-guarantee, wherever VAT is applicable.

Listed below are the possible scenarios for Un-registered Importers and the mode of VAT payment in each of these scenarios.

S. No.	Scenario	Mode of payment of VAT
1	Import taxable goods into UAE mainland	Pay on import
2	Import goods into UAE to export the goods outside the UAE to another country and it is not considered to be under customs duty suspension	
3	Import to export the goods outside the UAE to a GCC Country that has implemented VAT and it is not considered to be under customs suspension	
4	Transfer taxable goods from one VAT designated zone to another VAT designated zone	Provide e-guarantee
5	Import Concerned goods into UAE under customs duty suspension	
6	Import taxable goods from outside UAE into a VAT designated zone	VAT is not applicable
7	Traveller bringing in taxable goods valued up to AED 3,000	
8	Import of returned goods (return of goods exported from UAE) into UAE mainland	
9	A UAE national living abroad or expat coming into UAE for the first time, importing used personal effects and household items	
10	The military and internal security forces importing taxable goods into the mainland	

Process for VAT Payment on Import

The below process applies in scenarios 1 to 3 tabulated above. For more details, refer below Paragraph “**VAT Import Declaration User Guide**”

a. Customs declaration

The importer should prepare and submit the customs declaration in the respective Customs portal and do the following:

- 1. Provide the necessary details about all the goods being imported
- 2. Submit customs declaration for processing by Customs

Once the declaration is approved, it moves to ‘Pending tax payment’ status.

b. Await settlement by Customs

A customs official will validate the declaration details and approve the declaration. The importer will receive a notification that the declaration is approved.

The Customs declaration will be sent to the FTA by the Customs Authority.

c. Create an e-Services account on FTA portal

Unregistered persons should create an e-Services account on the FTA portal to pay for VAT Payment on import.

The sign-up process is as follows:

1. Sign up as a new user by entering your email ID and a unique password.
2. You will receive an email at the registered email ID asking you to verify your email ID.
3. Once your email ID is successfully verified, your e-Services account will be created and you can login to the FTA e-Services portal.

d. Login to the FTA portal and make the payment of VAT Payment

The final step is for unregistered persons to login to the FTA portal and pay the VAT due on import. Import VAT is calculated on the value of the goods + Customs duty + Excise duty.

Process for VAT Payment on Import through e-guarantee

The below process applies in scenarios 1 to 3 tabulated above. For more details, refer below Paragraph “**VAT Import Declaration User Guide**”

1. Customs Declaration

The importer shall prepare and submit the customs declaration via standard procedures and do the following:

- Provide the necessary details about all the goods being imported;
- Submit Customs Declaration for processing by Customs.

Once the declaration is approved, it moves to a “Pending Tax Payment” status.

2. Obtain e-Guarantee (Financial Security)

- Obtain an e-Guarantee equal to the value of VAT due from your Bank.
- Obtain the reference number of the e-Guarantee.

3. Create an e-Services account

Taxable persons who are not registered but are importing goods to the UAE will first have to create an e-Services account. The sign up process includes the following steps:

- Sign up as a new user;
- Verify your e-Services account; and
- Complete the verification by using your e-Services account.

4. Login to FTA portal and complete the VAT Import Declaration form

The importer shall log in to the FTA e-Services portal to submit the e-Guarantee number obtained from bank. Once the submission of e-guarantee number is processed, the customs clearance process can be completed.

4.6.3 VAT payment on import of goods by agents

The provisions regarding import of goods by agents on behalf of another person are contained in Article 50 of the Executive Regulation on VAT which stipulates as below.

- 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 Goods.
- 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.
- An agent who has paid tax on the behalf of another person shall not recover as Input Tax thus paid.
- Where an agent has paid Tax on behalf of another Person, it shall issue a statement to that other Person which contains, at the minimum, all of the following details:
 - i. The name, address, and Tax Registration Number of the agent.
 - ii. The date upon which the statement is issued.
 - iii. The date of Import of the relevant Goods.
 - iv. A description of the imported Goods.
 - v. The amount of Tax paid by the agent to the Authority in respect of the imported Goods.
- The statement issued by the agent to a Person in accordance with this Article shall be treated as a Tax Invoice for the purposes of the VAT Laws.

