A COMPREHENSIVE GUIDE ON UAE VALUE ADDED TAX

UAE VAT SIMPLIFIED

CA. ARVIND KUMAR & CA. HIMANI JOSHI

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KEY FEATURES:

- Executive Summary of UAE VAT Provisions.
- Comments with Examples and FAQs.
- VAT Provisions explained with the help of Examples and Flowcharts.
- Chapters and Paragraph arranged in logical sequence.
- Simple and easy to understand language.
- Industry Specific Guidance Material.
- Article Referencer.

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PREFACE TO THE FIRST EDITION

Value Added Tax (VAT) is set to make its debut in the six-nation GCC block in 2018.

The economies of the Gulf Corporation Council (GCC) countries are highly dependent on the energy sector. The recent drop in oil prices has had a large impact on the GCC countries' budgets, as reflected in their realising fiscal deficits in the past year. The volatility of oil prices has motivated GCC countries to introduce Value Added Tax with the goal of diversifying their income sources.

The new tax system will provide an additional source of income for Gulf governments to offset the lower oil revenues of recent years.

While, with this new tax, there are going to be some complications during the implementation of new tax regime as the gulf nations have very little experience in tax administration.

In order to understand new tax regime thoroughly, requirement of a comprehensive book in a simple and lucid language cannot be ruled out. Keeping in view the aforesaid objective, the first edition of the book is being published.

In this book, we have tried to interpret and explain the law in a simple yet detailed and comprehensive manner. The entire book has been divided into 4 parts. Part A covers keynotes and summarised provisions of the VAT legislations. In Part B, detailed analysis and interpretation of the law has been given and is arranged in a logical sequence whereas Part C covers the industry specific guidance. The last Part D contains the bare laws relevant to VAT. The translated English Version of VAT laws have been taken from website of Federal Tax Authority UAE (www.tax.gov.ae) which mentions that it is unofficial translation. At few places in the book, contents have been taken from UAE government website (www.government.ae). The following connotations have been used in the book for the purpose of simplicity.

- **"Decree Law on VAT"** refers to "Federal Decree-Law No. (8) of 2017 on Value" Added Tax
- **"Executive Regulation on VAT"** refers to" Cabinet Decision No. (52) of 2017 on the Executive Regulations of the Federal Decree-Law No (8) of 2017 on Value Added Tax"
- **"Federal Law on Tax Procedure"** refers to "Federal Law No. (7) of 2017 on Tax Procedures"
- **"Executive Regulation on Tax Procedures"** refers to "Cabinet Decision No. (36) of 2017 on the Executive Regulation of Federal Law No. (7) of 2017 on Tax Procedures"

We sincerely believe the book will serve as a useful tool for tax accountants, finance professionals, auditors, directors and owners of business in getting an in-depth understanding of the new tax regime. Complex VAT provisions have been explained in with help of more than 200 examples, flowcharts and that too arranged in a logical sequence so as to suit novice, intermediate and advanced users alike.

With a view to improve future editions of the book, we solicit the constructive suggestions, views and criticism from the readers through any suitable means of communication.

Place: New Delhi

Date: July 31, 2018

CA. Arvind Kumar

Email: arvind512539@icai.org

DEDICATION

Humbly dedicated to all those holy masters who helped the author to compile and bring out this book. Needless to add, the publication of this book wouldn't have been possible without the support and blessings of our parents and family members.

I dedicate this book to my seniors and gurus who have largely contributed to my professional growth and enhancements.

