



3.3. Save the progress

In order to save as draft or submit any form, all mandatory elements must be completed. Any field that is marked with a red asterisk (*) is **mandatory** as shown on the right, and must be filled out in order to save or submit a form.

If you attempt to save or submit a form without completing the mandatory information in certain fields, you will receive a pop-up message under the relevant field indicating that additional details are required.

It is recommended that you save your progress as you complete the form. Click on the **Save as draft** button at the bottom of the screen. **You will be logged out of the system after 10 minutes of inactivity.**

Your form will not be submitted at this point; you will have an opportunity to edit your answers before submission.

3.4. Submit the VAT Return Form

To submit the VAT Returns form, carefully review all of the information entered on the form after completing the mandatory fields and confirming the declaration.

Once you are certain that all of the information is correct, click on the **Submit** button at the bottom right hand corner of the screen.

After you have submitted the form you will receive an e-mail to confirm the submission (Please look in your spam folder if you have not received it within 5 minutes).



United Arab Emirates

4. Paying VAT

In order to pay for your VAT liability and administrative penalties, please follow the instructions below.

- 1) Navigate to the tab that displays “**My Payments**”



- 2) Enter the amount that you need to pay, and click “**Make Payment**”. Please note that partial payments can be made i.e. you do not have to pay the entire amount due. However, make sure you pay the entire amount before due date to avoid penalty.

Older liabilities will be paid off first and then the more recent ones will be fulfilled afterwards e.g. if you make a payment, the VAT Return liability for the month of January will be paid before any VAT Return liability for the month of February.

You will then be directed to ‘Payment Information’ screen to proceed with the payment. Click on **‘Pay Now’** button to be directed to e-Dirham gateway.

You may pay using the e-Dirham payment gateway which supports payments through an e-Dirham card or a credit card (Visa and MasterCard only). A payment using an e-Dirham card will typically incur a charge of AED 3, while a payment using a credit card will typically incur a charge between 2% - 3% of the total payment amount.

- 3) Once you are redirected to the e-Dirham gateway, you will be able to make the payment through an e-Dirham or non e-Dirham card. After confirming the transaction, once the payment is processed successfully, you will be redirected to the FTA website.

VAT & Penalty Payment

Total Outstanding Liability 0.00 AED

Enter amount you want to pay *

Make Payment

Payment Information

TIN:
30051545100001

Pay Amount 1,000.00 AED

Pay Now **Cancel**

e-Dirham: VISA





NOTE: You can view your Transaction History and Payments under the “**VAT Transaction History**” box placed within ‘My Payments’ tab as shown below. These include your transactions and payments for your periodic VAT Returns as well as any penalties that could be applicable in relation to your VAT Returns, if applicable (e.g. late filings or payments for your VAT Returns or other).

5. VAT Return Penalties

- VAT Returns must be submitted within the specified deadline, otherwise a penalty of AED 1,000 will be imposed for the first time of occurrence of a delay. In case of repetitive non-compliance within 24 months, the penalty will be increased to AED 2,000 for each offence.
- If you do not submit a VAT Return by the specified due date, the FTA may issue a tax assessment to you with an estimate of the payable tax. In such a case, you may be required to pay any payable tax assessed, penalty on non-submission of tax return and/or late payment penalty upon the issuance of the tax assessment (as applicable).
- Following the submission of a VAT Return, the reported Payable Tax must be settled within the deadline. Failure in the payment before the due date would result in a late payment penalty consisting of:
 - (2%) of the unpaid tax immediately levied once the payment of Payable Tax is late
 - (4%) is due on the seventh day following the deadline for payment, on the amount of tax which is still unpaid
 - (1%) daily penalty charged on any amount that is still unpaid one calendar month following the deadline for payment with upper ceiling of (300%)

5.1. Make payment for VAT Penalties (Late VAT Return and late VAT Payment)

If you fail to file your VAT return on time or to pay your VAT return on time, a penalty will apply. To check the penalties amount and complete the payment, follow the below steps:

1. Go to “My Payment Tab” where you can find the total penalty amount under the VAT Penalty Payment box.
2. Click on “**Make Payment**” button to proceed with the payment.

VAT & Penalty Payment

Total Outstanding Liability 2000 AED

Enter amount you want to pay*

0

Make Payment



3. You will then be directed to 'Payment Information' screen to proceed with the payment. Click on '**Pay Now**' button to be directed to e-Dirham gateway.
4. Once you click on "**Pay Now**" button you will be redirected to the e-Dirham gateway where you will be able to make the payment through an e-Dirham or non e-Dirham card.
5. A confirmation message will appear once the payment is completed and processed successfully.

Payment Information

TIN: 60010454590

Pay Amount: 1,000.00 AED

Pay Now **Cancel**

e-dirham VISA

الدرهم الإلكتروني
e-dirham

Payment Methods Types

Please select one of the payment methods

+ eDirham G2 Cards
+ Non-eDirham Cards
+ eD-Wallet

Confirm **Cancel**

Verified by VISA
MasterCard
American Express
Travelex

For details on the specific penalty type and amount, scroll down to "Transaction History" box under "My Payment" tab and check the relevant line as follows:

29/12/2018 08:30:20 AM	Penalty - Late Return	1,000.00	1,000.00 Paid	August-2017
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6. Final VAT Return

When your application to cancel you VAT registration is approved, you will be notified of the effective date of deregistration and your final VAT Return will also become available. In general:

- You are required to file your final VAT Return for the last Tax Period for which you will be registered for VAT purposes;
- The Tax Period and the submission due date of the final VAT Return will be communicated to you by the FTA;
- The final VAT Return has to completed for the respective Tax Period and submitted to the FTA according to the same provisions and procedures as any other VAT Return and as indicated above in this guide;
- As part of your final VAT Return, you are required to calculate and account for output tax on any goods and services forming part of your business assets (including capital assets and inventories) that you have held on hand as at the last day of your VAT registration and for which you have recovered input tax. You are deemed to have supplied these goods and services although you have not actually sold them.



United Arab Emirates

Appendix A: Important on-screen tools and other tips

You can change the language of the forms from English to Arabic. Click on the icon at the top right hand side of the screen to do so.



For some fields you will see a small icon with an "i" next to the field. Hover the cursor over the icon to read additional information relevant to the field completion.

To upload a file, click the *Choose Files* button, select the file on your desktop and click the *Open* button to upload the file. To upload multiple files, repeat this process. To delete a file that has already been uploaded click the small red x.

To complete a field with a drop-down menu, click the downwards pointing arrow to the right of the field and select the option that applies. You will only be able to select one option in most cases.

To complete a field that requires a date, click the Calendar icon to the right of the field and enter the date from the calendar. The date will then appear in the field in dd/mm/yyyy form.

A trade name is a name under which a person conducts a business, other than its legal name. Sometimes, a trade name is called an "Operating Name".

Upload a scanned copy of the Certificate of incorporation*

Selected Trade License expiry date (dd/mm/yyyy)*

On what basis are you applying for registration?*

Select business type

Select business type

- Legal person - Public Joint Stock Company (PJSC)
- Legal person - Incorporated (LLC, LLP, Partnership etc)
- Legal person - Club, Charity or Association
- Legal person - Federal UAE Government entity

MODULE 15

PAYMENT OF TAX

ARTICLES OF DECREE LAW ON VAT RELEVANT TO THIS MODULE	
Article (73)	Payment of Tax
ARTICLES OF EXECUTIVE REGULATION ON VAT RELEVANT TO THIS MODULE	
Article (64)	Tax Return and Payment

15.1 INTRODUCTION

Here, Payment of Tax refers to the Payment of Due Tax (VAT) by the taxable person to the Federal Tax Authority. As we know payable or due tax is calculated as being equal to the Output Tax Payable less the total Input Tax Recoverable by the taxable person during the tax period. This payable tax has to be paid to the authority. But the important question here is when and how. This module aims to bring out clarity with respect to manner and timeline for payment of due tax.

15.2 TIME OF PAYMENT OF TAX

With respect to payment of tax, reference to Article 73 of Federal Law No. 8 of 2017 on VAT should be taken which states that “The Executive Regulation of this Decree-Law shall specify the time limits and procedures for payment of Tax stated as payable in the Tax Return according to the provisions of this Decree-Law.”

So, in accordance with the above provision, Clause 3 read with Clause 1 of Article 64 of the Executive Regulation on VAT provides that A Taxable Person shall settle Payable Tax in relation to a Tax Return using the means specified by the Authority so that it is received by the Authority **no later than the 28th day following the end of the Tax Period concerned or by such other date as directed by the Authority.**

Thus, for a monthly tax period, the payment deadline for the reporting period of 1st January to 31st January would be 28th February. For a quarterly filer, the payment deadline for the reporting period of 1st January to 31st March would be 28th April. So, it can be said that deadline for payment of tax depends on the tax period which may vary from person to person. **The simple rule which can be followed in this regard is that the tax must be paid on or before the due date of filing VAT return.**

It should be noted that FTA has been conferred the power to exercise its discretion in the matter of extending or changing the deadline for payment of due tax. Moreover, the manner and mode of payment of tax shall also be prescribed by the Federal Tax Authority.

15.3 PROCEDURE FOR PAYMENT OF TAX

In exercise of the powers conferred under Article 64 of the Executive Regulation on VAT, Federal Tax Authority has prescribed the manner and the mode by which payment of due tax can be made. For this purpose, **Payment User Guide”** issued by FTA may be referred to. The same has been provided below for quick reference.



PAYMENT USER GUIDE

March 2018



1. Brief overview of this user guide

This guide will help you to complete the Tax due payment using any of the following options:

- Paying via e-Dirham or credit card
- Paying via eDebit
- Paying via Bank Transfer – Local Transfer
- Paying via Bank Transfer – International Transfer



2. Paying Tax Due

2.1. Paying via e-Dirham or credit card

In order to pay your Tax liability and administrative penalties, please follow the instructions below.

- 1) Navigate to the tab that displays "My Payments"



- 2) Enter the amount you want to pay under the relevant box (Excise Tax or VAT), and click "**Make Payment**". Please note that partial payments can be made i.e. you do not have to pay the entire amount due. However, make sure you pay the entire amount before due date to avoid penalty. Older liabilities will be paid off first and then the more recent ones will be fulfilled afterwards.

VAT & Penalty Payment

Total Outstanding Liability 0.00 AED

Enter amount you want to pay *

Make Payment

- 3) You will then be directed to 'Payment Information' screen to proceed with the payment. Click on '**Pay Now**' button to be directed to e-Dirham gateway.

Payment Information

Bank: VIBRANT BANK

Pay Amount 1,000.00 AED

Pay Now **Details**

e-dirham VISA

You may pay using the e-Dirham payment gateway which supports payments through an e-Dirham card or a credit card (Visa and MasterCard only). A payment using an e-Dirham card will typically incur a charge of AED 3, while a payment using a credit card will typically incur a charge between 2% - 3% of the total payment amount.



- 4) Once you are redirected to the e-Dirham gateway, you will be able to make the payment through an e-Dirham card or credit card (Visa / Master Card). After confirming the transaction, once the payment is processed successfully, you will be redirected to the FTA website.



NOTE: You can view your Transaction History and Payments under the relevant Transaction History box (VAT/ Excise Tax) placed within 'My Payments' tab. These include your transactions and payments for your periodic Returns as well as any penalties that could be applicable in relation to your Returns, if applicable (e.g. late filings or payments for your Returns or other).

2.2. Paying via eDebit

eDebit payment option allows the Taxable Person to directly debit the amount to FTA's bank account when making any due payments.

NOTES:

- 1- The fee for using eDebit is AED 10 which will be charged by e-Dirham.
- 2- The eDebit transfer allows the user to pay via their Retail or Corporate Internet Banking access credentials. In cases where the Banking payment approval process is multi-tiered (requiring more than one individual to process the transaction), then the transaction will remain in Pending / Awaiting Approval state, till the time the cycle is completed by the Taxable Person (as per their usual banking procedures). However, if not approved within 3 days, the transaction will expire automatically and payment will not have been made. Ensure sufficient necessary approvals are sought or sufficient time is given when making the transaction closer to the payment deadline, you will be penalised if the payment is not received on the due date.
- 3- This option only works if you have a bank account with any of the following banks:
 - Citibank (Retail)
 - Commercial Bank of Dubai (Corporate and Retail)
 - Dubai Islamic Bank (Retail)
 - Emirates NBD (Corporate and Retail)
 - First Abu Dhabi Bank (Corporate and Retail)
 - Noor Bank (Retail)
 - Standard Chartered (Corporate and Retail)

Please note that this is an initial list of banks. The list of banks will be updated as soon as more banks provide this service.



- 4- When paying using a Corporate Bank account, please note that the status on the e-Services dashboard will remain in pending state for 30 minutes before the status changes.

To pay using eDebit, please follow the below steps from the Taxable Person's dashboard:

1. Login to FTA e-Services portal and access '**My Payments**' tab,
2. Enter the amount you want to pay under the relevant box, and click on '**Make Payment**' button

3. Once you are redirected to the Payment Information page, click on '**Pay Via Bank**' button

Payment information

IBR
IBR123456789

Pay Amount 994.00 AED

IBR **e-dirham** **VISA**

Pay Now **Pay Via Bank** **Cancel**

4. This will re-direct you to the e-dirham gateway. Select '**eDebit**' payment method type and check the 'Bank Account' box and then click on '**Confirm**' button.
5. This will redirect you to the e-Service Inquiry Confirmation page; please confirm the request by clicking on the '**Confirm**' button.

6. Payment Details screen will pop up. You would need to select the bank which you wish to make the transfer from.

7. Enter the Notification Email address (you will receive the notifications once eDebit payment is completed in this email address). Confirm the request by clicking on '**Submit**' button

8. This will redirect you to the Payment Details page, confirm the request by clicking on the '**Confirm**' button.

Payment Methods Type

Please select one of the payment methods

1	MasterCard
2	Visa Electron Card
3	ATM
4	Other
5	Pay with internet bank account

e-Service Inquiry Confirmation

IBR	IBR123456789	Request ID	IBR123456789
IBR	IBR123456789	Order Unique Number	AED 994.00
IBR	IBR123456789	Amount	AED 994.00
IBR	IBR123456789	Description	AED 994.00
IBR	IBR123456789	e-Dirham Service	AED 994.00
IBR	IBR123456789	Order Date/Time	AED 994.00
IBR	IBR123456789	Amount Due (AED)	AED 994.00

Payment Details

Payment Information	Order ID
Entity Name	IBR
Order Unique Number	IBR123456789
Amount	AED 994.00
Description	AED 994.00
e-Dirham Service	AED 994.00
Order Date/Time	AED 994.00

Payment Method Details	Bank Account
Payment Method	IBR
Bank	IBR
Notification Email	IBR
Confirm Notification Email	IBR
Required	IBR



9. This will redirect you to the Central Bank of the UAE – Payment Gateway, click on ‘Select Product’ and select the product (retail banking or corporate banking). Confirm the request by clicking on ‘Submit’ button.

