



## Professional Standards for Tax Agents

May 2019

## Contents

<b>1. Introduction .....</b>	2
<b>1.1. Overview.....</b>	2
<b>1.1.1. Short brief .....</b>	2
<b>1.1.2. Purpose of this document .....</b>	2
<b>1.1.3. Who should read this document? .....</b>	3
<b>2. Tax Agents .....</b>	4
<b>2.1. Definition of a Tax Agent.....</b>	4
<b>2.2. Register of Tax Agents .....</b>	4
<b>2.3. Is it mandatory to appoint a tax agent? .....</b>	4
<b>3. Conditions for Registration .....</b>	5
<b>3.1. Conditions to be met to register as a Tax Agent.....</b>	5
<b>3.2. The process of registering as a tax agent.....</b>	5
<b>4. Duties and Responsibilities of the Tax Agent .....</b>	6
<b>4.1. Duties of the Tax Agent .....</b>	6
<b>4.2. Responsibilities of the Tax Agent.....</b>	6
<b>5. Tax Agent Professional Standards.....</b>	7
<b>5.1. Code of Ethics.....</b>	7
<b>5.1.1. Integrity .....</b>	7
<b>5.1.2. Objectivity .....</b>	8
<b>5.1.3. Professional competence .....</b>	8
<b>5.1.4. Confidentiality .....</b>	9
<b>5.1.5. Professional behaviour .....</b>	9
<b>6. Refusing an application or removing from the register.....</b>	11
<b>6.1. Refusing an application to register .....</b>	11
<b>6.2. Removing a tax agent from the register .....</b>	11

## 1. Introduction

### 1.1. Overview

#### 1.1.1. Short brief

Excise tax was introduced with effect from 1 October 2017 in the UAE. Excise Tax is an indirect tax levied on specific excise goods which are either imported into the UAE, produced within the UAE, released from a designated zone in the UAE or stockpiled in the UAE.

VAT was introduced with effect from 1 January 2018 in the UAE. As a general consumption tax on the supply of goods and services, it applies to those supplies which take place within the territorial area of the UAE.

The introduction of these new taxes in the region also created a need for guidelines to govern the administration of taxes in the UAE, and in particular to introduce a governance framework for the interaction between taxable persons and the Federal Tax Authority ("FTA"). This framework is enshrined in the Federal Law No. 7 of 2017 on Tax Procedures ("the FTP Law") and Cabinet Decision No. 36 of 2017 on the Executive Regulations of Federal Law No. 7 of 2017 on Tax Procedures ("the FTP Executive Regulations").

The FTP Law defines the concept of a tax agent, a natural person given authority to liaise with the FTA in relation to the tax affairs of another person. International best practice indicates that tax agents play an important role in the administration of a tax system – they are independent of the tax authority, but serve a role in better facilitating the interactions between the tax authority and the tax paying community. Tax agents work for and on behalf of their clients by representing them in their affairs with the FTA and assisting in easing the compliance burden of taxable persons by providing an option whereby certain compliance functions can be performed by the tax agent on the taxable person's behalf. The FTA commits to work collaboratively with tax agents in order to encourage the ease of doing business in the UAE.

#### 1.1.2. Purpose of this document

The role of a tax agent is valued by the FTA and the tax paying community alike, and as a result, it is important that those appointed as tax agents maintain certain standards of professionalism and ethical conduct.

This document contains guidance on the expected professional standards and code of ethics for tax agents along with the roles and responsibilities of tax agents established under the FTP Law and its Executive Regulations. It also sets out the authority of the FTA in appointing and monitoring the standards upheld by tax agents, and its authority to deregister tax agents in certain cases.

### 1.1.3. Who should read this document?

This document should be read by tax agents in order to provide further information on the expectations which the FTA has over how that role should be performed. It will also be of interest to taxable persons who have appointed a tax agent, or who are considering appointing a tax agent, so that they are aware of the standards they should expect from their agent.

It is intended to be read in conjunction with other relevant guidance published by the FTA on tax agents and tax agencies.

## 2. Tax Agents

### 2.1. Definition of a Tax Agent

A tax agent is any natural person registered with the FTA in the register of tax agents, who is appointed on behalf of another person to represent him before the FTA and assist him in the fulfilment of his tax obligations and the exercise of his associated tax rights.