4.7 VAT PAYMENT ON IMPORT OF GOODS – EXCEPTIONS

When goods or services are imported into UAE, the VAT registered importer is liable to pay VAT on reverse charge basis. However, certain specified goods are exempted from VAT on import. When these goods are imported into UAE, VAT is not liable to be paid by the recipient. Note that these exemptions should not be confused with Customs duty exemptions on certain specified imports. These goods are only exempted from VAT. Customs duty would still need to be paid on these goods.

As per Clause 2 of Article 47 of Executive Regulation on VAT, **Tax shall not be due on any Import of Goods where they are under an exemption from Customs duty under the following categories in accordance with the GCC Common Customs Law:**

- a. **Goods imported by the military forces and internal security forces**
- b. **Personal effects and gifts accompanied by travellers**

The personal belongings and gifts brought by the tourist while visiting UAE are not subjected to VAT. No VAT is applicable on these as these are non-commercial in nature.

c. **Used personal effects and household items transported by UAE nationals living abroad on return or expats moving to live in UAE for the first time**

Used personal belongings and household items brought into UAE by UAE nationals returning to UAE after living abroad, are exempted from VAT. Similarly, when expatriates from other countries move to UAE for the first time, the used personal belongings and household items brought by them are exempted from VAT.

d. **Returned goods**

When goods exported from UAE are returned or goods which have been temporarily exported for finishing or repair have been brought back to UAE, VAT is not applicable.

4.8 GOODS UNDER CUSTOM DUTY SUSPENSION

Customs duty suspension is an arrangement under which Customs duty is not levied in certain circumstances. These goods which are under the customs duty suspension will also not attract import VAT.

Goods shall not be treated as imported into the State where they are under customs duty suspension arrangements in accordance with the GCC Common Customs Law.

Supplies covered under the customs duty suspension

The supplies which come under customs duty suspension are:

- a. Goods entering UAE under temporary admission
- b. Goods which are placed in a customs warehouse
- c. Goods entering UAE in transit
- d. Goods imported which are intended to be re-exported by the same person who imported them

Financial guarantee required for goods coming under customs duty suspension

As per Article 47 (1)(a) of the Executive Regulation, the importer would be required to provide a financial guarantee equal to the value of VAT which would be due on import, before the goods are allowed to be considered under customs duty suspension.

Consequences if the specified supplies do not meet the conditions for customs duty suspension.

If the goods imported do not meet the conditions for customs duty suspension, they will be treated as imported into UAE and VAT will become due on the goods.

What is the difference between goods kept under customs duty suspension and goods which are exempted from import VAT?

The key difference between the two is that on goods which are kept under customs duty suspension, customs duties will not be levied, whereas on goods which are exempted from VAT, customs duties could be levied.

Hence, imports which are considered under customs duty suspension are not subject to import VAT and customs duties, provided the required conditions are met.

4.9 RECORD KEEPING REQUIREMENTS

Where a Taxable Person imports concerned goods and services and accounts for Due Tax under Reverse Charge Mechanism, 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.

4.10 VAT IMPORT DECLARATION USER GUIDE

In order to help VAT registered importers understand the payment process, declaration process and steps to be followed for the purpose of importing goods into the UAE, navigate through the Federal Tax Authority (FTA) website and successfully declare goods subject to VAT, FTA has issued **VAT IMPORT DECLARATION USER GUIDE**. The same is reproduced here for quick reference of readers.



VAT IMPORT DECLARATION USER GUIDE (REGISTERED AND NON-REGISTERED USERS)

December 2017



1. Brief overview of this user guide

This guide is prepared to help VAT registered importers understand the different scenarios and steps to be followed in term of importing goods into the UAE, navigate through the Federal Tax Authority (FTA) website and successfully declare goods subject to VAT. It is designed to help you:

- **understand the process** for declaring goods at Customs
- **navigate to the VAT declarations forms** to declare goods subject to VAT
- **provide accurate answers** to the questions on the VAT Declaration Import forms by explaining what information you are required to provide
- **provide Customs with the appropriate proof** to validate the imports declaration and the VAT due; and
- **understand the icons and symbols** included in the forms.

Setting up an e-Services account is similar to setting up the other online accounts that you hold. The VAT import declaration form is also designed to be straightforward and wherever possible it will auto-complete information for you.