1. Shri. R. K. Singh
2. Shri. G.K. Madhukar
3. CA. Manu Nair
4. CA. Pradeep Sai
5. CA. K. Kalyanasundaram
6. CA. Pankaj Jain
7. CA. Shajan Abraham
8. CA. S.K. Chaturvedi
9. CA. Shreenath Mishra
10. CA. Ashish Agarwal
11. Shri. Ramesh Sawarthia
12. Shri. Deepak Sawarthia
13. Shri. Nawal Sawarthia
14. Shri. Prakash Goenka
15. Shri. Manish Goenka

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UAE VAT AT A GLANCE

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I. UAE VALUE ADDED TAX AT A GLANCE

1. VALUE ADDED TAX

- VAT stands for Value Added Tax.
- It is a destination based tax on the consumption of goods and services.
- It is levied at each stage of supply chain, collected by businesses on behalf of the government and ultimately borne by the end consumer of such goods or services.
- VAT has been implemented in more than 150 countries around the world
- All OECD countries except for the US have VAT. Some countries have equivalent tax system like GST. Japan refers it to as Consumption Tax.

For more details, please refer Module **"VAT Fundamentals"** of Part B of the book.

2. LEGAL FRAMEWORK

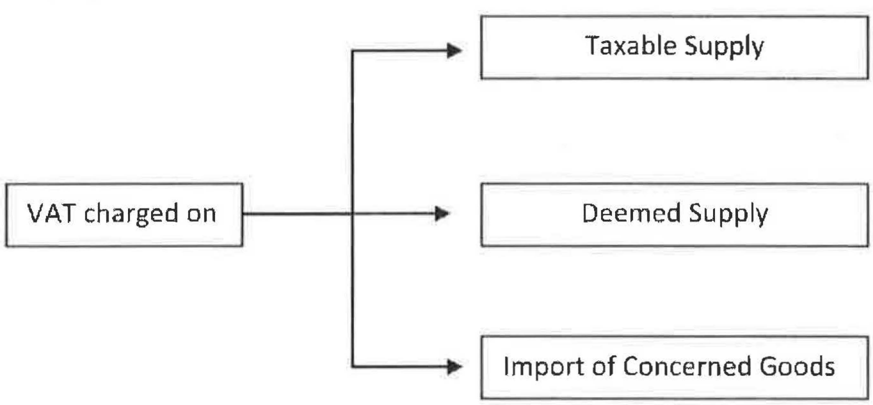
The following laws and regulations introduced in UAE constitutes VAT legal framework.

1. **The Federal Law No. (8) of 2017 on Value Added Tax and Executive Regulations** issued thereunder which provides detailed rules and provisions on VAT.
2. **The Federal Law No. (7) of 2017 on Tax Procedure and Executive Regulations** issued thereunder – which defines a set of common procedures and rules to be applied to all tax laws in the UAE, namely, VAT and Excise tax laws.

For more details, please refer Module **"Structural and Legal Framework"** of Part B of the book.

3. THE SCOPE OF TAX AND TAX RATE

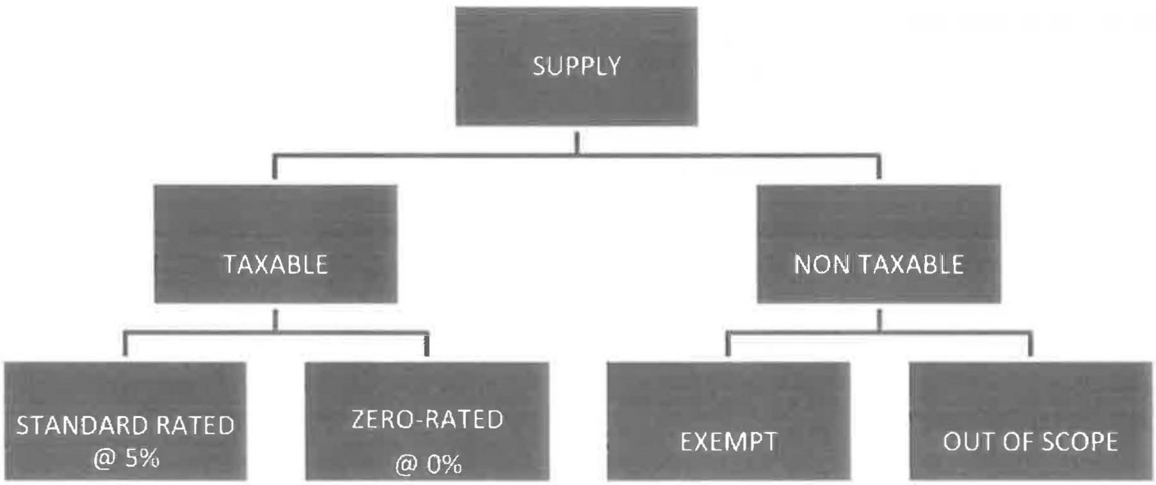
"Tax shall be imposed on every taxable supply and deemed supply made by the taxable person, including imports of concerned goods except as specified".