The screenshot shows a payment gateway interface. At the top, it says "Central Bank of the UAE - Payment Gateway" and "www.cbnuae.gov.ae". Below that is a "Transaction Details" section with the following information:

Merchant Name	WOFZ
Order Information	1476172363857
Description	service payment through eINN
Transaction Amount	4.00
Transaction Type	Direct Debit

Below this is a "Select Product" dropdown menu with two options: "Retail Banking" and "Corporate Banking". A "Submit" button is located at the bottom right of the form.

10. Read the terms and conditions and check the box ‘I accept the terms and conditions applicable for this payment’. Click on the ‘Submit’ button.

The screenshot shows a confirmation message: "Please wait while you are redirected to Emirates NBD's Website". Below this is a checkbox labeled "I accept the Terms and Conditions applicable for this payment". At the bottom right is a "Submit" button.

11. This will redirect you to the selected bank online website to complete the payment. Login to your bank account and complete the payment.



2.3. Paying via Bank Transfer (GIBAN) – Local Transfer

- A GIBAN is a unique IBAN number that is given to every taxable person.
- A taxable person can make a fund transfer from certain UAE financial institution using the GIBAN provided by the FTA.
- This payment method can be used for settling any outstanding VAT and Excise Tax amounts payable including tax and penalties.
- This option should not be used for other payments such as Miscellaneous Payments.

To pay the amount due using GIBAN, follow the below steps:

1. Login to e-Services and obtain your GIBAN from the dashboard. You will have different GIBANs for VAT and Excise Tax.
2. If using online banking to make the transfer of funds, log in to your bank account and add FTA as a beneficiary using the GIBAN number and FTA details. Note that you can also use the GIBAN with other banking channels too (for example visiting your local branch).
3. Go to the fund transfer/ domestic transfer section of your online banking portal (this name may differ based on your bank account page).
4. Enter the amount you wish to pay and proceed with the payment.
5. GIBAN will be validated and the transaction will be processed accordingly.
6. Once you complete the payment, login to e-Services and go to 'My Payments' tab to check that the transaction has been reflected under the 'Transaction History' box. Please note that this can take up to 24 hours to be reflected on your account.

Note: You will be able to use the GIBAN payment option from 28th February.



2.4. Paying via Bank Transfer (GIBAN) – International Transfer

If your bank is based outside the UAE and you wish to make an international transfer to pay the amount due using GIBAN, please follow the below steps:

NOTE: To do so your bank should be a member of SWIFT.

1. Login to e-Services and obtain your GIBAN from the dashboard. You will have different GIBANs for VAT and Excise Tax.
2. Visit your bank to make the transfer through the teller.
3. Provide your bank the following details
 - The GIBAN as the "Beneficiary IBAN";
 - The 'Federal Tax Authority' as the "Beneficiary Name";
 - The 'Federal Tax Authority' as the "Account with Institution"
 - The amount due you wish to transfer in AED
4. Please highlight to your bank that the amount needs to be transferred to the beneficiary in UAE (Hence, the bank should identify the UAE bank that they deal with, either directly or through an intermediary bank in your geography)
5. GIBAN will be validated and the transaction will be processed accordingly. This will take at least 3-4 days. Hence, it is advised that the payment is made at least one week before the due date to avoid any penalty
6. Login to e-Services and go to 'My Payments' tab to check that the transaction has been reflected under the 'Transaction History' box.

MODULE 16

REFUND OF TAX

ARTICLES OF DECREE LAW ON VAT RELEVANT TO THIS MODULE	
Article (74)	Excess Recoverable Tax
Article (75)	Tax Refund in Special Cases
ARTICLES OF EXECUTIVE REGULATION ON VAT RELEVANT TO THIS MODULE	
Article (65)	Recovery of Excess Tax
Article (66)	New Residence
Article (67)	Business visitors
Article (68)	Tourist visitors
Article (69)	Foreign Governments
ARTICLES OF FEDERAL LAW ON TAX PROCEDURES RELEVANT TO THIS MODULE	
Article (34)	Application for Tax Refunds
Article (35)	Tax Refund Procedures
ARTICLES OF EXECUTIVE REGULATION ON TAX PROCEDURES RELEVANT TO THIS MODULE	
Article (22)	Procedures of Getting a Tax Refund

16.1 INTRODUCTION

As we know, VAT (Value Added Tax) is a multi-stage tax levied on consumption of goods and services. Although VAT is paid at each stage of production and distribution process, only the value added at each stage is taxed. For more detailed discussion, refer our module “Basic Concept”.

As we have learnt in previous modules, businesses established and VAT registered in UAE is required to pay VAT (Output VAT) on his taxable supply of goods and services. However, this Output Tax can be adjusted against the Input VAT paid by the business on its purchases.

When the Output VAT is more than the Input VAT, it results in the VAT liability which needs to be paid to the FTA on or before the due date of payment of VAT. When the Input VAT is greater than Output VAT for a taxable period, the Taxable Person is able to request a VAT refund after submission of the VAT return or at any later time.

Tax refund is generally applicable in case of person involved in making zero rated supplies or has carried forward the recoverable Input VAT which exceeded the Output VAT liability arising during the tax periods.

Timely VAT refund mechanism is very essential part of any Indirect Tax Regime as it facilitates trade by release of blocked funds for working capital. We know that VAT is not a cost to the business as the same is borne by the ultimate consumers of goods and services. However, the same can become cost to the business in absence of any VAT refund provisions in the law.

VAT refund requests received by the FTA are subject to verification checks, with a particular focus on avoiding fraud.

16.2 TAX REFUND – EXCESS RECOVERABLE TAX

Article 74 of Federal Decree Law No.8 of 2017 reads as follows.

“If there remains any excess of any Recoverable Input Tax for any Tax Period after deducting such excess from Payable Tax or any Administrative Penalties imposed under the Decree Law, the Taxable Person may apply to the Authority to reclaim the remaining excess. The Executive Regulation of this Decree-Law shall specify the time limits, procedures and mechanisms of returning any remaining excess to the Taxable Person.”

It simply means when the Input tax is greater than Output tax on a VAT return, the Taxable Person is able to request a VAT refund. This may happen in a number of situations, but this will most commonly seen 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.

16.3 TAX REFUND IN SPECIAL CASES

As we have seen in the previous section that VAT Refund can normally be claimed when Input Tax exceeds Output Tax. However, there are also some of the specific situations provided in the Law where refund of VAT paid can be claimed.

Article 75 of Federal Law No. 8 on VAT has specified the cases where refund shall be granted to specific groups of people subject to the conditions specified in the Executive Regulations. It includes the following:

1. A citizen of the State in respect of the Goods and Services related to the construction of a new residence that is not part of the Person's Business.
2. A Non-Resident, who is not a Resident of an Implementing State and conducts a Business and is not a Taxable Person.
3. A Non-Resident, for Goods supplied to him in the State and that will be exported.
4. Foreign governments, international organisations, diplomatic bodies and missions according to treaties that the State is a party to.
5. Any Persons or classes listed in a Cabinet Decision issued at the suggestion of the Minister.

These VAT refund schemes have been implemented with the objective to encourage the relevant persons to make purchases from UAE, without incurring VAT on such purchases.

I. Construction of New Residence by the Citizen of UAE

As per Article 66 of Executive Regulation on VAT, refund of VAT is allowed in respect of construction of new residence by citizens of UAE for their use. Following conditions needs to be fulfilled so as to claim refund.

- i. The claim may only be made by a **natural Person who is a national of the State**.
- ii. The claim must relate to a newly constructed building **to be used solely as residence of the Person or the Person's family**. The claim may not be made in connection with a building that will not be used solely as a residence by the Person or the Person's family, for example if it is to be used as a hotel, guest house, hospital or for any other purpose not consistent with it being used as a residence.

- iii. The categories of expenses on which the Person may claim a repayment of Tax under this Article are:
 - a. **Services provided by contractors**, including services of builders, architects, engineers, and other similar services necessary for the successful construction of residence.
 - b. **Building materials**, being goods of a type normally incorporated by builders in a residential building or its site, but **not including furniture or electrical appliances**.
- iv. The refund claim under this Article **must be lodged within 6 months** from the date of completion of the newly built residence. For the purposes of this Clause, a newly built residence is considered completed at the earlier of the date the residence becomes occupied, or the date when it is certified as completed by a competent authority in the State, or as may otherwise be stipulated by the Authority.

It is pertinent to note here that where the Authority has repaid Tax in accordance with this Article, and following the receipt of such repayment the Person breached the condition in paragraph ii above, the Authority may require the Person to repay the amount of Tax that was recovered by him.

II. Business Visitors

Clause 2 of Article 75 of Federal Decree Law No. 8 of 2017 explicitly states that refund shall be allowed to a Non-Resident, who is not a Resident of an Implementing State and conducts a Business and is not a Taxable Person subject to the conditions and procedures specified by the Executive Regulation. Article 67 of the Executive Regulation on VAT accordingly contains provisions with respect to refund scheme applicable to Business Visitors.

The said article allows the **repayment of Tax on expenses incurred in the State by a foreign entity which has no Place of Establishment or Fixed Establishment in the State or the Implementing State**, and is not a Taxable Person.

A “foreign entity” for the purpose of this article, is any Person that carries on a Business as defined in this Decision and is registered as an establishment with a competent authority in the jurisdiction in which he is established.

A foreign entity is **not entitled to make a claim** under the VAT Refunds for Foreign Businesses Scheme in the following cases:

- a) If it makes supplies **which have a place of supply in the State**, unless the Recipient of Goods or Recipient of Services is obliged to account for the Tax on those supplies in accordance with Clause (1) of Article (48) of the Decree-Law, i.e. under reverse charge mechanism.
- b) If the **Input Tax relates to Goods or Services for which the Tax is not recoverable** in accordance with Article (53) of the Executive Regulations.

Under UAE VAT, certain supplies are not eligible for input tax recovery. Therefore, the foreign entity refund application should not be in respect of supplies against which credit of Input Tax is not allowed.

- c) If the **foreign entity is from a country that does not in similar circumstances provide refunds of value added tax to entities that belong to the State (i.e. UAE)**.

It is therefore, important that the foreign business should be from a country which provides refund of VAT to UAE entities under similar circumstances.

- d) If the foreign entity is a **foreign tour operator** and is undertaking activities as a tour operator.

Businesses resident in any GCC State that is not considered to be an Implementing State according to the Decree-Law, may submit an application for refund of Tax incurred on Goods and Services supplied to them in the State. Currently, only UAE and KSA have implemented VAT in the GCC. Hence, businesses which are resident in the other GCC States are eligible for this scheme.

Period of claim of refund shall be 12 calendar months, i.e. the eligible person need to apply for VAT refund within 12 months from the date of supply. The first application can only be made after the end of 2018. The form shall contain such particulars as may be required by the Authority including:

- a) Name and address of the foreign entity.
- b) Nature of activities of the foreign entity.
- c) Details of the registration of the foreign entity with the competent authority in the country where it is established.
- d) Description of reasons for incurring expenses in the State.
- e) Description of activities undertaken in the State.
- f) Details of expenses incurred in the State during the period of the claim.

The claim shall be accompanied by such documents or **other evidence** as may be required by the Authority. It should also be noted that the minimum amount of Tax claim that may be submitted under VAT Refunds for Foreign Businesses Scheme shall be **AED 2,000**.

III. Tourist Visitors

UAE, especially Dubai, being one of the most sought after tourist destinations of the world, the UAE VAT Executive Regulations are provisioned with ‘Tourist refund scheme’. Under this scheme, the VAT paid by the overseas tourist on purchase of specific goods in UAE is refunded to the overseas tourists. As evident, this provision has been inserted by the government with a view to attract foreign tourist by providing such incentive. This scheme is similar to the business VAT refund scheme applicable in the European Union or any other country.

As per Article 68 of Executive Regulation on VAT “Overseas tourist” has been defined to mean **any natural Person who is not resident in any of the Implementing States and who is not a crew member on a flight or aircraft leaving an Implementing State**. It means only **Non Resident Natural Person other than a crew member on a flight** shall be eligible to get refund under this scheme subject to fulfilment of below mentioned conditions.

- a. The Goods which are subject to the Tax Refunds for Tourists Scheme must be supplied to an overseas tourist who is in the State during the purchase of the Goods from the supplier.
- b. At the Date of Supply, the overseas tourist intends to depart from the State within 90 days from that date, accompanied by the Goods.
- c. The relevant Goods are exported by the overseas tourist to a place outside the Implementing States within 3 months from the Date of Supply, subject to such conditions and verifications as may be imposed by the Authority.

As per Clause 4 of Article 68 of Executive Regulation on VAT, Federal Tax Authority has the power to publish a **list of Goods that shall not be subject to Tax Refunds for Tourists Scheme**.

IV. Foreign governments

As per Article 69 of Executive regulations, where Tax is incurred by foreign governments, international organisations, diplomatic bodies and missions, or by an official thereof, the foreign governments, international organisations, diplomatic bodies and missions may submit a claim on a form issued by the Authority requesting refund of the VAT so paid.

The application of refund is subject to the following conditions:

- a) Goods and Services are acquired **exclusively for official use**.
- b) The country in which the relevant foreign government, international organisation, diplomatic body or mission is established or has its official seat **excludes the same type of entities that belong to the UAE from the burden of any Tax in that country**.
- c) The refund claim is consistent with the terms of any international treaty or other agreement concerning the liability to tax such a foreign government, international organisation, diplomatic body or mission.

- d) The official of a foreign government, international organisation, diplomatic body or mission who benefits from the refund **should not hold UAE Nationality or have a residence visa under the sponsorship of an entity other than the foreign government, international organisation, diplomatic body or mission itself**, and should **not carry out any Business in the State**.