Notably, there are certain minimum requirements which a tax agent must meet before the FTA approves that person's application as a tax agent.

### 2.2. Register of Tax Agents

In order to act as a tax agent, you must be listed on the register of tax agents. This register is established at the FTA and will include a file for every tax agent, in which all matters related to his/her professional conduct shall be lodged.

It is imperative to note that it is not permitted for any person to practice the profession of a tax agent in the UAE unless he/she is listed in the register and licensed for this purpose by the Ministry of Economy and/or the competent local authority.

### 2.3. Is it mandatory to appoint a tax agent?

While the concept of a tax agent is to help businesses to be compliant in respect of their tax obligations, it is not mandatory for a taxable person to appoint a tax agent. The appointment of a tax agent does not relieve the taxable person of their obligations; the taxable person bears the ultimate legal responsibility for the dealings with the FTA by the tax agent on their behalf.

It is also not the FTA's role to promote the use of tax agents generally, or to promote individual tax agents. The FTA will publish a list of approved tax agents on its website for information purposes in order to assist taxable persons to identify suitably qualified tax agents. The taxable person is free to make its own choice regarding whether or not it wishes to use the services of a tax agent to assist in its compliance obligations.

### 3. Conditions for Registration

#### 3.1. Conditions to be met to register as a Tax Agent

In order to be listed in the register, the agent must satisfy a number of conditions, notably:

1. The applicant must be of good conduct and behaviour and have never been convicted of a crime or misdemeanour prejudicial to honour or honesty, notwithstanding that he may have been rehabilitated;
2. The applicant must hold at least a certified Bachelor or Master degree in tax, accounting or law from a recognised educational institution, or a Bachelor degree in any field plus a tax certification as accepted from an internationally known tax institute;
3. The applicant is required to have relevant recent experience of at least three years, in either tax, qualified accounting or law, with the ability to communicate orally and in writing in both Arabic and English;
4. The applicant must pass any tests to meet qualification standards as may be specified by the FTA;
5. The applicant must be medically fit to perform the duties of the profession;
6. The applicant or the business he/she works with must hold a professional indemnity insurance contract; and
7. The applicant must perform his/her activity as a tax agent through a legal person (i.e. a tax agency) approved by the Ministry of Economy and the local competent authority.

#### 3.2. The process of registering as a tax agent

Detailed information on the steps required to register as a tax agent is set out in other relevant guidance published by the FTA on tax agents and tax agencies. Any person wishing to register as a tax agent should refer to that guidance and follow the process as described, including providing supporting documentary evidence.

Once the application is received, the FTA will review the details of the application and respond with its decision as appropriate.

**Note:** Tax Agents should refer to “Tax Agents and Tax Agencies User Guide” for further guidance on the registration process.

## 4. Duties and Responsibilities of the Tax Agent

In performing the duties of a tax agent, there are a number of professional standards which the FTA would expect to be upheld by a person acting in this capacity. These professional standards will be monitored by the FTA, and used as a means of assessing whether that tax agent is upholding their duties and responsibilities. This section summarises the duties and responsibilities of a tax agent, in order to give context to the next section of this guide which will summarise the professional standards which a tax agent should uphold.

### 4.1. Duties of the Tax Agent

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 or result in a loss of revenue due to the FTA.
- d. Renew their listing as a tax agent before its expiration date.

### 4.2. Responsibilities of the Tax Agent

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.

The tax agent must, upon the FTA's request, provide it with all the information, documents, records and data required for any person represented by the tax agent. In the event of a tax audit, the tax agent must facilitate and offer assistance to the tax auditor to enable him to perform his duties, even after the expiry of the agency engagement or the dismissal of the tax agent.

The tax agent must also refer to the professional standards set out in the following section of this guide, and ensure that these professional standards are upheld in the course of all activities performed during and after that person's appointment as a tax agent.

## 5. Tax Agent Professional Standards

As previously mentioned, the role of a tax agent is valued by the FTA and the tax paying community alike, and as a result, it is important that those appointed as tax agents maintain certain standards of professionalism and ethical conduct. The FTA commits to work collaboratively with tax agents in order to encourage the ease of doing business in the UAE, however in doing so it will monitor the professionalism and ethical conduct of tax agents to ensure they remain suitable to hold the title of tax agents.