The term **'taxable supply'** is defined to mean the ***supply of goods or services for consideration by a person conducting business in UAE and would not include exempt supply.***

Concerned Goods are defined to mean those Goods that 'would not be exempt if supplied in the State'. So, import of taxable goods is subject to UAE VAT.

Tax at the rate of 5% shall be imposed on every taxable supply and deemed supply made by the taxable person, including imports of concerned goods except as specified. The term 'taxable supply' is defined to mean the supply of goods or services for consideration by a person conducting business in UAE. There are however certain exceptions where the zero rate will apply as well as exemption from VAT.



4. SUPPLY OF GOODS AND SERVICES

It is important to establish whether a tax payer is supplying goods or services since there are different rules applying to each for the purposes of determining where and when the supply takes place. The term 'taxable supply' is defined to mean the supply of goods or services for consideration by a person conducting business in UAE and would not include exempt supply.

A supply of goods includes;

- the transfer of ownership of the goods from one person to another or
- the right to use them as an owner and
- an entry into a contract between two parties triggering the transfer of goods at a later time.

A supply of service is any supply that is not considered a supply of goods.

It is pertinent to note that only registered businesses or required to be registered for VAT will be able to make "taxable" suppliers (subject to VAT)

The UAE VAT Law has also provided certain cases which shall be considered **as 'deemed supply'** transactions and accordingly, would attract VAT levy:

- A supply without consideration of such goods or services which cease to be the whole or part of the assets of a taxable person;
- Transfer of goods constituted as business assets from UAE to another implementing state or from taxable person's business in other implementing state to UAE.

For more details, please refer Module **"Supply of Goods and Services"** of Part B of the book.

5. VALUE OF SUPPLY

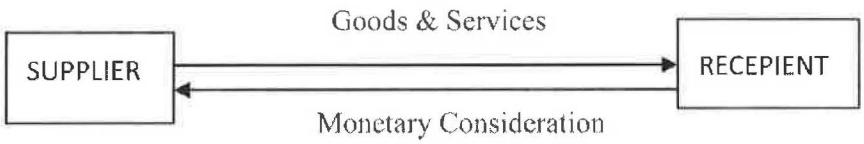
Article (3) read with Article (2) of Federal Law No. (8) of 2017 on VAT provides that a standard rate of VAT @ 5% shall be imposed on **value of every taxable supply including deemed supply and imports made by taxable person.**

Mathematically, it can be presented as

Tax Amount = Tax Rate (%) multiplied by Value of (Taxable Supply + Deemed Supply + Imports)

It can be concluded that for calculation of tax in case it is ad-valorem, value of taxable supply has be determined first.

As per Article 34, the value of taxable supply of goods and services shall be the monetary consideration received against supply of goods and services.



The term consideration has been defined in the statute as "All that is received or expected to be received for the supply of Goods or Services, whether in money or other acceptable forms of payment."

In case the consideration is not in monetary form, the value of taxable supply shall be the market value of the consideration received or receivable by the supplier against goods and services.

In case a part of consideration is non monetary, value of supply can be mathematically presented as

Value of Supply = Monetary Consideration + Market Value of Non Monetary part of the Consideration

For more details, please refer Module **"Value of Supply"** of Part B of the book.