16.4 TAX REFUND PROCEDURES

In accordance with Article 35 of Federal Law No. 7 of 2017 on Tax Procedures, the following rights and responsibilities with respect to VAT refund have been conferred to the FTA.

3. The Authority shall set-off the amount applied to be refunded against any other Payable Tax or Administrative Penalties due from the Taxpayer who has applied for the refund pursuant to the Tax Return or Tax Assessment issued by the Authority before refunding any amount relating to a particular tax.
4. The Authority may decline to refund the amounts mentioned in section (1) of this Article if it finds that there are other disputed Tax amounts that are due in relation to that Person or according to a decision of the Competent Court.

The procedures aspect of VAT Refund is provided under **Article 22 of Executive Regulation** on Tax Procedures which reads as follows.

1. Subject to any further conditions specified in the Tax Law, a Taxpayer shall apply for a refund as per the **mechanism specified by the Authority**.
2. The Authority shall, **within (20) business days of an application** being submitted, review the application and notify said Taxpayer of accepting or rejecting the refund claim. Where the Authority has reasonable grounds for requiring a period longer than (20) business days to consider his application, it shall notify the relevant Taxpayer thereof.
3. Where the Authority has approved a refund application in accordance with Clause (2) of this Article, it shall, **within (5) business days of the approval, either make the appropriate payment to the Person** or notify the Person that the Authority will offset the amount requested to be refunded against any other Payable Tax or Administrative Penalties due, or to notify the Person that the refund will be postponed until all due Tax Returns are submitted to the Authority.
4. The payment of a refund amount shall be made to the Person entitled to the refund by the means acceptable to the Authority.

Accordingly, in exercise of power conferred under Clause 1 of Article 22 of Executive Regulation on Tax Procedures, FTA has issued guidelines for claiming VAT Refund. The readers can therefore, refer to the guide below issued by the FTA covering the procedural aspect of VAT Refund.



United Arab Emirates

VAT REFUND USER GUIDE

February 2018



1. Brief overview of this user guide

This guide will help you navigate the e-Service portal, and is designed to be read in conjunction with the Taxable Person Guide for Excise Tax to file your VAT Refund Claims (hereinafter referred to as Claim). It is intended to help eligible Taxable Persons prepare their Claim to the Federal Tax Authority (FTA).

The guide explains the process to be followed along with the forms and information that needs to be provided when applying for a refund to the FTA. The process is available with effect from February 1, 2018.

The Claim can be submitted by the Taxable Person, or another person who has the right to do so on the Taxable Person's behalf (for example, a Tax Agent or a Legal Representative).

2. Purpose of the Claim

Every Taxable Person is required to file a VAT return summarizing the VAT due to the FTA for the tax period. When the input tax is greater than output tax on a VAT return, the Taxable Person is able to request a VAT refund after submission of the VAT return or at any later time when there is a credit owed to them.

3. Timeframes for repayment

Where the Taxable Person makes a claim for a refund of excess refundable tax, the FTA will within 20 business days of an application being submitted, review the application and notify the Taxable Person of its decision to accept or reject the refund claim.

The FTA may notify the applicant that it requires a longer period than (20) business days to consider the application where appropriate.



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4. Submitting the Claim

4.1. Login to FTA e-Services Portal and access the Refund form

Login to FTA e-Services Portal using your username and password. In order to access the Refund form, go to the 'VAT' tab and then to the 'VAT Refunds' tab.

Under 'Request VAT Refund' box, access the form by clicking on 'VAT Refund Request' button as per the screen shot.

Status	Application submission date	TRN	The amount you wish to refund (AED)	Approved Amount (in AED)
No record found				

4.2. Complete and submit the form

Please fill in each field on the form. Any questions that are marked with an asterisk (*) are mandatory and must be completed in order to submit the form. Some fields will be automatically retrieved.

Once you complete the form, click on the 'Submit' button.

The Refund Form will be processed within 20 business days of submission. You will receive an email notification from the FTA on the result of your application. Once your claim is approved, the amount will be refunded within 5 business days.

5. Verify your Balance post the approval

Once you receive a confirmation email of the refund, you may check your balance through the 'My Payment' tab under the Transaction History section, where a row will appear mentioning the amount refunded.



Appendix A: Important On-Screen Tips

You can change the language of the form from Arabic to English. Click on the icon at the top right hand side of the screen to do so.

For some fields you will see a small icon with an "i" next to the field. Hover the cursor over the icon to read additional information relevant to the completion of the field.

To upload a file, click the *Choose Files* button, select the file on your desktop and click the *Open* button to upload the file. To upload multiple files, repeat this process. To delete a file that has already been uploaded click the small red x.

To complete a field with a drop-down menu, click the downwards pointing arrow to the right of the field and select the option that applies. You will only be able to select one option in most cases.

To complete a field that requires a date, click the Calendar icon to the right of the field and enter the date from the calendar. The date will then appear in the field in dd/mm/yyyy form.

A trade name is a name under which a person conducts a business, other than its legal name. Sometimes, a trade name is called an "Operating Name".

Upload a scanned copy of the Certificate of incorporation*

On what basis are you applying for registration?*

Select business type

Select business type

Legal person - Public Joint Stock Company (PJSC)
Legal person - Incorporated (LLC, LLP, Partnership etc)
Legal person - Club, Charity or Association
Legal person - Federal UAE Government entity

Select Trade License expiry date (dd/mm/yyyy)*

Su	Mo	Tu	We	Th	Fr	Sa
30	31	1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31	1	2
3	4	5	6	7	8	9



Appendix B: Details about the VAT Refund Form

Basic Information

TRN	This section is pre-populated on the basis of the information contained in your account User Profile. It is therefore very important that the information contained in your Profile is both correct and accurate. Please check it before completing the Refund form.
TRN	

About the Refund

Total amount of Excess Refundable Tax (AED)	This field is prepopulated based on:-
	<ul style="list-style-type: none"> The excess refundable tax reported in the relevant past VAT Returns, which have already been submitted up to the last return; <p><i>minus</i></p> <ul style="list-style-type: none"> Administration penalties due (except for the late registration penalty which is shown separately)

The amount you wish to have refunded (AED)	Please enter the amount you wish to have refunded here. This amount must be equal to or less than the "Total amount of Excess Refundable Tax".
---	--

Remaining amount of eligible Excess Refundable Tax	This field is prepopulated and represents the remaining amount of excess refundable tax you may apply for in the future.
---	--

Late registration penalty amount (in AED)	This field is prepopulated depending on whether you have had a penalty imposed and have settled the late registration penalty for VAT or not:-
--	--

If you have	Then this field is
not been charged a penalty	Zero
been charged a penalty <ul style="list-style-type: none"> and you have paid the penalty but you have yet paid the penalty at the time of claiming this refund 	Zero
	Shown as 20,000 (Note)



United Arab Emirates

Note

- If after deduction of the penalty the refund amount is a negative amount, you may still be able to submit this form but your application will be automatically rejected.
- If after deduction of the penalty the refund amount is a positive amount, only the balance will be presented to the FTA for refund claim purposes.

Authorized Signatory

Name (English)

This section is prepopulated from the system.

Name (Arabic)

etc.

Declaration

I agree to submit additional documentary proof to support the VAT Refund claim, if requested by the FTA.

You must tick "Yes" to agree to the declaration before submitting this form

I agree to pay back any amount wrongfully obtained

MODULE 17

TAX AUDIT AND ASSESSMENT

ARTICLES OF FEDERAL LAW ON TAX PROCEDURE APPLICABLE TO THIS MODULE

Article (17)	The right of the Authority to perform a Tax Audit
Article (18)	The Right of the Authority to Access the Original Records during a Tax Audit
Article (19)	Timing of the Tax Audit
Article (20)	New Information Surfacing after a Tax Audit
Article (21)	Cooperation during the Tax Audit
Article (22)	The Audited Person's Rights
Article (23)	Notification of the Tax Audit Results
Article (24)	Tax Assessments

ARTICLES OF EXECUTIVE REGULATION ON TAX PROCEDURE RELEVANT TO THIS MODULE

Article (11)	Regularity of Tax Audits
Article (12)	Right to Conduct Tax Audit
Article (13)	Notice of Audit
Article (14)	Power to remove and retain Original Documents or Assets or make Copies Thereof
Article (15)	Power to Mark Assets and Record Information
Article (16)	Storage and Providing Access to removed Documents and Assets
Article (17)	Result of the Audit
Article (18)	Notice to Provide Information or Documents
Article (19)	Complying with Notifications

17.1 INTRODUCTION

VAT Law is based on **self-assessment system**. Under the self assessment system of taxation as the name itself suggest, tax is computed by the tax payer on its own on the basis of applicable provisions relating to VAT and then paid to the government. This system works on the premise that information/details furnished by tax payers are considered to be correct unless otherwise established.

Since, the system of self assessment comes with inherent tax avoidance and evasion risk, one of the methods for mitigating such risk is to carry out the audit of records of taxpayers to ensure compliance of law. VAT Laws accordingly provide for the same.

Article 11 of the Cabinet Decision No.(36) of 2017 on Federal Law No. 7 on Tax procedures provide that when the Authority decides whether or not to conduct a Tax Audit on a Person, it shall consider the following:

1. Tax audit is necessary for protecting the integrity of the tax system.
2. Responsibility of the person, or anyone associated with him, to comply with the law and Tax Law.

3. The likely tax revenue at stake and the administrative and compliance burdens on both the person and the Authority resulting from performing a tax audit.
4. Where Authority decides to re-audit a business, it shall take into consideration the results of previous Tax Audit, any new information or data, which are likely to change the Authority's position.

The above provisions are intended to ensure that audit power is not exercised arbitrarily and Authorities must have valid reasons to initiate the audit. However, once the Authority decides to carry out audit the same shall be final and it cannot be challenged by any person.

Tax audit is conducted by a Tax Auditor appointed by the Federal Tax Authority. Tax Audit involves scrutiny of commercial documents of the person conducting business.

17.2 TAX AUDIT

The FTA may perform a tax audit on any person to determine their compliance with the provisions of the relevant laws. The FTA may perform the audit at its office or the place of business of the person, in which case, the person must be given a **prior notice of at least five business days**.

While conducting an audit, the **tax auditor may ask for original records or copies, or take samples of the goods, equipment or other assets available at the person's place of business**. The audit will be conducted during the **official working hours of the FTA**; however, the director general may issue a decision to conduct it outside regular hours if necessary.

The FTA may order a re-audit if new information surfaces that might impact the outcome of the audit. Any person subject to a tax audit, his tax agent or legal representative must offer all required assistance to the auditor. The **audited person has the right to: request the auditors to show their professional identification cards; obtain a copy of the tax audit notification; attend the auditing procedures that take place outside of the FTA's headquarters; and obtain copies of any original paper or digital documents removed or obtained by the FTA during the audit.**

The law also addresses issues concerning conflict of interest. It prohibits all FTA staff members from performing or participating in any tax procedures related to any person in the following cases: if the staff member and that person are related up to the fourth degree; if there is a common interest between the staff member and person or between any of their relatives up to the third degree; and if the director general decides that the staff member should not perform any tax procedures related to that person owing to a case of conflict of interest.

Employees of the FTA are bound by non-disclosure clauses and are prohibited from disclosing information that they obtained or to which they had access to. FTA employees are also required to **maintain professional confidentiality after the cessation of their services**, and are prohibited from disclosing any information.

17.2.1 RIGHT OF THE AUTHORITY TO PERFORM TAX AUDIT

The provisions of **Article 17 of Federal Decree Law on Tax Procedures** regarding rights of the Federal Tax Authority to perform tax audit are stipulated below.

4. The Authority may perform a Tax Audit on any Person to ascertain the extent of that Person's compliance with the provisions of this Law and the Tax Law.
5. The Authority may perform the Tax Audit **at its office or the place of business** of the Person subject to the Tax Audit or any other place where such Person carries on Business, stores goods or keeps records.
6. If the Authority decides to perform a Tax Audit at the place of Business of the Person subject to the Tax Audit or any other place where such Person carries on his Business, stores goods or keeps records, the Authority must **inform him at least five business days prior** to the Tax Audit.
7. By way of exception to section (3) of this Article, the Tax Auditor has the right of entry to any place where the Person subject to the Tax Audit carries on his Business, stores goods, or keeps records, and as the case may be and it will be temporarily closed in order to perform the Tax Audit for within a **time limit not exceeding 72 hours without prior notice** in any of the following cases:

- a. if the Authority has serious grounds to believe that the Person subject to the Tax Audit is participating or involved in Tax Evasion whether related to this Person or another Person;
 - b. if the Authority has serious grounds to believe that not temporarily closing the place where the Tax Audit is conducted will hinder the conduct of the Tax Audit;
 - c. if the Person who has been given advance notice of the Tax Audit under section (3) of this Article attempts to hinder the Tax Auditor's access to the place where the Tax Audit is to be performed.
8. In all cases stated in section (4) of this Article, the Tax Auditor must obtain the **prior written consent of the Director General**; and if the place to be accessed is a place of residence then a permit from the Public Prosecutor must also be obtained.
9. Places closed under this Article must be reopened upon the expiration of 72 hours, unless the Authority obtains a permit from the Public Prosecutor to extend the closure time limit for a similar period prior to the expiry of the preceding 72 hours.
10. A criminal case can be initiated only upon an application from the Director General.
11. The Executive Regulations of this Law shall specify the necessary procedures related to the Tax Audit.

Moreover, **Article 12 of Executive Regulation on Tax Procedures** further provides as under

- 1. For the purposes of conducting a Tax Audit, the Authority may inspect:
 - a. The Premises.
 - b. The Documents available at the Premises.
 - c. The Assets that are available at the Premises.
 - d. The accounting systems used by the Person subject to Tax Audit.
- 2. For the purposes of implementing provisions of Clause (4) of Article (17) of this Law, the Tax Auditor shall obtain the **prior written consent of the Director-General**, as well as a permit from the Public Prosecutor to be able to enter the part of the Premises where the Premises or parts thereof are used as a dwelling.
- 3. For the purposes of implementing Clause (1) of this Article, the occupational tenant of the Premises, or in the absence of the occupational tenant, any Person the Authority considers as having control over the Premises, shall provide the Authority with all reasonable facilities necessary for the effective exercise of its powers under this Article.

17.2.2 NOTICE OF THE AUDIT

Article 12 of Executive Regulation on Tax Procedures contains provisions regarding the requirement of notice sent by the Tax Auditor before start of the Tax Audit. These are as follows.