### 5.1. Code of Ethics

The FTA considers that the professional standards required from tax agents are centered around ensuring their ethical conduct. In measuring ethical conduct, the FTA will refer to a core code of ethics which it considers tax agents must follow in their professional dealings.

The code of ethics has been developed by the FTA based on common international standards expected from the tax profession generally, and in particular required as part of the membership criteria of professional bodies governing standards in the tax profession. It is therefore expected that as a result of the conditions required to be appointed as a tax agent in the UAE, that the principles within the code of ethics will already be familiar to tax agents. Similarly, tax agents should therefore already be upholding these standards in the course of their professional activities.

This code of ethics is based on five fundamental principles:

- Integrity;
- Objectivity;
- Professional competence;
- Confidentiality; and
- Professional Behaviour.

The following sections will explain each principle in detail and provide guidance on how the FTA expects that a tax agent would demonstrate such principles.

#### 5.1.1. Integrity

A tax agent must always be honest, fair and truthful in all their professional work. In particular, a tax agent must not knowingly or recklessly supply information or make any statement to the FTA or the taxable person which is false or misleading, or knowingly or deliberately fail to provide relevant information.

Deliberately withholding information from the FTA which is relevant to the matter at hand will be considered to be gross misconduct by the FTA and may be grounds for removal of a tax agent from the register.

A tax agent must not engage in or be party to any illegal activity; any involvement may lead to removal of the tax agent from the register if convicted of a crime or misdemeanor prejudicial to honour or honesty. This includes colluding with other parties with the intent to evade tax, or to help another party to evade tax.

A tax agent's advice and work must be free from the threat of self-interest and not be influenced by the interests of other parties. A tax agent must ensure that the advice given will not adversely affect the integrity of the tax system.

A tax agent must not also obtain or seek to obtain professional work in any unprofessional manner. This includes making false promises or acting on untested assumptions in order to obtain clients.

### **5.1.2. Objectivity**

A tax agent must be objective in all work undertaken. Whilst it is impracticable to provide examples of every situation in which objectivity could be impaired, a tax agent shall not act for the taxable person if a circumstance or relationship would cause bias or would unduly influence the tax agent's professional judgment with respect to that service.

If objectivity may be impaired through a conflict of interest, a tax agent must consider his appointment with the taxable person – in certain cases where the conflict cannot be managed, the tax agent may be required to declare themselves unable to act for the taxable person in that matter. A tax agent must maintain objectivity and independence so that they can exercise professional judgement.

A tax agent should consider factors which might affect their independence or objectivity in respect of a matter, such as long association with a taxable person or family relationships. A tax agent should immediately take action to address any relevant threat to their ability to exercise their professional judgement.

A tax agent should not only seek to avoid conflicts of interest, but also manage situations where there may be a perceived conflict of interest, taking into account how a situation may be viewed by the taxable person and third parties. Where a conflict of interest, or a perceived conflict of interest arises, the tax agent should take actions to manage that conflict appropriately in light of the facts of the case.

### **5.1.3. Professional competence**

A tax agent must carry out their professional work with proper regard for the technical and professional standards expected. In particular, a tax agent must not undertake professional work which he is not competent to perform, whether because of lack of experience or the necessary technical or other skills. For example, if a tax agent is asked for clarification on a technical matter and he/she does not know the answer, the tax agent should write to the FTA for clarification and should refrain from providing advice.

The tax agent must hold the relevant qualifications and have relevant recent experience to act as tax agent for a taxable person.

The tax agent is expected to keep up-to-date with all relevant technical, professional and business developments to develop and maintain their capabilities to perform their role as tax agent competently. The FTA expects that a tax agent will have a strong understanding of the application of the tax legislation in the UAE and will monitor its interaction with tax agents to ensure that is the case. Where it appears from interactions that the tax agent is not meeting the expected level of professional competence, the FTA may use such interactions as grounds to investigate the conduct of the tax agent further.

It is advisable that the tax agent maintains a record of their Continuing Professional Development (CPD) on an annual basis. The FTA will require in future that a tax agent submits a record of CPD activity and will make announcements when this is due for submission. In the event that the tax agent's competence is called into question the FTA may request details of the manner and approach the tax agent has taken to maintain their technical knowledge and keep abreast of the latest UAE tax developments. In the event that a tax agent is also required to keep a record of continuing professional development for the purposes of their maintaining any tax-related professional accreditations they hold, this is likely to be suitable for these purposes.