6. ZERO RATED & EXEMPTED SUPPLY

Supplies can be broadly classified into two categories on the basis of taxability: Taxable Supply and Non-Taxable Supply. Taxable supply can be further classified into standard-rated supply and zero-rated supply. Non-taxable supply can be classified into exempt supply and out-of-scope supply.

Zero rated supplies in UAE

Zero rated supplies are not subjected to VAT. However, an Input Tax deduction on the corresponding expenses is allowed.

As per the Federal Decree Law on VAT, **examples of zero- rated supplies include:**

1. Direct or Indirect Exports outside Implementing States
2. International Transportation Services for Passengers and Goods
3. Air Passenger Transport in the State considered as International Carriage under Warsaw Convention
4. Supply of Air, Sea and Land Means of Transport
5. Goods & Services related to the Supply of the Means of Transport
6. Supply of Aircraft & Vessels for Rescue
7. Supply of Goods and Services related to the transfer of Goods or passengers aboard land, air or sea means of transport
8. Investment in Precious Metal
9. Sale of the Residential Buildings (first supply within 3 years)
10. First Supply of Converted Residential Building
11. Charity related buildings
12. Supply of Oil and Gas
13. Educational Services
14. Healthcare Services and Supply of Medications and Medical Equipment

Exempt supplies in the UAE

Exempt supplies are not subjected to VAT and have no right to an input tax deduction on the corresponding expenses.

Examples of exempt supplies include:

- Some specific financial services
- Local passenger transport
- Residential buildings (other than zero rated supplies)
- Bare land

For more details, please refer Module **"Zero-rated and Exempted Supply"** of Part B of the book.

7. PLACE OF SUPPLY

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

- If the supply is **treated as made outside the UAE, VAT shall not** be charged
- If the supply is **treated as made in the UAE VAT may be charged**

Place of supply for Goods and Services shall be determined as follows:

GOODS	SERVICES
Basic rule : The place of supply is the location of goods when the supply takes place.	**Basic rule:** The place of supply is where the supplier has the place of residence.
Special rules are applicable in certain cases: Cross-border supplies in which the supplies involves parties in different countries particularly Intra GCC Transactions. Water and energy	**Special rules are applicable in certain cases:** Cross-border suppliers of services between businesses e.g. Installation Services. Electronically supplies services-where services are used or enjoyed

A. Place of Supply- Goods

Domestic Supplies (No movement of goods outside the UAE)

- It shall be subject to VAT in UAE (standard or zero-rated or exempted)

B2B Import into UAE from outside of GCC

- Place of supply is the UAE
- The recipient accounts for VAT **under the reverse charge mechanism.** In simple words, the registered importer shall book both Output VAT liability and Input VAT Credit in its books of account. The importer is not required to pay VAT at the time of Import.

Exports to outside the GCC

- Place of supply is still the UAE
- It shall be subjected to Zero rate of tax.

Goods supplied within GCC

Shall be treated as Exports of goods: Place of supply is the other GCC State (e.g. KSA) provided the customer is registered for VAT in that GCC State, and the goods shall be treated as export outside the UAE.

B. Place of Supply - Services

General rule: Where the supplier has their place of residence.

Specific rule:

- Place of supply of services supplied to recipients who are VAT registered in another GCC state is that other **GCC state**
- Place of supply of services supplied by a person that is not resident in the UAE to a business that is resident in the UAE **is in the UAE**
- Place of supply of services relating to the installation of goods **is where the service is performed**
- Place of supply of restaurant, hotel and catering services **is where they are performed**
- Place of supply of real estate services is **the location of the real estate**
- Place of supply of transport is where the **transport begins**
- Place of supply of a means of transport to a person not registered for VAT in the GCC is where the **goods are put at the disposal of the recipient**
- Place of supply of telecommunications and electronic services is where the services are actually **used and employed by the recipient**
- Place of Supply of cultural, artistic, sporting, educational or similar services is **where they are performed**

Services Import – Reverse charge mechanism

- Place of supply is the UAE
- The recipient accounts for VAT under the reverse charge mechanism. In simple words, the registered recipient shall book both Output VAT liability and Input VAT Credit in its books of account. The importer is not required to pay VAT in respect of services so imported.