- 1. Any notice of a Tax Audit sent by the Authority shall state the possible consequences of obstructing the Tax Auditor in the exercise of his duty.
- 2. Where a Tax Auditor is assigned to carry out a Tax Audit according to Clause (4) of Article (17) of this Law, he shall provide a **notice in writing at the beginning of the Tax Audit** to the following:
 - a. The occupational tenant of the Premises if he is present at the time of beginning the Tax Audit.
 - b. The Person who appears to be in charge of the Premises if he is present and the occupational tenant is not present.
 - c. In any other case, the notice shall be posted on a prominent place in the Premises.
- 3. Any other official of the Authority whom a Tax Auditor considers necessary for the effective exercise of his powers under this Decision may accompany the Tax Auditor to any Premises.

4. A Tax Auditor carrying out a Tax Audit at the Premises of a Person based on a permission of the public prosecutor according to Article (12) of this Decision, shall **present the permit issued by the Authority as well as the permit obtained from the public prosecutor, in addition to the proof of identity** every time he is requested to do so.

17.2.3 RIGHTS OF THE AUTHORITY TO ACCESS RECORDS

As per Article 18 of Tax Procedure Law while conducting a Tax Audit, the Tax Auditor may obtain original records or copies thereof, or take samples of the stock, equipment or other assets from the place at which the Person subject to the Tax Audit carries on his business or which are in his possession, or may seize them in accordance with the rules specified in the Executive Regulations of this Law.

Article 14, 15 and 16 accordingly provides rules relating to power of the Tax Auditor to remove or retain or mark documents or assets.

Power to remove and retain Original Documents or Assets or make Copies Thereof (Article 14 of Executive Regulation on Tax Procedures)

1. Where an original Document is provided to or inspected by a Tax Auditor during a Tax Audit, he may:
 - a. Make copies of the Document.
 - b. Remove the Document for a period specified by the Tax Auditor for the completion of his work, or make copies of it during the removal period, provided that he notifies the Person of such matter.
2. For purposes of Article (12) of this Decision, the Tax Auditor may remove any Asset provided thereto, or inspected by him for a period specified by the Authority for the purposes of completing the Tax Audit.
3. Where a Document is removed under Clause (1) of this Article or an Asset is removed under Clause (2) of this Article, the Authority shall **provide a record of what was removed, within (10) business days** from the date of removal, to any of the following:
 - a. The owner of the Document or the Asset.
 - b. The occupational tenant of the Premises in which the Document or Asset were removed.
 - c. The Person who had custody or control of the Document or Asset immediately before the removal.
4. The record referred to in Clause (3) of this Article shall include the following:
 - a. The purpose for removing the Asset or Document.
 - b. The nature of the Asset or Document so removed.
 - c. The location where the Asset or Document is stored and the conditions of storage.
 - d. The period for which it is expected to be retained by the Authority.

Power to Mark Assets and Record Information (Article 15 of Executive Regulation on Tax Procedures)

The Authority shall have the power to:

1. Mark Assets for the purpose of indicating that they have been inspected.
2. Obtain and record information relating to the Premises, Assets, Documents and accounting systems that have been inspected.

Storage and Providing Access to removed Documents and Assets (Article 16 of Executive Regulation on Tax Procedures)

1. Any Documents or Assets removed under Article (14) of this Decision shall be kept and stored by the Authority for the duration required for the completion of the Tax Audit in accordance with the conditions included in Clauses (2) and (3) of this Article.
2. Any Documents or Assets removed and retained shall be **returned** to the Person to whom a record has been provided under the provisions of Clause (3) of Article (14) of this Decision **in a condition as good as practically**

- possible.** The Authority may dispose of the Assets that naturally deteriorate and hence cease to have value, in accordance with the internal procedures of the Authority.
3. For perishable Assets, the Authority shall have **the right to dispose them (45) business days** after their removal, in accordance with the internal procedures of the Authority.
 4. The Authority shall **notify the owner of an Asset (10) business days prior** to exercising its right under Clauses (2) or (3) of this Article, of its intention to dispose of the Asset in whole or in part, and give the owner an opportunity to take back the Asset in whole or in part.
 5. Where the Person from whom the Asset or Document was taken submits a request to view the Asset or Document, the Authority may:
 - a. Allow the Person who made the request to view the Asset or Document under the supervision of the Authority for the purpose of photocopying or photographing the Document or photographing the Asset.
 - b. **Photocopy or photograph the Document or photograph the Asset**, and provide the photocopy or the photograph to the relevant Person.
 - c. Reject the request where the Authority believes that it would prejudice any of the following:
 - 1) That Tax Audit.
 - 2) The Tax Audit of another Person.
 - 3) Any investigation related to any of the Documents or Assets to be viewed.
 - 4) Any criminal proceedings related to the Document or the Asset to be viewed.

Article 20 of the Tax Procedure Law further gives right to the Authority **to audit any issue previously audited if new information surfaces that might impact the outcome of the Tax Audit**, provided that the Tax Audit procedures shall apply in accordance with the provisions of this Law and its Executive Regulations.

17.2.4 TIMING OF THE TAX AUDIT

As per **Article 19** of Tax Procedure Law, a Tax Audit will be conducted during the **official working hours** of the Authority. In cases of necessity, a Tax Audit may be exceptionally conducted outside such hours by decision of the Director General.

17.2.5 COOPERATION DURING A TAX AUDIT

Any Person subject to a Tax Audit, his Tax Agent or Legal Representative must facilitate and offer assistance to the Tax Auditor to enable him to perform his duties (**Article 21 of Tax Procedure Law**).

17.2.6 NOTICE TO PROVIDE INFORMATION OR DOCUMENTS

Article 18 of the Tax Procedure Law gives right to the authority to **seek information from any person**. It reads as follows:

The Authority may issue a Notification requiring a Person to provide any information or any Documents in relation to himself or another Person, if these Documents or information are considered necessary by the Authority.

Complying with Notifications (Article 19 of Executive Regulation on Tax Procedures)

1. Where a Person has been notified to provide information or Documents, the Person shall **do so within the period specified** and by the means and in the form determined in the Notification.
2. Where a Notification requires a Person to provide information or Documents, these shall be submitted at any of the following places:
 - a. A place agreed upon between the Person and the Authority.
 - b. The place determined by the Authority provided that this place is appropriate and **not used solely as a dwelling**.

17.2.7 THE AUDITEE'S RIGHT

Article 22 of Tax Procedure Law provides following rights to the auditee in relation to the tax audit. The said provision reads as under:

The audited Person has the right to:

1. Request the Tax Auditors to show their job identification cards.
2. Obtain a copy of the Tax Audit Notification.
3. Attend the Tax Audit which takes place outside the Authority.
4. Obtain copies of any original paper or digital documents seized or obtained by the Authority during the Tax Audit, according to what is specified in the Executive Regulations of this Law.

17.2.8 TAX AUDIT RESULTS

The law also specifies the time limit within which final result of the tax audit needs to be informed to the auditee. In relation to this, Article 23 of Tax Procedure Law states as under:

4. The Authority must inform the Person subject to Tax Audit of the final results of the Tax Audit within the time limit and according to the procedures specified in the Executive Regulations of this Law.
5. The Person subject to the Tax Audit may view or obtain the documents and data on which the Authority based its assessment of Due Tax according to the provisions specified in the Executive Regulations of this Law.

In compliance with Clause 1 of Article 23 of the tax procedure law, executive regulation contains below provisions.

Result of the Audit (Article 17 of Executive Regulation on Tax Procedures)

1. The Person subject to the Tax Audit shall be notified of the results of the Tax Audit within (10) business days from the end of the audit.
2. Where the Person subject to the Tax Audit is notified of the results of the Tax Audit in accordance with Clause (1) of this Article, he may request the Authority **to view or obtain Documents and data on which the Authority based the assessment of Due Tax**. Such request shall be made in writing or through such other form adopted by the Authority within (20) business days from the date of the notice provided by the Authority, and shall provide the **requested information within (10) business days** in the following manner:
 - a. A paper or electronic copy of the Document or data requested.
 - b. The original Document or data requested if such Documents or data belong to the Person subject to the Tax Audit who made the request.
3. The Authority is not required to provide:
 - a. Documents or data which would reveal internal correspondence or decisions made by the Authority.
 - b. Any confidential information or data related to any other Person or Persons.
 - c. Any Documents or data, which are known to be in possession of the Person, who is subject to the Tax Audit and made the request. In this case, the Authority shall provide the Person subject to the Tax Audit with sufficient information to enable him to identify the Documents and data requested.

17.3 TAX ASSESSMENT

As discussed earlier in the introduction section of this module, VAT is computed and paid to the government on self-assessment basis where the taxable person is required to furnish all requisite details in the periodical returns. However, there could be instances where Authority has the reason to believe that the tax has escaped from payment. In such cases, the authorities shall issue a Tax Assessment to determine tax payable and notify the taxable person within five business working days.

Article 24 of Tax Procedure Law accordingly states as below:

1. The Authority shall issue a Tax Assessment to **determine Payable Tax and notify the Taxable Person within five business days** of its issuance, in any of the following cases:
 - a. The Taxable Person **failing to apply for registration** within the timeframe specified by the Tax Law.
 - b. The Registrant **failing to submit a Tax Return** within the timeframe specified by the Tax Law.
 - c. The Registrant **failing to settle the Payable Tax** stated as such on the Tax Return that was submitted within the time limit specified by the Tax Law.
 - d. The Taxable Person **submitting an incorrect Tax Return**.
 - f. The Registrant **failing to account for Tax on behalf of another Person** when he is obligated to do so under the Tax Law.
 - g. There being a **shortfall in Payable Tax** as a result of a Person's Tax Evasion, or as a result of a Tax Evasion in which such Person was involved.
2. The Authority shall issue **an estimated Tax Assessment** if it has not been possible to determine the amount of Tax deemed to be Payable Tax or the Refundable Tax that has not been due to be refunded, as the case may be.
3. The Authority may **amend an estimated Tax Assessment** based on new information that surface after the issue of the estimated Tax Assessment. It must notify the concerned Person of these amendments within (5) five business days from the date of amendment.
4. The Executive Regulations of this Law shall specify the information or data that must be included in the Tax Assessment.

Notification of Tax Assessment (Article 21 of Executive Regulation on Tax Procedures)

1. A notification of Tax Assessment shall **contain sufficient information regarding the Tax Assessment**, and include at least the following:
 - a. The Taxable Person's name and address.
 - b. The Taxable Person's Tax Registration Number, if applicable.
 - c. The Tax Assessment reference number.
 - d. The Tax to which the assessment relates.
 - e. A Tax summary, which includes: the details of the Tax declared and adjustments made.
 - f. Reasons for Tax Assessment.
 - g. Net Tax due to the Authority or refundable by the Authority.
 - h. The date any Due Tax is payable and the method of payment.

Considering Taxes as Debts owed to the Authority (Article 20 of Executive Regulation on Tax Procedures)

Where an amount of Tax or Administrative Penalty has been assessed and notified to any Person under the Tax Law, it shall be deemed to be a debt to the Authority, and may be collected accordingly.

Time Frame for conduct of Tax Assessment (Article 42 of Federal Law No. 7 of 2017 on Tax Procedures)

1. Except in cases of proven Tax Evasion or non-registration for Tax purposes, the Authority may not conduct a Tax Assessment after the expiration of five years from the end of the relevant Tax Period.
2. In case Tax Evasion is proven, the Authority may conduct a Tax Assessment within 15 years from the end of the Tax Period in which the Tax Evasion occurred.
3. In cases of non-registration for Tax purposes, the Authority may conduct a Tax Assessment within 15 years from the date on which the Taxable Person should have registered.

MODULE 18

COLLECTION OF PAYABLE TAX

ARTICLES OF FEDERAL LAW ON TAX PROCEDURE RELEVANT TO THIS MODULE

Article (36)	Collection of Payable Tax and Administrative Penalties
Article (38)	Responsibility of Settlement in the Case of a Partnership
Article (39)	Tax and Administrative Penalties Settlement in Special Cases
Article (40)	Settlement of Tax in Bankruptcy Case

18.1 INTRODUCTION

The Tax Authority may come across situations where the tax dues are not paid correctly or are short paid or are not paid at all by the taxable persons. In other words, there is always involved risk of loss of revenue. In order to mitigate such risk, the provisions for recovery or collection of payable tax by tax authority are incorporated under tax procedure law.

18.2 TAX COLLECTION PROCEDURE

The procedure relating to collection and recovery of payable tax by the FTA has been prescribed under Article 36 of Federal Law No. 7 of 2017 on Tax Procedure. The said article provides as under:

If a Taxable Person fails to settle any Payable Tax or Administrative Penalties within the specified timeframe under this Law and the Tax Law, the following measures shall be taken:

1. The Authority shall send the Taxable Person a **notice** to pay Payable Tax and Administrative Penalties **within 20 business days** of the date of Notification.
2. If the Taxable Person fails to make payment after being notified pursuant to section (1) of this Article, the Director General shall issue a decision obligating the Taxable Person to settle the Payable Tax and Administrative Penalties which shall be communicated to him within five business days from the issuance of the decision accompanied by the Tax Assessment and Administrative Penalties Assessments.
3. The decision of the Director General regarding the Tax Assessment and Administrative Penalties Assessments shall be treated as an executory instrument for the purposes of enforcement through the execution judge at the Competent Court.

Moreover, article 20 of Executive Regulation on Tax Procedures further provides that Where an amount of Tax or Administrative Penalty has been assessed and notified to any Person under the Tax Law, it shall be **deemed to be a debt to the Authority**, and may be collected accordingly.

18.3 TAX COLLECTION PROCEDURE IN SPECIAL CASES

As per the general prudence of law, the responsibility for payment or settlement of taxes including penalties lies with the taxable person only. However, there may be circumstances or cases where the burden or responsibility has been shifted by the law to persons other than the taxable. Let's go through all these circumstances in the below paragraph.

18.3.1 Responsibility for settlement of tax and penalties in case of partnership (article 38)

If multiple Persons participate in a Business that does not have independent legal personality, each of them shall be jointly and severally liable towards the Authority for any Payable Tax and Administrative Penalties related to such Business.