#### **5.1.4. Confidentiality**

A tax agent owes a duty of confidentiality to the taxable person i.e. to their client. Additionally, they also owe a duty of confidentiality to the FTA in respect of any knowledge which they become party to in the course of performing their role as tax agent. The duty to observe confidentiality applies without time limit to all information with which a tax agent is provided by their client. This includes information which is brought to their knowledge during or at any time after the carrying out of their engagement as tax agent. The same duty of confidentiality should be imposed on all employees of the tax agency who work with the tax agent.

A tax agent must never divulge any information acquired in the course of his work as tax agent without the specific consent of the taxable person unless there is a legal or professional right or duty to disclose.

As a general rule, when applying the Code of Ethics, a safe and proper approach for tax agents to adopt is to assume that all unpublished information about a taxable person's affairs is confidential.

#### **5.1.5. Professional behaviour**

The principle of professional behaviour imposes an obligation on a tax agent to comply with all relevant laws and regulations in force in the UAE when providing advice and acting in their capacity as a tax agent. A tax agent should avoid any

actions that may discredit the tax agency he is associated with, or which may discredit the validity of the standards upon which the FTA has accredited the tax agent.

Professional behaviour encompasses a tax agent's business dealings but also covers conduct in a tax agent's personal life or in a private capacity.

## 6. Refusing an application or removing from the register

In exercising its authority to review and approve a person as a tax agent, there are circumstances in which the FTA has the authority to reject an application. Similarly, once approved as a tax agent, the FTA will continuously monitor the conduct of the tax agent in line with the standards outlined above and may take action to remove that tax agent from the register in certain circumstances.

### 6.1. Refusing an application to register

The FTA may refuse an application to list a person in the register in any of the following cases:

1. If the person fails to meet the conditions set out above; or
2. Listing the person as a tax agent would adversely affect the integrity of the tax system.

In considering point 2 above, the professional standards outlined in the previous section will be considered. Where it is considered unlikely that those professional standards could or will be maintained, this shall be considered grounds that listing the person as a tax agent would adversely affect the integrity of the tax system.

The Authority shall review applications for becoming a tax agent and shall issue its decision within (15) business days from receiving the application. If the Authority accepts the application, the applicant will be listed in the Register within (5) business days from the date of the Authority's approval of the application.

In all cases, the FTA 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 FTA's approval or rejection of the application.

### 6.2. Removing a tax agent from the register

The FTA may remove the tax agent from the register in any of the following cases:

1. If it was proven to the FTA that the person is not eligible to be a tax agent i.e. that they are not continuing to meet the required conditions for tax agent status;
2. If the FTA found that the continued registration of the person as a tax agent would adversely affect the integrity of the tax system; or
3. If he committed a significant violation of the provisions of Law or Tax legislation.

As mentioned previously, where it is considered unlikely that the professional standards expected of tax agents will be maintained, this shall be considered grounds that continued registration of the person as a tax agent would adversely affect the integrity of the tax system. In such cases, the FTA has the authority to remove the tax agent from the register. Where a person is removed from the register of tax agents, they will be prevented from practicing the profession of a tax agent in the UAE.

The FTA will employ the following methods to monitor the standards of Tax Agents:

- review the timeliness and accuracy of the taxable persons' returns where they have appointed a tax agent;
- monitor clarification requests, and other correspondence with the FTA, sent by tax agents to ensure the level of professional and technical knowledge is of the level expected under the Professional Standards outlined. As mentioned in that section, it is expected that a tax agent should have a higher level of proficiency and understanding in the tax laws of the UAE than a taxable person whose business does not involve operating in the tax profession; and
- monitor correspondence received from taxable persons, including any official complaints or requests for reconsideration or requests for exemption from or reduction of administrative penalties, which cite reliance on a tax agent as grounds for an error having been made. Whilst it is understood that appointment of a tax agent would not preclude a taxable person from making an error in their tax compliance obligations, the nature of the error and whether the tax agent should have had reasonable grounds to know about the error will be taken into consideration.

Upon removing a person from the register, the FTA shall notify that person regarding the removal within (5) business days of the decision and provide reasons for the decision.