For more details, refer Module **"Place of Supply"** of Part B of the book.

8. TIME OF SUPPLY

The time of supply helps decide what VAT period the transaction falls under. Therefore, it becomes very crucial for the taxpayer to know the time of supply precisely otherwise, it may attract penalties and have legal consequences.

As per Decree law No. 8 of 2017 on VAT.

The time of supply of goods is normally the earliest of the following:

1. The date on which Goods were transferred, if such transfer was under the supervision of the supplier.
2. The date on which the Recipient of Goods took possession of the Goods, if the transfer was not supervised by the supplier.
3. Where goods are supplied with assembly and installation, the date on which the assembly or installation of the Goods was completed.
4. The date of receipt of payment against supply of goods.
5. Date on which Tax Invoice was issued.

The time of supply of services is normally the earliest of the following:

1. Date of completion of services.
2. The date of receipt of payment against supply of Services.
3. Date on which Tax Invoice was issued.

For more details, refer Module **"Time of Supply"** of Part B of the book

9. CALCULATION OF DUE TAX PAYABLE

- VAT-registered business will submit a "VAT Return" document to the FTA (Federal Tax Authority) on a periodic basis mentioning all Output Tax due and Input Tax Recoverable for the period.
- Net VAT payable or credit recoverable will be calculated as the following.
- It is pertinent to note that end consumers "(i.e. persons not registered for VAT) do not submit VAT returns and cannot recover the VAT they are charged by the retailers.

10. RECOVERY OF INPUT TAX

As per the provisions of Decree Law on VAT, registered person has the right to claim input tax credit (ITC) i.e. recover Input Tax paid on purchase of goods and services and utilize against Output VAT. The ITC process allows them to offset the total Input VAT against the total Output VAT when filing the VAT return for the relevant tax period. The main condition is that a registered person must possess a VAT invoice or other relevant documents to prove the payment or liability for the Input VAT.

Input Tax Recovery Conditions

In order to recover Input Tax paid by a registered person, below conditions must be satisfied by the recipient of the supply:

- Recipient must be a **taxable person** and must be registered for VAT.
- VAT on the purchase must have been **correctly charged** by the supplier.
- The goods or services have been acquired for **business purpose.**
- Recipient must received and retained a tax invoice **evidencing the transaction.**
- The amount of VAT which the recipient seeks to recover must **have been paid** in whole or in part, **or intended to be paid** in whole or in part.

Apportionment of Input Tax

Where a VAT registered person incurs input tax on its business expenses, this input tax can be recovered in full if it relates to a taxable supply made by the registered person. In contrast, where the expense relates to a non-taxable supply (e.g. exempt supplies), the registered person may not recover the input tax paid.

In certain situations, an expense may relate to both taxable and non-taxable supplies made by the registered person (such as activities of the banking sector). In these circumstances, the registered person would need to apportion input tax between the taxable and non-taxable (exempt) supplies in accordance with the provisions of VAT Laws.

For more details, refer Module **"Recoverable Input Tax"** of Part B of the book.

11. OUTPUT TAX ADJUSTMENT

VAT registered businesses will have to charge VAT on their taxable sales in accordance with the Federal Decree law on VAT. This is known as Output VAT.

However, sometimes before actual payment of tax to government and after effecting supply, there may be change in the terms of supply i.e. consideration. When goods supplied are returned or when there is a revision in the invoice value due to quality issues or revision of price of goods and services, Tax Credit Note is issued by the supplier to receiver of goods and services reflecting the adjustment in original invoice and tax amount.