If you need help setting up your e-Services account or have questions on specific fields in the VAT import declaration form, please contact us.



2. Summary of Scenarios for Registered Importers for VAT

As a VAT registered importer, you shall follow specific steps for each scenario to identify the declarations you will be required to file. The guide covers the following scenarios:

1. **Scenario 1:** Importing taxable goods into UAE mainland
2. **Scenario 2:** Importing and then exporting the goods to another country

For scenarios 1-2, you must file your returns and pay the VAT due at the time of filing your VAT return. For details about the filing process for VAT, refer to the VAT returns user guide published on FTA portal.

3. **Scenario 3:** A traveler importing goods valued up to AED 3000.
4. **Scenario 4:** Importing returned goods (being certain exported goods which came back into UAE) into UAE mainland.
5. **Scenario 5:** A UAE National living abroad or expat coming into the UAE for the first time importing used personal effects and household items.
6. **Scenario 6:** The military and internal security forces Importing goods into UAE mainland.
7. **Scenario 7:** Importing goods into a VAT designated zone.
8. **Scenario 8:** Transferring goods from one VAT designated zone to another VAT designated zone.

For scenarios 3-8, VAT is not applicable. No further details are documented in this guide.

3. Summary of scenarios for Non-Registered Importers for VAT

Non-registered importers are those who import goods subject to VAT irregularly without being registered for VAT.

The document covers the following scenarios:

- **Scenario 1:** Import goods from outside UAE to UAE mainland
- **Scenario 2:** Import into 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

For details on steps to be followed under **Scenarios 1-3** refer to section 4.1 in this document.



- **Scenario 4:** Transfer goods from one VAT designated zone to another VAT designated zone
- **Scenario 5:** Import goods into the UAE under duty suspension

For details on steps to be followed under **Scenarios 4-5** refer to **section 4.2** in this document.



4. VAT Scenarios details for Non-Registered Importers

Below are the steps which non-registered importers have to follow in order to prepare their customs declaration, pay their VAT and have their goods cleared at Customs.

4.1 Scenarios 1-3

The process below applies to the following scenarios:

- **Scenario 1:** Import goods into UAE mainland
- **Scenario 2:** Import goods into UAE to export the goods outside the UAE to another country and it is not considered to be 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 to be under customs suspension

1. Customs Declaration

The importer shall prepare and submit the customs declaration via standard procedures and do the following:

- Provide the necessary details about all the goods being imported;
- Submit Customs Declaration for processing by Customs.

Once the declaration is approved, it moves to a “Pending Tax Payment” status.

2. Await settlement by the Customs

The customs official shall validate the declaration details, settle and approve the declaration. The importer will receive the approval notification.

IMPORTANT: Once the declaration is sent to FTA, the customs system will not allow any further editing of the form. The only state that the declaration form can change to is either “approved” or “declined”.

3. Create an e-Services account

Taxable persons who are not registered but are importing goods to the UAE will first have to create an e-Services account. The sign up process includes the following steps:

- Sign up as a new user;
- Verify your e-Services account; and,
- Complete the verification by using your e-Services account.

For details on the steps above, please refer to the sign up process documented within **Appendix A**.



4. Login to FTA portal and make the Payment for VAT due

Non-registered importers have to 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.

The importer shall log in to the FTA e-Services portal to proceed with and confirm the payment. To do so, go to the VAT tab as per the following screenshot and then follow the following steps:



- Click on 'VAT301 – Import Declaration Form for VAT Payment'.

• VAT301 - EGuarantor Cancellation Form
• VAT301 - Import Declaration Form for VAT Payment

- Fill in the Customs Authority, Declaration Number and Declaration Date. Then click on **Next** button that appears at the right side of the end of the page.
- The screen 'About Declaration' will open and the declaration details (TRN number, import date, destination...etc.) will be automatically retrieved. Click on '**Next**' button that appears at the right side of the end of the page.

- The screen 'Declaration Details' will open and the declaration details (e.g. HS Code, Import Value, Customs Duty, CIF Value...etc.) will be automatically retrieved. Click on '**Next**' button that appears at the right side of the end of the page to proceed to payment screen.