18.3.2 Responsibility for settlement of tax and penalties in case of death of taxable person (article 39)

1. In cases of death, Payable Tax shall be paid as follows:
 - a. For Payable Tax due from a natural Person prior to the date of death, payment shall be made from the value of the elements of the inheritance or income arising thereof prior to distribution among the heirs or legatees.
 - b. If it transpires after the distribution of the inheritance that there is Payable Tax still outstanding, recourse shall be had against the heirs and legatees for payment of such outstanding tax, unless a Clearance Certificate has been obtained from the Authority for the inheritance representative or any of the heirs.

18.3.3 Responsibility for settlement of tax and penalties in case taxable person is missing (article 39)

Payable Tax and Administrative Penalties due from a Taxable Person of missing capacity, or who is absent or missing, or a person without a known place of residence, or the like, shall be paid by their Legal Representative from the funds and assets of the Taxable Person.

18.3.4 Responsibility for settlement of tax and penalties in case taxable person is incapacitated (article 39)

Payable Tax and Administrative Penalties due from a Taxable Person who is an incapacitated person shall be paid by their Legal Representative from the funds and assets of the Taxable Person.

18.3.5 Responsibility for settlement of tax and penalties in case of bankruptcy (article 40)

Article 40 of Decree Law on Tax Procedure stipulates as below:

1. The appointed Trustee shall communicate with the Authority to notify him of the Due Tax or of its intention to perform a Tax Audit for the specified Tax Period or Tax Periods.
2. The Authority shall notify the Trustee of the amount of Due Tax or of the Tax Audit within 20 business days after being notified by the Trustee.
3. The Trustee may object or appeal the estimate of the Authority or settle the Due Tax.

The Executive Regulation on Tax Procedures specifies the procedures of communicating with the Authority, objection, appeal and settlement of Due Tax.

Article 23 of the Executive Regulation accordingly provides as under.

1. If a Business or part of a Business is subject to bankruptcy proceedings and a Person has been appointed as a trustee in bankruptcy, that **trustee shall be treated as representing and carrying out the Business** or the part of the Business until the expiration date of his appointment as a trustee in bankruptcy under the Federal Decree Law No (9) of 2016.
2. Where the Authority has notified an appointed trustee of the Due Tax, the trustee may apply for a review, objection or appeal of the decision, in accordance with the rules and controls stated in Title Four of the Law.
3. Any **Payable Tax due to the Authority shall be paid by the trustee** in accordance with the settlement mechanism applicable to the Payable Tax.

MODULE 19

OFFENCES, PENALTIES AND PROSECUTION

ARTICLES OF FEDERAL DECREE LAW ON VAT RELEVANT TO THIS MODULE	
Article (76)	Administrative Penalties Assessment
Article (77)	Tax Evasion
ARTICLES OF FEDERAL LAW ON TAX PROCEDURE RELEVANT TO THIS MODULE	
Article (25)	Administrative Penalties Assessment
Article (26)	Tax Evasion Penalties

19.1 ADMINISTRATIVE PENALTIES

Penal provisions in any tax statute are indispensable for addressing non-compliance and to protect the interest of the revenue. UAE VAT Laws similarly confers authority to the FTA to impose both administrative and tax evasion penalties on the defaulters. Administrative penalties are imposed in case of non compliance of VAT Laws whereas tax evasion penalties, as the name indicates are imposed in respect of tax evasion committed by the taxable person. Administrative Penalties have been defined under Article 1 of Executive Regulation on Tax Procedures as “**Monetary amounts imposed on a Person by the Authority for breaching the provisions of the Law or the Tax Law**”. FTA has also been conferred the power to waive or reduce penalties at its discretion (e.g. taxable person has a reasonable excuse for the error).

For the purpose of simplicity, provisions on administrative penalties can be systematically categorised into the following.

- i) Administrative Penalties imposed under Federal Decree Law No. 8 of 2017 on VAT
- ii) Administrative Penalties imposed under Federal Law No. 7 of 2017 on Tax Procedures

19.1.1 Administrative penalties imposed under federal decree law on VAT

Article 76 of Federal Decree Law on VAT reads as follows.

Without prejudice to the provisions of Federal Law No (7) of 2017 on Tax Procedures, the Authority shall issue an Administrative Penalty Assessment to the Person and notify the Person of the same within five business days as of the date of issuance in any of the following cases:

Display of Tax Inclusive Prices:

- 1) Failure by the Taxable Person to display prices inclusive of Tax according to Article (38) of this Decree-Law.

Margin based Tax:

- 2) Failure by the Taxable Person to notify the Authority of applying Tax based on the margin according to Article (43) of this Decree-Law.

Designated Zones:

- 3) Failure to comply with the conditions and procedures related to keeping the Goods in a Designated Zone or moving them to another Designated Zone.

Tax Invoice & Credit Note

- 4) Failure by the Taxable Person to issue the Tax invoice or an alternative document when making any Supply.
- 5) Failure by the Taxable Person to issue a Tax Credit Note or an alternative document.
- 6) Failure by the Taxable Person to comply with the conditions and procedures regarding the issuance of electronic Tax Invoices and electronic Tax Credit Notes.

The amount of penalty imposed against above non-compliances is clearly mentioned in **Table 3 of Cabinet Resolution No. (40) of 2017 on Administrative Penalties for Violations of Tax Laws in the UAE**. The same has been reproduced below for ready reference.

Table (3): Violations and Administrative Penalties related to the Implementation of the Federal Decree-Law No. (8) of 2017 on Value Added Tax	
Administrative Penalty (AED)	Description of Violation
(15,000)	Failure by the Taxable Person to display prices inclusive of Tax.
(2,500)	Failure by the Taxable Person to notify the Authority of applying Tax based on the margin.
The penalty shall be the higher of AED (50,000) or (50%) of the tax, if any, chargeable in respect of the goods as the result of the violation.	Failure to comply with conditions and procedures related to keeping the Goods in a Designated Zone or moving them to another Designated Zone.
(5,000) for each tax invoice or alternative document.	Failure by the Taxable Person to issue the Tax invoice or an alternative document when making any supply.
(5,000) for each tax credit note or alternative document.	Failure by the Taxable Person to issue a Tax Credit Note or an alternative document
(5,000) for each incorrect document.	Failure by the Taxable Person to comply with the conditions and procedures regarding the issuance of electronic Tax Invoices and electronic Tax Credit Notes

19.1.2 Administrative penalties imposed under tax procedures law

1. In accordance with the Article 25 of Federal Law No. 7 of 2017 on Tax Procedures, the Authority shall issue an Administrative Penalties Assessment for a Person and notify him within (5) five business days for any of the following violations:

Record Keeping:

- i. The Person carrying on a Business failing to keep the required records and other information specified in this Law and the Tax Law.
- ii. The Person carrying on Business failing to submit the data, records and documents related to Tax in Arabic to the Authority when requested.
- iii. The Registrant failing to inform the Authority of any circumstance that requires the adjustment of the information pertaining to his tax record kept by the Authority.

Registration & Deregistration:

- iv. The Taxable Person failing to submit a registration application within the timeframe specified in the Tax Law.
- v. The Registrant failing to submit a deregistration application within the timeframe specified in the Tax Law.

Legal Representative:

- vi. The Person appointed as a Legal Representative for the Taxable Person failing to inform the Authority of his appointment within the specified timeframe, in which case the penalties will be due from the Legal Representative's own funds.
- vii. The Person appointed as a Legal Representative for the Taxable Person failing to file a Tax Return within the specified timeframe, in which case the penalties will be due from the Legal Representative's own funds.

Tax Return:

- viii. The Registrant failing to submit the Tax Return within the timeframe specified in the Tax Law.
- ix. The Registrant submitting an incorrect Tax Return.
- x. The Person voluntarily disclosing errors in the Tax Return, Tax Assessment or Refund Application pursuant to Article 10 (1) and (2) of this Law.
- xi. The Taxable Person failing to voluntarily disclose errors in the Tax Return, Tax Assessment or Refund Application pursuant to Article 10 (1) and (2) of this Law before being notified that he will be subject to a Tax Audit.

Tax Payment:

- xii. The Taxable Person failing to settle the Payable Tax stated in the submitted Tax Return or Tax Assessment he was notified of, within the timeframe specified in the Tax Law.

Tax Audit:

- xiii. The Person carrying on a Business failing to offer the facilitation and assistance to the Tax Auditor in violation of the provisions of Article (21) of this Law.

Others:

- xiv. The Registrant failing to calculate Tax on behalf of another Person when the registered Taxable Person is obligated to do so under the Tax Law.
- xv. Any other violation for which a resolution is issued by the Cabinet.
 - In exercise of power conferred under Clause 3 of Article 25 of Federal Law No. 7 of 2017 on Tax Procedures, the Cabinet has accordingly issued a resolution that specifies the Administrative Penalties for each of the violations listed in section (1) of this Article. Such **Administrative Penalties shall be no less than 500 Dirhams for any violation and shall not exceed three times the amount of Tax** in respect of which the Administrative Penalty was levied. Please **refer table 1** below for reference.
 - Clause 4 of Article 25 of Federal Law No. 7 of 2017 on Tax Procedures further states that the imposition of any Administrative Penalty pursuant to the provisions of this Law or any other law shall not exempt any Person of his liability to settle the Due Tax in accordance with the provisions of this Law or the Tax Law.

Table (1): Violations and Administrative Penalties related to the Implementation of the Federal Law No. (7) of 2017 on Tax Procedures

Description of Violation		Administrative Penalty (AED)
1	The failure of the person conducting Business to keep the required records and other information specified in Tax Procedures Law and the Tax Law	(10,000) for the first time. (50,000) in case of repetition.
2	The failure of the person conducting Business to submit the data, records and documents related to Tax in Arabic to the Authority when requested.	(20,000)
3	The failure of the Taxable Person to submit a registration application within the timeframe specified in the Tax Law	(20,000)
4	The failure of the Registrant to submit a deregistration application within the timeframe specified in the Tax Law	(10,000)
5	The failure of the Registrant to inform the Authority of any circumstance that requires the amendment of the information pertaining to his tax record kept by Authority.	(5,000) for the first time. (15,000) in case of repetition
6	The failure of the person appointed as a Legal Representative for the Taxable Person to inform the Authority of his appointment within the specified timeframe. The penalties will be due from the Legal Representative's own funds.	(20,000)
7	The failure of the person appointed as a Legal Representative for the Taxable Person to file a Tax Return within the specified timeframe. The penalties will be due from the Legal Representative's own funds.	(1,000) for the first time. (2,000) in case of repetition within (24) months.
8	The failure of the Registrant to submit the Tax Return within the timeframe specified in the Tax Law.	(1,000) for the first time. (2,000) in case of repetition within (24) months.
9	The failure of the Taxable Person to settle the Payable Tax stated in the submitted Tax Return or Tax Assessment he was notified of, within the timeframe specified in the Tax Law.	<p>The Taxable Person shall be obligated to pay a late payment penalty consisting of:</p> <ul style="list-style-type: none"> - (2%) of the unpaid tax is due immediately once the payment of Payable Tax is late; - (4%) is due on the seventh day following the deadline for payment, on the amount of tax which is still unpaid. - (1%) daily penalty charged on any amount that is still unpaid one calendar month following the deadline for payment with upper ceiling of (300%).

10	The submittal of an incorrect Tax Return by the Registrant.	<p>Two penalties are applied:</p> <ol style="list-style-type: none"> 1. Fixed penalty of: <ul style="list-style-type: none"> · (3,000) for the first time. · (5,000) in case of repetition 2. Percentage based penalty shall be applied on the amount unpaid to the Authority due to the error and resulting in a tax benefit as follows: <ul style="list-style-type: none"> - (50%) if the Registrant does not make a voluntary disclosure or he made the voluntary disclosure after being notified of the tax audit and the Authority has started the tax audit process, or after being asked for information relating to the tax audit, whichever takes place first. - (30%) if the Registrant makes the voluntary disclosure after being notified of the tax audit and before the Authority starts the tax audit. - (5%) if the Registrant makes a voluntary disclosure before being notified of the tax audit by the Authority.
11	The Voluntary Disclosure by the Person/Taxpayer of errors in the Tax Return, Tax Assessment or Refund Application pursuant to Article 10 (1) and (2) of the Tax Procedures Law.	<p>Two penalties are applied:</p> <ol style="list-style-type: none"> 1. Fixed penalty of: <ul style="list-style-type: none"> · (3,000) for the first time. · (5,000) in case of repetition 2. Percentage based penalty shall be applied on the amount unpaid to the Authority due to the error and resulting in a tax benefit as follows: <ul style="list-style-type: none"> - (50%) if the Person/Taxpayer makes a voluntary disclosure after being notified of the tax audit and the Authority starting the tax audit or after being asked for information relating to the tax audit, whichever takes place first. - (30%) if the Person/Taxpayer makes the voluntary disclosure after being notified of the tax audit but before the start of the tax audit. - (5%) if the Person/Taxpayer makes voluntary disclosure before being notified of the tax audit by the Authority.
12	The failure of the Taxable Person to voluntarily disclose errors in the Tax Return, Tax Assessment or Refund Application pursuant to Article 10 (1) and (2) of this the Tax Procedures Law before being notified that he will be subject to a Tax Audit.	<p>Two penalties are applied:</p> <ol style="list-style-type: none"> 1. Fixed penalty of: <ul style="list-style-type: none"> · (3,000) for the first time. · (5,000) in case of repetition 2. (50%) of the amount unpaid to the Authority due to the error resulting in a tax benefit for the Person/Taxpayer.
13	The failure of the Person conducting Business to facilitate the work of the Tax Auditor in violation of the provisions of Article (21) of the Tax Procedures Law.	(20,000)

14	The failure of the Registrant to calculate Tax on behalf of another Person when the registered Taxable Person is obligated to do so under the Tax Law.	The Registrant shall be obligated to pay a late payment penalty consisting of: <ul style="list-style-type: none"> - (2%) of the unpaid tax is due immediately once the payment of Payable Tax is late; - (4%) is due on the seventh day following the deadline for payment, on the amount of tax which is still unpaid. - (1%) daily penalty charged on any amount that is still unpaid one calendar month following the deadline for payment with upper ceiling of (300%).
15	A Person not accounting for any tax that may be due on import of goods as required under the Tax Law.	(50%) of unpaid or undeclared tax.

19.2 TAX EVASION PENALTIES

Tax evasion is where a person uses illegal means to either lower the tax or not pay the tax due, or to obtain a refund to which he is not entitled under law. The FTA can issue penalties for tax evasion. Tax Evasion has been defined under Tax Procedure Law as "**The use of illegal means resulting in lowering the amount of tax due, non-payment of the tax due or a refund of tax that he does not have the right to have refunded under any Tax Law**".

Article 26 of Federal Law No. 7 of 2017 on Tax Procedures specifies the following circumstances where tax evasion penalties shall be imposed.

1. Without prejudice to any more severe penalty applicable under any other law, a **prison sentence and monetary penalty not exceeding five times the amount of evaded Tax or either of the two**, shall be imposed on:
 - a. a Taxable Person who deliberately fails to settle any Payable Tax or Administrative Penalties.
 - b. a Taxable Person who deliberately understates the actual value of his Business or fails to consolidate his related Businesses with the intent of remaining below the required registration threshold.
 - c. a Person who charges and collects amounts from his clients claiming them to be Tax without being registered.
 - d. a Person who deliberately provides false information and data and incorrect documents to the Authority.
 - e. a Person who deliberately conceals or destroys documents or other material that he is required to keep and provide to the Authority.
 - f. a Person who deliberately steals, misuses or causes the destruction of documents or other materials that are in the possession of the Authority.
 - g. a Person who prevents or hinders the Authority's employees from performing their duties.
 - h. a Person who deliberately decreases the Payable Tax through Tax Evasion or conspiring to evade Tax.
2. The imposition of a penalty under the provisions of this Law or any other Law shall not exempt any Person from the liability to pay any Payable Tax or Administrative Penalties under the provisions of this Law or any Tax Law.
3. The competent court shall impose Tax Evasion penalties against any Person who is proven to have been directly involved or instrumental in Tax Evasion pursuant to Federal Law No. (3) of 1987 referred to.
4. Without prejudice to section (2) of this Article, any Person who is proven to have been directly involved or instrumental in Tax Evasion pursuant to section (3) of this Article shall be jointly and severally liable with the Person whom he has assisted, to pay the Payable Tax and Administrative Penalties pursuant to this Law or any other Tax Law.

Moreover, Article 77 of Federal Decree Law No. 8 of 2017 on VAT provides that "If it is proven that a Person who is not a Registrant acquires Goods referred to in Clause (3) of Article 48 of this Decree-Law, claiming that he is a Registrant, he shall be considered as having committed Tax Evasion and shall be subject to the penalties provided for in Federal Law No. 7 of 2017 on Tax Procedures."

It should be noted that the **burden of proving the accuracy of the Tax Return falls upon the Taxable Person, whereas the burden of proving cases of Tax Evasion falls upon the Authority** (Article 48 of Federal Law No. 7 of 2017 on Tax Procedures).

MODULE 20

OBJECTIONS AND APPEALS

ARTICLES OF FEDERAL LAW ON TAX PROCEDURE RELEVANT TO THIS MODULE

Article (27)	Procedures for Application for Reconsideration
Article (28)	Tax Disputes Resolution Committee
Article (29)	Jurisdictions of the Committee
Article (30)	Procedures for Submitting Objections
Article (31)	Procedures of the Committee
Article (32)	Enforcement the Committee's Decision
Article (33)	Challenges before Courts

20.1 INTRODUCTION

As we have understood in the previous module on Tax Audit and Assessment, the FTA has been conferred the power to issue Tax Assessment order determining Payable Tax in cases as specified under Article 24 of Federal Law on Tax Procedures. This has been done so as to protect the interest of the revenue. Like any other indirect tax regime, here also right to object and appeal such assessment of tax has been provided to both the Federal Tax Authority and the Taxable Person. Under the UAE VAT regime, appellate remedies are available in below stated 3 stages and the provisions are enshrined in Article 27 to 33 of the Federal law No. 7 of 2017 on Tax Procedures.

- i) At the first stage, application can be made to federal tax authority itself for reconsideration.
- ii) If the person is not satisfied with the revised decision of the FTA, objection can be raised to the Tax Disputes Resolution Committee.
- iii) At the third stage, the decision of the Tax Dispute Resolution Committee can be challenged before Federal Court if the sum under dispute exceeds AED 100,000.

20.2 APPLICATION TO FEDERAL TAX AUTHORITY FOR RECONSIDERATION

If the assessee is not satisfied with decision of FTA, he may **submit a request to the FTA to reconsider any of its decisions within 20 business days** from notification of the decision.

Article 27 of Federal Law No. 7 of 2017 on Tax Procedure provides as under;

1. Any Person may submit a request to the Authority to reconsider any of its decisions issued in connection with him in whole or in part provided that reasons are included, within 20 business days from him being notified of the decision.
2. The Authority shall review a request for reconsideration if it has fulfilled the requirements and issue its decision with reasons within 20 business days from receipt of such application. The Authority must inform the applicant of its decision within five business days of issuing the decision.

20.3 OBJECTION TO THE TAX DISPUTES RESOLUTION COMMITTEE

Any person will be able to object a decision of the Federal Tax Authority. As a first step, the person shall request the FTA to reconsider its decision. Such request of re-consideration has to be made within 20 business days from the date the person was notified of the original decision of the FTA, and the FTA will have 20 business days from receipt of such application to provide its revised decision.

If the person is not satisfied with the revised decision of the FTA, it will be able to object to the Tax Disputes Resolution Committee which will be set up for these purposes.

20.3.1 Tax disputes resolution committee (article 28)

The provisions of Article 28 regarding Tax Disputes Resolution Committee are contained below.

3. One or more permanent committee shall be formed known as the “Tax Disputes Resolution Committee”, **chaired by a member of the judicial authority and two expert members being persons registered on the register of Tax experts** to be appointed by a decision by the Minister of Justice in coordination with the Minister.
4. A decision shall be issued by the Cabinet regarding the Committee’s code of practice rules, the remuneration of its members, and the procedures it shall follow.

20.3.2 Jurisdiction of the committee (article 29)

The provisions of Article 29 regarding jurisdiction or area of decision making are reproduced below.

The Committee shall have jurisdiction to:

1. decide in respect of objections submitted regarding the Authority’s decisions or reconsiderations requests.
2. decide in respect of reconsideration requests submitted to the Authority where the Authority has not made a decision according to the provisions of this Law.
3. any other jurisdictions entrusted to the Committee by the Cabinet.

20.3.3 Procedure for submitting objections to the committee (article 30)

1. An objection regarding the Authority’s decisions or a consideration request shall be submitted within 20 business days from the date of notification.
2. An objection submitted to the Committee shall not be accepted in the following instances:
 - a. if a reconsideration request has not been previously submitted to the Authority.
 - b. if the Tax and Penalties subject of the objection have not been settled.

20.3.4 PROCEDURES OF THE COMMITTEE (Article 31)

- The Committee shall review the objection submitted and make a decision within 20 business days from receipt of the objection.
- The Committee may extend the time for making its decision for no more than additional 20 business days after the end of the time limit specified in section (1) of this Article if it sees that there are reasonable grounds for that extension in order to make a decision regarding the objection.
- The Authority shall inform the Person submitting the objection of its decision within five business days of its issuance.

6. The Committee's decision on the objection shall be treated as final if the total amount of the Tax and Administrative Penalties due is not more than 100,000 Dirhams.
7. In no case may Tax disputes may be brought before the Competent Court if an objection has not been first submitted to the Committee.

20.3.5 Enforcement of committee's decision (article 31)

Final decisions issued by the Committee regarding disputes which do not exceed 100,000 Dirhams **shall be treated as executory instruments** pursuant to this Law, while final decisions of disputes exceeding 100,000 Dirhams shall be treated as executory instruments if they are not challenged before the Competent Court within 20 business days from the date of rejection of the objection and shall be enforced through the execution judge at the Competent Court pursuant to the Civil Procedures Law in the State.

20.4 CHALLENGES BEFORE COURTS (Article 33)

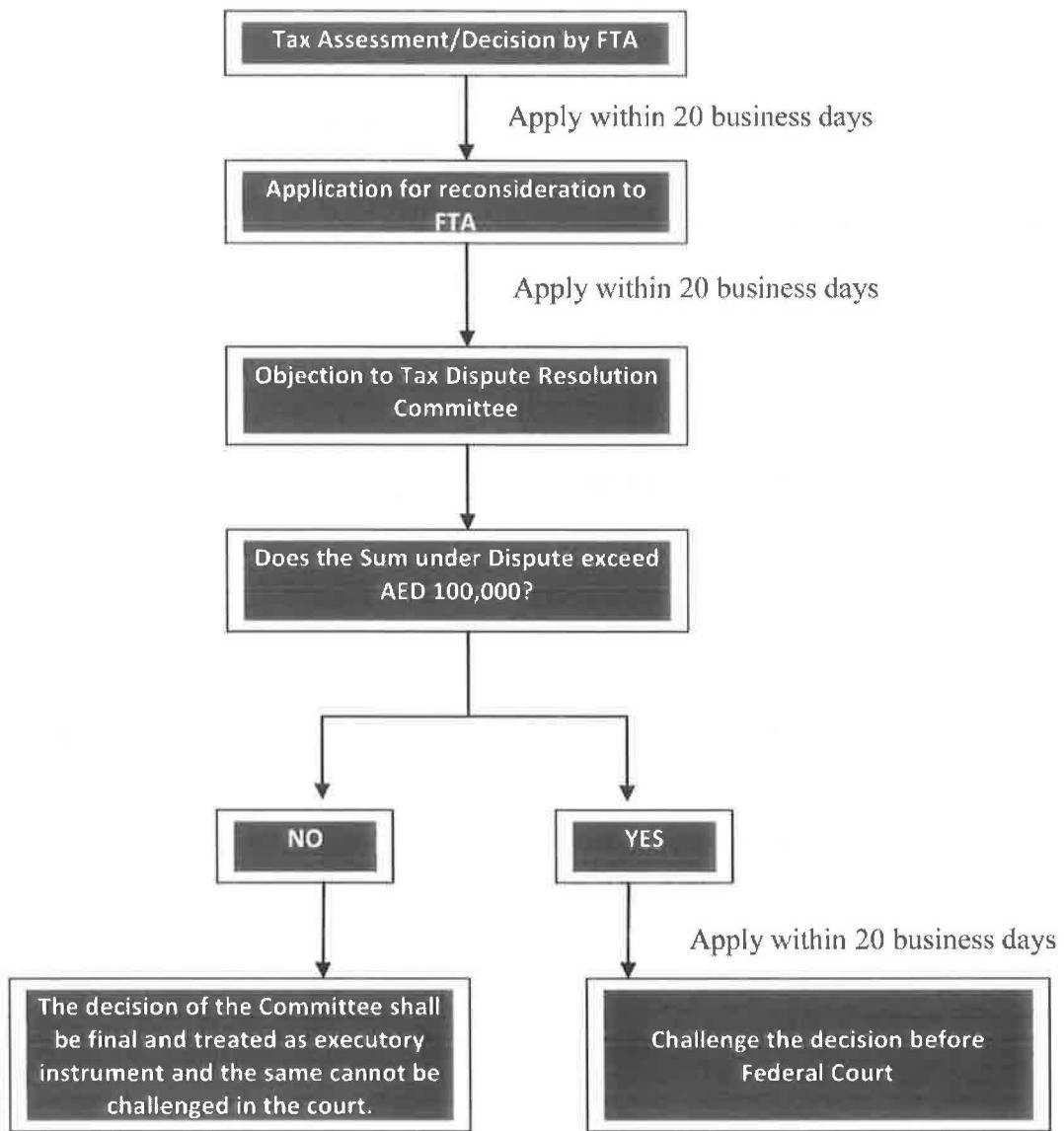
The decision of the FTA can be challenged. Before this, the aggrieved person needs to ask for an internal FTA administrative review or consideration of its decision. If still unhappy, one can escalate it to a Tax Disputes Resolution Committee. However, the taxpayer need to pay whatever tax first as per the assessment order, because the Committee cannot accept an objection "if the Tax and Penalties subject of the objection have not been settled". If the sum in dispute is less than Dh100,000 - that's the end of the road. If it's more than that, the aggrieved person has the right to challenge the decision before the federal court within whose jurisdiction the FTA's head office or relevant branch is located. There are strict time-limits for taking these steps.

Article 33 of Federal Law on Tax Procedure provides as below.

1. Without prejudice to the provisions of Article (32) of this Law, the Authority and a Person may challenge any of the Committee's decisions before the Competent Court within 20 business days from the objector being notified of the Committee's decision.
2. Challenges may be made to the Competent Court in the following instances:
 - a. There being an objection to the whole or part of the decision of the Committee.
 - b. A decision not having been issued by the Committee regarding an objection submitted to it in accordance with the provisions of this Law.

20.5 CONCLUDING SUMMARY

"To err is human". The said proverb holds true even in respect of any of the decisions given by FTA or Tax Dispute Resolution Committee or Courts. With a view to ensure that no injustice is done to the Appellant and at the same time interest of the revenue is protected, aforesaid appellate remedies have been contained in UAE Federal Law No. 7 of 2017 on Tax Procedure. The summarized provisions have been presented below in the form of flowchart for ready reference for the readers.



MODULE 21

TRANSITIONAL RULES

ARTICLES OF FEDERAL DECREE LAW ON VAT RELEVANT TO THIS MODULE

Article (80)

Transitional Rules

ARTICLES OF EXECUTIVE REGULATION ON VAT RELEVANT TO THIS MODULE

Article (70)

Transitional Rules

21.1 INTRODUCTION

The transitional rules are intended to avoid invoices being issued or payments being made prior to the effective date of the VAT law for supplies of goods which effectively take place after the effective date of the VAT law i.e. January 1, 2018, for the purposes of avoiding tax. This module shall be read in conjunction with the module on Time of Supply. It is pertinent to note that **the transitional rules will over-ride the general rule on time of supply.**

21.2 ONE-OFF SUPPLY OF GOODS OR SERVICES

One off supply or non-continuous supply of goods and services refers to the supply of goods and services that is made only once and is not repeated. A one-off supply of goods may involve a single payment or multiple payments over a defined period, but the ownership or possession of goods is transferred at once. The method of payment does not affect whether a supply is one-off or continuous.