- Click on '**Pay VAT**' button which will direct you to the e-Dirham gateway.
- Once you are redirected to the e-Dirham gateway, you will be able to make a payment through an e-Dirham or non e-Dirham card.
- Once the payment is processed successfully, a confirmation message will appear on the screen and you will receive an email confirmation that the payments has been successfully completed. After which the customs clearance process can be completed.



4.2 Scenarios 4-5

The process below applies to the following scenarios:

- **Scenario 4:** Transfer of goods from one VAT designated zone to another VAT designated zone;
- **Scenario 5:** Import goods into the UAE under duty suspension.

1. Customs Declaration

The importer shall prepare and submit the customs declaration via standard procedures and do the following:

- Provide the necessary details about all the goods being imported;
- Submit Customs Declaration for processing by Customs.

Once the declaration is approved, it moves to a “Pending Tax Payment” status.

2. Obtain e-Guarantee (Financial Security)

- Obtain an e-Guarantee equal to the value of VAT due from your Bank.
- Obtain the reference number of the e-Guarantee.

IMPORTANT: Once the declaration is sent to the FTA, the customs system will not allow any further editing of the form. The only state that the declaration form can change to is “approved” or “declined”.

3. Create an e-Services account

Taxable persons who are not registered but are importing goods to the UAE will first have to create an e-Services account. The sign up process includes the following steps:

- Sign up as a new user;
- Verify your e-Services account; and
- Complete the verification by using your e-Services account.

For details on the steps above, please refer to the sign up process documented within **Appendix A**.

4. Login to FTA portal and complete the VAT Import Declaration form

The importer shall log in to the FTA e-Services portal to submit the e-Guarantee number. To do so, go to VAT tab as per the following screenshot and then follow the following steps:





- Click on 'VAT301 – Import Declaration Form for VAT Payment'.

[VAT701 - E-Guarantee Cancellation Form](#)
[VAT301 - Import Declaration Form for VAT Payment](#)

- Fill in the Customs Authority, Declaration Number and Declaration Date. Then click on **Next** button that appears at the right side of the end of the page.
- The screen 'About Declaration' will open and the declaration details (TRN number, import date, destination, etc.) will be automatically retrieved. Click on '**Next**' button that appears at the right side of the end of the page.

Declaration ID	Customs Authority*
Declaration Number*	Import Authority
Declaration Date*	

- The screen 'Declaration Details' will open and the declaration details (e.g. HS Code, Import Value, Customs Duty, CIF Value, etc.) will be automatically retrieved. Click on '**Next**' button that appears at the right side of the end of the page to proceed to payment screen.
- Fill in the e-Guarantee number and Click on '**Verify e-Guarantee**' button.
- Once the submission of the e-Guarantee is processed successfully, a confirmation message will appear on the screen providing the transaction ID and the amount.

Further, you will receive an email confirmation that the e-Guarantee has been successfully submitted.

After which the customs clearance process can be completed.

Payment Type	Transaction ID	Amount
EGUARANTEE	2017000000000216	11.10

4.3 Upon leaving the UAE/ exporting the goods

The importer shall log in to the FTA e-Services portal to submit the e-Guarantee cancellation request. To do so, go to VAT tab as per the following screenshot and then follow the following steps:



- Click on '**VAT701 – E-Guarantee Cancellation Form**'.
- Fill in the e-Guarantee Cancellation form and provide the following information:
 - Import Customs Authority

[VAT701 - E-Guarantee Cancellation Form](#)
[VAT301 - Import Declaration Form for VAT Payment](#)



- Import Declaration Number
- Import Declaration Date
- Import Customs Registration Number
- Export Customs Authority
- Export Declaration Number
- Export Declaration Date
- Export Customs Registration Number
- E-Guarantee number
- Amount subject to refund
- E-Guarantee file attachment

3. Once the form is filled, click on the '**Submit**' button that appears at the right side of the end of the page.
4. Once the submission of the e-Guarantee cancelation form is done successfully, a confirmation message will appear on the screen that the request is successful and you will receive a confirmation email.

VAT701 - EGuarantee Cancellation Form

Submit Cancellation Request

Request Successful

The e-Guarantee Cancellation will be handled by the FTA Team. An FTA Official will be in touch with you with further details as needed.