Examples of one-off supplies include, but are not limited to:

- A sale to a consumer in a retail store or super-market
- A sale by instalments where the customer takes possession and ownership of the goods once paid in full
- Transaction fees for individuals charged by a bank
- Fee for attending an event
- Course conducted by Training Institute
- Repair services by a repair and maintenance company

21.2.1 One-off supply of goods or services made before 1st january 2018

Under the general VAT laws, the date of supply in case of one-off supply of goods and services will be the date of actual supply of the goods or services or the date of receipt of payment (up to the amount received), or the date of issue of the invoice, whichever is the earliest. [Article 25 of Federal Decree Law No. 8 of 2017 on VAT read with Article 19 of Executive Regulation on VAT]

Thus, if a supply of goods or services takes place on or before 1 January 2018, the supply shall not be subjected to VAT even though consideration is received or invoice issued after the implementation of VAT i.e. 1st January 2018.

Example 1:

ABC Trading LLC supplies and delivers mobile phones to its customers on 15 December 2017 on a 30 days credit, but does not issue an invoice or collect payment until January 2018. This is a one-off supply of goods made before 1 January 2018. The company shall not charge VAT on the invoice raised in January 2018.

21.2.2 One-off supply of goods or services made after 1st january 2018 (transitional provision)

However, under the transitional provisions, if a supply of goods or services takes place on or after 1 January 2018, any invoice issued for any consideration received before 1 January 2018 will be ignored for the purposes of calculating the time of supply for VAT, and consequently, the supply will be subject to VAT.

If an invoice is issued before 1 January 2018 for a supply that is to be performed after 1 January 2018, without including the VAT applicable to the goods or services being supplied under that invoice, the supplier must issue an additional invoice specifying the amount of VAT.

Article 80 (1) of the Federal Decree Law on VAT clearly provides in this regard. As per the said provision,

If the supplier receives Consideration or part thereof or issues an invoice for Goods or Services before the Decree-Law comes into effect, the date of supply shall be the same as the effective date of the Decree-Law in the following instances if they occur after the effective date of the Decree-Law:

- a. Transfer of Goods under the supervision of the supplier.
- b. Placing the Goods at the recipient's disposal.
- c. The completion of assembly or installation of the Goods.
- d. The issuance of the customs declaration.
- e. The acceptance by the Recipient of Goods of the supply.

The above transitional rules are framed with an intention to avoid invoices being issued or payments being made prior to the effective date of the VAT law for supplies of goods which effectively take place after the effective date of the VAT law, for the purposes of avoiding tax.

Example 2:

ABC Trading LLC collects payment in advance on 15 December 2017 in respect of supply of mobile phones to be made in January 2018. The company shall charge VAT at time of supply of goods in January 2018 as the supply of goods takes place after the Decree Law on VAT comes into effect. [Refer Article 80 (1) of the Decree Law on VAT]

Example 3:

ABC perfumes LLC, a Dubai based company enters into contract with a transport company for the transportation of perfume bottles from the place of its suppliers in Abu Dhabi to its warehouses in the city of Dubai and Sharjah. It has been provided in the contract that the transport will be completed on 31 January 2018. The transport company issues an invoice on 15 December 2017, without VAT, and the transportation company pays the invoice in full on 22 December 2017.

Under the transitional provisions, in this event, the invoice as issued and the amounts paid early must be ignored, and VAT must be applied to the service, which was to be performed on or after 1 January 2018. Consequently, the transport company must issue an additional VAT invoice to the transportation company specifying the amount of the VAT due on the services provided on January 2018.

21.2.3 One-off supply of goods under hire purchase after 1st january 2018

A hire purchase is a method or arrangement of buying goods through making instalment payments over time. Under this arrangement, the buyer is leasing the goods and does not obtain ownership until the full amount of the contract is paid. There are 3 parties to the hire purchase contracts – the supplier, the financier and the owner.

In the case of supply of goods through finance lease contracts or hire purchase, the bank or financial institution enters into the commercial transaction through its purchase of the goods from its supplier on the behalf of the supplier. The supplier of the goods issues a tax invoice in the name of the bank or institution, and the bank or institution will then supply those goods to the lessee (the customer) under a financial lease agreement whereby the ownership of the goods shall pass after payment of all of the instalments. The bank or the financial institution collects the consideration for the goods in the form of interest or profit in addition to the cost of such goods from the customer in fixed periodical instalments.

These hire purchase contracts are basically contracts of supply (sale) of goods by way of financing, to which the provisions pertaining to one-off or non-continuous supplies shall apply. Accordingly, the date of supply of goods under hire purchase contract shall be the date on which the goods are placed at the disposal of the customer.

Therefore, VAT will be due on such supply of goods under hire purchase contract on the date of supply of the goods or on the date that the VAT invoice is issued, or on the date that the consideration is received in part or in whole, up to the amount of the money received, whichever is the earliest.

Example 4:

ABC LLC enters into a contract with a UAE bank for the purchase of the car under a hire purchase agreement. The cash value of the car is AED 100,000 and the value of the car under the hire purchase system with 60 monthly instalments amounts to AED 125,000. The contract is made on 10th January 2018 and the company pays an advance deposit in an amount of AED 5,000 on the same date however, delivery of the car is given on 1st February 2018, and pays the first monthly instalment amounting to AED 2,000. (Value of first instalment = $(125,000 - 5,000)/60$).

For the purposes of VAT, at the time payment of the advance on 10th January 2018, VAT will be due at the rate of 5% on that instalment ($5,000 \times 5\% = \text{AED } 250$). The bank will collect the VAT from the customer and declare and pay it through its VAT return of subsequent tax period.

When the company ABC takes delivery of the car, the bank accounts for the whole of the VAT on the remaining amount of the cash value of the car ($100,000 - 5,000 = 95,000$), at a rate of 5% ($95,000 \times 5\% = \text{AED } 4,750$). The bank shall collects the tax from the customer and declares and pays it to the Authority in one go through the VAT return for the tax period covering February 2018.

Therefore, the VAT accounted for amounts to AED 5,000 and the value of the interest and profits of the bank are treated as financial services exempt from VAT.

21.2.4 One-off supply of goods under hire purchase before 1st january 2018

In case, the supply of goods under hire purchase contract takes place before the date of implementation of VAT, no VAT shall be levied on such transactions even though instalments are paid after the date on which VAT comes into effect. Let's understand this with the help of example given below.

Example 5:

ABC LLC enters into a contract with a UAE bank for the purchase of the car under a hire purchase agreement. The cash value of the car is AED 100,000 and the value of the car under the hire purchase system with 60 monthly instalments amounts to AED 125,000. The contract is made on **10th November 2017** and the company pays an advance deposit in an amount of AED 5,000 on the same date however, delivery of the car is given on 1st December 2017, and pays the first monthly instalment amounting to AED 2,000. (Value of first instalment = $(125,000 - 5,000)/60$).

This transaction will not be subjected to VAT, because the contract was made and delivery of the car was taken before January 2018, and so no VAT will be payable on any of the instalments.

It is however, to be noted that for the above treatment to apply, the goods must be placed at the disposal of the customer before January 2018.

21.2.5 Adjustments to supply made before 1 January 2018

In case the terms of supply are changed after 1st January 2018 in respect of the supply made before 1st January 2018 whether by way of change in price or otherwise, the date of supply and adjustment therein remains the date on which the goods or services were supplied i.e. original supply and adjustment shall be treated to have been made without VAT. In other words, the adjustment shall have an identical tax treatment to the original supply. Therefore, credit notes or debit notes reflecting adjustments to supplies taking place before 1 January 2018 should not include any VAT.

Example 6:

A VAT registered dealer in Dubai sells 5 LED TVs to a retail store on 25 December 2017 for AED 5,000 each, without any VAT. On the same day, LEDs are delivered and invoices. One of the televisions is found to be faulty by the retail store and the same is returned to the supplier on 2nd January 2018. On 3rd January 2018, the supplier issues a credit note for AED 5,000.

The credit note is raised after the implementation of VAT, but should not include VAT as it relates to a supply made before 1 January 2018.

21.3 CONTINUOUS SUPPLY OF GOODS OR SERVICES

A continuous supply as the name suggests, it involves the provision of goods or performance of services continuously over a defined period of time. It may involve the delivery of specific goods or services item on a specific date, but the recipient obtains benefit of the goods or services over the periods and consideration is also paid periodically.

Examples of continuous supplies include, but are not limited to:

- An operating lease or rental of goods
- Construction services
- A contract of insurance or takaful
- Management services across a period
- Membership of a gym
- Provision of labour to third parties over a specified period
- A contract for periodic maintenance services
- Telecom and internet services provided by telecom companies

The UAE VAT law provides that continuous supplies of goods or services that span through 1 January 2018 are only subject to VAT on the part of the supply that is performed from 1 January 2018 onwards. VAT is not chargeable on any part of a continuous supply that is performed before 1 January 2018.

Let's understand this with the help of below example.

Example 7:

ABC LLC signs an Annual Maintenance Contract (AMC) with XYZ LLC to provide maintenance services in respect of IT equipments employed by the company on 1st October 2017, for a special offer of AED 12,000 with payment made upfront. The contract is entered into for a period of 1 year ended on September 30, 2018. Calculate the amount of VAT payable by ABC LLC in both the cases given below.

i) The Recipient XYZ LLC has already applied for registration and expects to get itself registered under VAT w.e.f. 1st January 2018

The AMC contract is a continuous supply of services, and VAT will apply only to the portion performed after 1 January 2018. ABC LLC thus, shall need to pay VAT for 10 months out of the total of 12 months. Thus, VAT will be levied on an amount of AED 10,000 out of the total value of AED 12,000 (equivalent to the value of 10 months out of the total of 12).

Consequently, ABC LLC shall calculate VAT treating Consideration as exclusive of Tax in accordance with provisions under Article 70 of Executive Regulation on VAT. Hence, ABC LLC shall pay VAT amounting to AED 500 (5 % on AED 10,000) subject to conditions stipulated under the said Article 70 which are as follows.

Conditions to be met

- **Article 70 (6) of ER**

The Consideration shall be treated as exclusive of Tax and the Recipient of Goods or Recipient of Services shall be obligated to pay the VAT in addition to the Consideration if all of the following conditions are met:

- a. Where the Recipient of Goods or Recipient of Services is a Registrant.
- b. Where the Recipient of Goods or Recipient of Services has the right to recover Input Tax incurred on the supply either in full or in part.

- **Article 70 (7) of ER**

The above clause (6) shall only apply if, before the date the Decree-Law comes into effect, the supplier requests from the Recipient of Goods or Recipient of Services to confirm the following:

- a. Whether the Recipient of Goods or Recipient of Services is or expects to be a Registrant at the time the Decree-Law comes into effect.
- b. The extent to which the Recipient of Goods or Recipient of Services expects to be able to recover Tax incurred on the supply.

- **Article 70 (8) of ER**

Within 20 business days of receiving an information request under Clause (7) of this Article, the Recipient of Goods or Recipient of Services shall reply to the supplier in writing with the information requested.

- **Article 70 (9) of ER**

The supplier may rely on the information provided as required by Clause (8) of this Article in determining the tax treatment of the supply. If the Recipient of Goods or Recipient of Services knowingly provides incorrect information that result in the Supplier having to treat the Consideration as inclusive of Tax, then the Recipient of Goods or Recipient of Services shall not be entitled to reclaim the Input Tax on that supply.

- **Article 70 (10) of ER**

Where the Recipient of Goods or Recipient of Services has failed to provide the information in accordance with Clause (8) of this Article, the supplier may treat Consideration in respect of the supply as exclusive of Tax, and request the Recipient of Goods or Recipient of Services to pay Tax.

- **Article 70 (11) of ER**

The supplier and the Recipient of Goods or Recipient of Services shall both retain the records of the request made under Clause (7) of this Article and the information provided under Clause (8) of this Article.

- **Article 70 (12) of ER**

For the purposes of Clause (6) of this Article, where the Recipient of Goods or Recipient of Services ascertained that he can only recover Input Tax in part, the consideration for the supplies under the contract shall be treated as exclusive of Tax only to the extent of the Input Tax recovery percentage that the Recipient of Goods or Recipient of Services discloses to the Supplier under Clause (8), and the remaining portion of the consideration relating to the Supply should be treated as Tax inclusive.

- **Article 70 (13) of ER**

In all cases, the Supplier shall remain responsible for calculation of Tax and payment to the Authority.

ii) The Recipient XYZ LLC is neither registered under VAT nor expecting to get registered w.e.f. 1st January 2018

The contract is for continuous supply of services, and VAT will apply only to the portion performed after 1 January 2018. ABC LLC thus, shall need to pay VAT for 10 months out of the total of 12 months. Thus, VAT will be levied on an amount of AED 10,000 out of the total value of AED 12,000 (equivalent to the value of 10 months out of the total of 12).

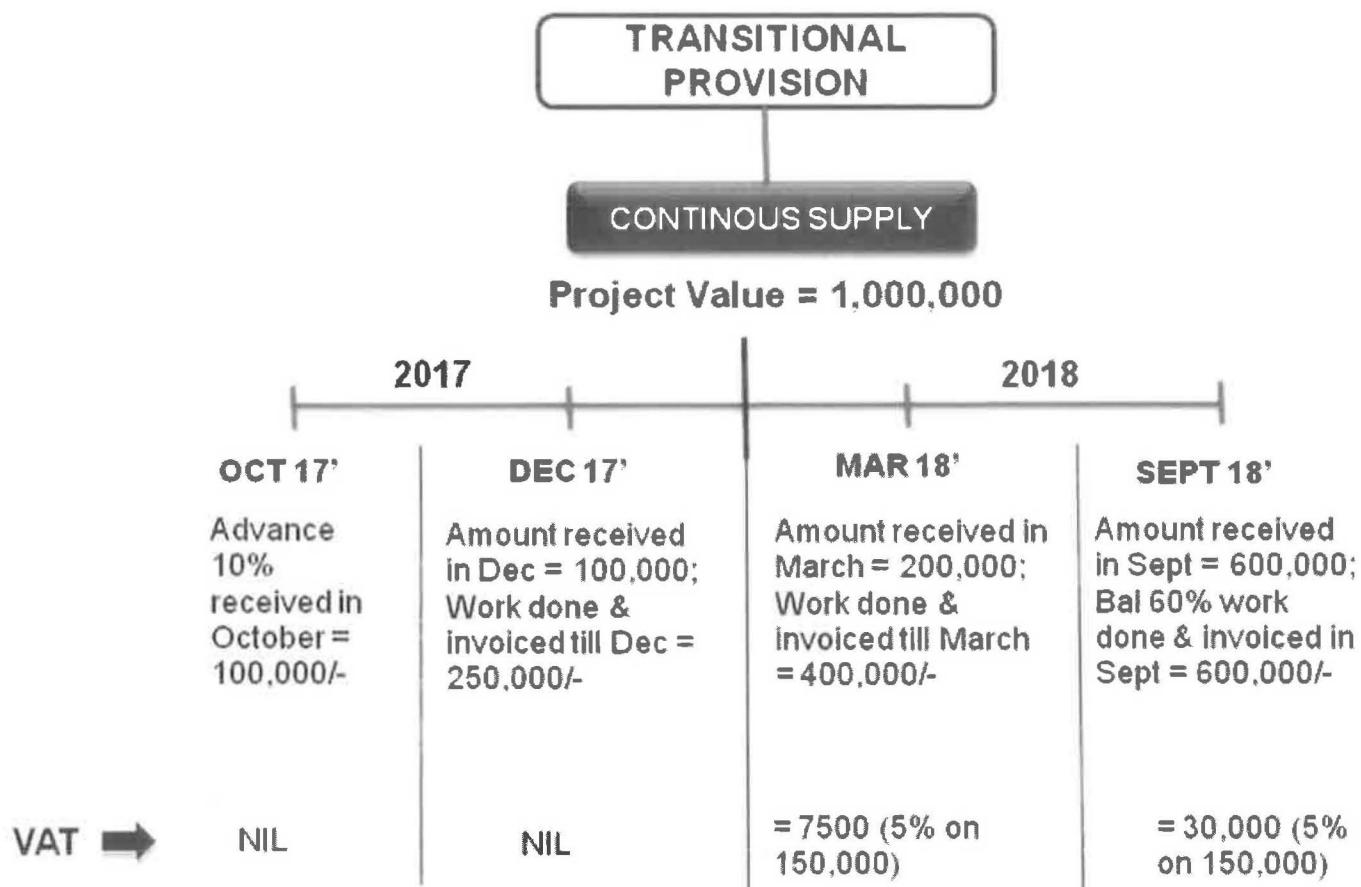
Since, the Recipient XYZ LLC is neither registered under VAT nor expecting to get registered w.e.f. 1st January 2018, ABC LLC shall calculate VAT treating Consideration as inclusive of VAT. Accordingly, ABC LLC shall be liable to pay VAT amounting to AED 476 ($5/105 \times$ AED 10,000).

Thus, it can be concluded that where a contract is entered into prior to the effective date of the VAT law which concerns a supply made wholly or partly after the effective date of the VAT Law, **VAT will be due on the supply taking place after the effective date of the VAT Law. If the contract does not mention VAT, the value of the supply stated in the contract shall be treated as inclusive of VAT.**

However, where Company B is registered for VAT and is entitled to full VAT recovery on costs incurred, Company A can treat the contract as if the price stated was exclusive of VAT and is able to charge VAT to Company B in addition.

Let's understand this with the help of few more examples cited below.

Example 8:



Total value of supply done before the VAT as per the graph comes into effect i.e. 1st January 2018 = AED 250,000

This amount of AED 250,000 will not be subjected to VAT. Clause 14 of Executive Regulation on VAT clearly provides that **where a Taxable Supply is treated as periodically or successively supplied, Tax shall not be charged on the portion of the Consideration that relates to a supply made before the date the Decree-Law comes into effect.**

So, the first condition for the applicability of VAT is that the supply must relate to the post VAT implementation date.

Accordingly, we will have to figure out the value of supply pertaining to the period after the date the Decree-Law comes into force. The value shall be AED 750,000 (Total Project Value minus Value of work done till Dec 2017) which shall be subjected to VAT @ 5% during 2018.

Now, the date of supply rule will be triggered to determine the period when tax will be due. Hence, Article 26 of Decree Law on VAT comes into play which provides that the date of supply of Goods or Services for any contract that includes periodic payments or consecutive invoices is the **earliest of any of the following dates**, provided that it does not exceed one year from the date of the provision of such Goods and Services:

- a. **The date of issuance of any Tax Invoice.**
- b. **The date payment is due as shown on the Tax Invoice.**
- c. **The date of receipt of payment.**

Thus, the VAT to be reported and paid for the period ending March shall be 5 % on 150,000 (AED 400,000 less AED 250,000) considering the above date of supply rule in mind. The excess consideration of AED 50,000 received during the period shall be ignored as the same relates to date of implementation of VAT. (Clause 14 of Article 70 of Executive Regulation on VAT)

The balance amount of AED 600,000 shall be subjected to VAT @ 5% during September 2018.

Example 9:

ABC Education LLC, a software training Institute registered in Dubai charges course fees for a nine-month academic year from 15 September 2017 to 14 June 2018. Parents pay three instalments of AED 10,000 on 15 September, 15 December and 15 March. The price of each instalment is exclusive of VAT, if any.

This is a continuous supply of services made across the academic year. VAT will be only charged on instalments where and to the extent that the supply is performed on or after 1 January 2018. No VAT will be charged on the portion relating to 2017.

Period	Payment	Principal	VAT Amount	Total payable
	Due Date	Amount (AED)	(AED)	(AED)
15 September 2017 - 14 December 2017	15 September 2017	10,000	0.00	10,000
15 December 2017 - 31 December 2017	15 December 2017	1889		1,889
1 January 2018 - 14 March 2017	15 December 2017	8,111	406	8,517
15 March 2017 - 14 June 2018	15 March 2017	10,000	500	10,500

For that part of the instalment payable on 15 December 2017, VAT is calculated based on the taxable portion of that instalment from 1 January 2018 to 14 March 2018 of that supply (73 out of 90 days) which is performed on or after 1 January 2018. The institute must issue an additional invoice for the VAT due and declare the tax in its first tax return for the year 2018. With regard to the final instalments due after 1 January 2018, they are subject to VAT under the usual rules, on the due date for payment, or on the date of actual payment or the date of issue of Tax Invoice, whichever is the earliest.

MODULE 22

TAX AGENT

ARTICLES OF FEDERAL LAW ON TAX PROCEDURE RELEVANT TO THIS MODULE

Article (12)	Register of Tax Agents
Article (13)	Tax Agents Registration
Article (14)	Conditions of Registration in the Register
Article (15)	Appointment of a Tax Agent
Article (16)	Person's Records with the Tax Agent

ARTICLES OF EXECUTIVE REGULATION ON TAX PROCEDURE RELEVANT TO THIS MODULE

Article (10)	Procedures for listing a Tax Agent in the Register and Rights and Obligations of Tax Agents
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22.1 INTRODUCTION

Part II of Chapter 3 of the Federal Law No (7) of 2017 on Tax Procedures in the UAE describes Appointment of a Tax Agent, **Tax Agent's** Registration procedure and conditions to be fulfilled for registering in the register of Tax Agents.

Before we discuss these provisions, let's first understand the rationale behind these rules. Tax Laws often are considered complex by the businesses. To understand the law and ensure compliance with tax laws can pose a challenge for the business and tax payers. To facilitate and support business with tax compliance, provisions regarding Tax Agents have been made. A tax agent help clients comply with their tax obligations by providing tax related services to them. They can act as representative of taxpayers before the tax authority.

22.2 TAX AGENTS

Mentioned below are some of the frequently asked questions related to tax agents.

1. Who is a Tax Agent?

As per the definition under the Article (1) of Tax Procedures Law of the UAE, Tax Agent is a person who is registered with the Authority in the Register, who is appointed on behalf of another Person to represent him before the Authority and assist him in the fulfilment of his Tax obligations and the exercise of his associated tax rights.

2. What is meant by the Register of Tax Agents?

As per the Article (12) of Federal Law on Tax Procedure, A Register of Tax Agents shall be established at the Authority. For each Tax Agent there will be a file in which all matters related to his professional conduct shall be lodged.

3. Who can practice as a Tax Agent?

As per the Article (13) of Federal Law on Tax Procedure, it is not permitted for any Person to practise the profession of a Tax Agent in the State unless he is listed in the Register and licensed for this purpose by the Ministry of Economy and the competent local authority.

4. What are the conditions or criteria to be satisfied to work as a Tax Agent?

As per the Article (14) of Tax Procedure Law read with Article 10 of Executive Regulation on Tax Procedures, following conditions are required to be satisfied by a person to get registered in the register of Tax Agents:

- Tax Agent should be of **good conduct and behaviour** and never have been convicted of a crime, prejudicial to honour or honesty, notwithstanding that he may have been rehabilitated. FTA mandates the requirement of **Police Clearance Certificate/Good Conduct Certificate** as a proof.
- The Tax Agent shall 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. Practically, any relevant bachelor or Master degree tax, accounting or law from any educational institution from any country would suffice provided the same is attested by the UAE Embassy of that country.
- The Tax Agent should have a relevant recent **experience of at least three years, in either tax or qualified accounting or law, with the ability to communicate orally and in writing in both Arabic and English**. The applicant is generally required to provide employment contract as a proof of tax specialization and practical experience in these areas. In addition to this, language proficiency documents are also required to be submitted to FTA.
- Tax Agent should be **medically fit** to perform the duties of the profession. The applicant may therefore be required to submit medical fitness certificate to support this.
- Tax Agent should hold **professional indemnity insurance contract**.
- A Tax Agent can **perform his activity through a legal person** approved by the Ministry of Economy and the local competent authority. It means a Tax Agent must apply to the FTA to be associated with a registered Tax Agency (usually an accounting, tax or law firm) once registered as an agent.

A Tax Agent must notify the Authority of any period during which he ceases to practise his profession as a Tax Agent if he is hindered from practicing, and he can request to resume his practice when such hindrance ceases to exist.

5. Who can appoint a Tax Agent?

Article 15 of Federal Law on Tax Procedure stipulates as below.

1. A Person may appoint a Tax Agent to act in his name and on his behalf with regard to his tax affairs with the Authority without prejudice to that Person's responsibility to the Authority.
2. It is not permitted for the Authority to deal with any Tax Agent regarding any Person if such Person informs the Authority that his agency engagement has ended or that the Tax Agent has been dismissed.

6. What are the responsibilities of a Tax Agent?

Article 16 of Federal Law on Tax Procedure contains following provisions regarding responsibilities of Tax Agents. It states that the **tax agent** must provide all the information, documents, records, and data to the Authority on the behalf of the taxable person.

1. The Tax Agent must, upon the Authority's request, provide it with all the information, documents, records and data required for any Person represented by the Tax Agent.
2. The Authority may review the records of any Person available with his Tax Agent and may rely on them for the purposes of a Tax Audit, even after the expiry of the agency engagement or the dismissal of the Tax Agent.

7. What are the circumstances under which the Tax Agent can be delisted?

Clause 9 of Article 10 of Executive Regulation on Tax procedures provides that 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.

8. 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.

9. What are the conditions to be satisfied before getting into the business of Tax Agency?

All of the following conditions need to be satisfied before making application for registration as a Tax Agency:

1. It must have 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. It must hold professional indemnity insurance in respect of your Tax Agency business; and
3. It has at least one registered Tax Agent associated with it.

Article (12) of Federal Law on Tax Procedure: Register of Tax Agents

A Register of Tax Agents shall be established at the Authority. For each Tax Agent there will be a file in which all matters related to his professional conduct shall be lodged.

Article (13) of Federal Law on Tax Procedure: Tax Agents Registration

It is not permitted for any Person to practise the profession of a Tax Agent in the State unless he is listed in the Register and licensed for this purpose by the Ministry of Economy and the competent local authority.

Article (14) of Federal Law on Tax Procedure: Conditions of Registration in the Register

1. Anyone listed in the Register must satisfy the following conditions:
 - a. be of good conduct and behaviour and never have been convicted of a crime or misdemeanour prejudicial to honour or honesty, notwithstanding that he may have been rehabilitated.
 - b. hold an accredited qualification from a recognised university or institute showing his specialisation and practical experience as specified in the Executive Regulations of this Law.
 - c. be medically fit to perform the duties of the profession.
 - d. hold professional indemnity insurance.
2. A Tax Agent must notify the Authority of any period during which he ceases to practise his profession as a Tax Agent if he is hindered from practicing, and he can request to resume his practice when such hindrance ceases to exist.
3. The Executive Regulations of this Law shall specify the procedures for listing a Tax Agent in the Register and the rights and obligations of the Tax Agent before the Authority and the Person.

Article (15) of Federal Law on Tax Procedure: Appointment of a Tax Agent

1. A Person may appoint a Tax Agent to act in his name and on his behalf with regard to his tax affairs with the Authority without prejudice to that Person's responsibility to the Authority.
2. It is not permitted for the Authority to deal with any Tax Agent regarding any Person if such Person informs the Authority that his agency engagement has ended or that the Tax Agent has been dismissed.

Article (16) of Federal Law on Tax Procedure: Person's Records with the Tax Agent

1. The Tax Agent must, upon the Authority's request, provide it with all the information, documents, records and data required for any Person represented by the Tax Agent.
2. The Authority may review the records of any Person available with his Tax Agent and may rely on them for the purposes of a Tax Audit, even after the expiry of the agency engagement or the dismissal of the Tax Agent.

Article (10) of Executive Regulation on Tax Procedures: Procedures for listing a Tax Agent in the Register and Rights and Obligations of Tax Agents

1. Anyone requesting to be listed in the Register shall satisfy the following conditions:
 - a. To be of good conduct and behaviour and to have never been convicted of a crime or misdemeanour prejudicial to honour or honesty, irrespective of whether or not he may have been rehabilitated.
 - b. To 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.
 - c. To have a 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.
 - d. To pass any tests to meet qualification standards as may be specified by the Authority.
 - e. To be medically fit to perform the duties of the profession.
 - f. To hold a professional indemnity insurance contract.
 - g. To perform his activity through a legal person approved by the Ministry of Economy and the local competent authority.
2. The Person shall submit an application for listing in the Register to the Authority using the form specified by the Authority.
3. The Authority may request further information from the Person applying for registration, request an interview with the Person or check references provided in the application before deciding whether or not to list the applicant as a Tax Agent.
4. The Authority shall review the applications and shall issue its decision within (15) business days from receiving the application. Exceptionally, in case of gathering additional information under Clause (3) of this Article, it shall issue the decision within (15) business days from the date of receipt of the information.
5. 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 or any other date that may be specified by the Authority after settling the required fees.
6. The Authority may refuse an application for listing a Person in the Register in any of the following cases:
 - a. The Person fails to meet the conditions specified in Clause (1) of this Article.
 - b. Listing the Person as a Tax Agent would adversely affect the integrity of the Tax system.