Output VAT adjustment is also done in case of bad debts subject to certain conditions stipulated under VAT Laws.

For more details, refer Module **"Output Tax Adjustment"** of Part B of the book.

12. VAT REGISTRATION & DE-REGISTRATION

Mandatory Registration: Who is required to register for VAT?

Every person having **place of establishment or fixed establishment in UAE** and whose value of supplies in the state exceeded the mandatory registration threshold over the previous 12 month period or where it is anticipated that the total value of all supplies will exceed the Mandatory Registration Threshold in the next thirty (30) days.

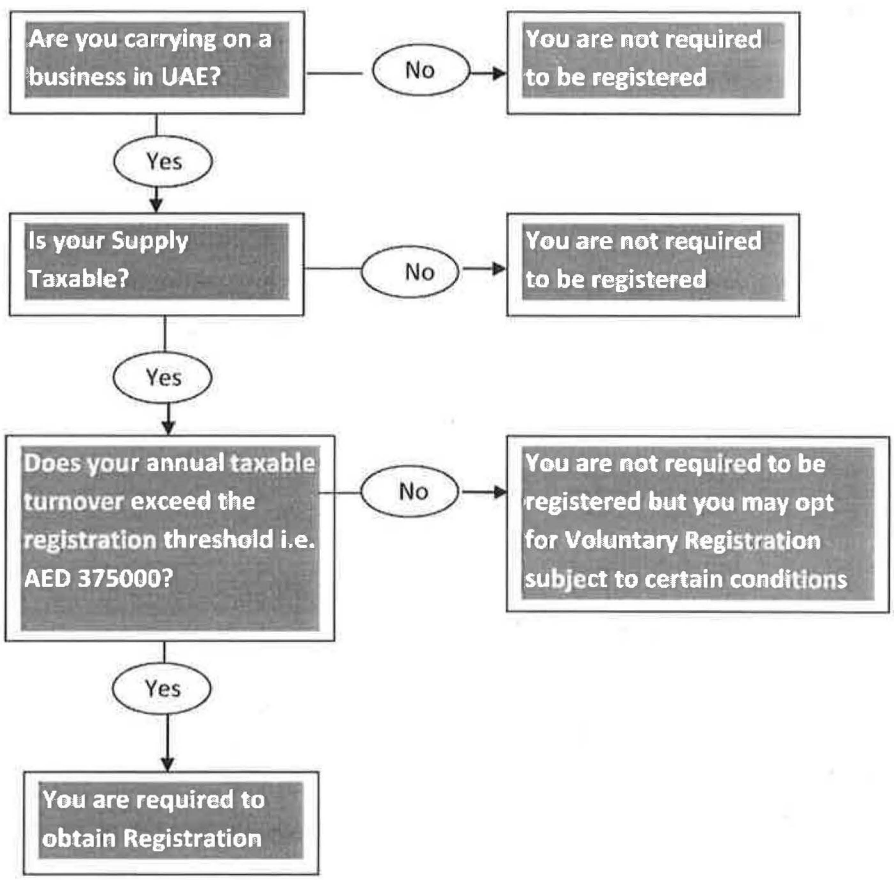
The threshold for the registration will be –

- Mandatory registration threshold: **AED 375,000/-**
- Voluntary registration threshold: at least **AED 187,500/-**

"Taxable Supplies" include:

- Standard rated supplies
- Zero-rated supplies
- Reverse charged services received (provided the taxable person is responsible for accounting for the tax); and
- Imported goods

Flowchart to determine requirement under Mandatory VAT registration



The value of **exempted supplies will not be considered** for computing the annual supplies. **Capital goods supplied by a person shall not be considered for the purpose of calculating mandatory registration threshold** as per article 20 of this decree law.

Voluntary Registration

Voluntary registration may be sought under any of the following cases:

- Where the **value of total supplies** made by any person **in the preceding 12 months has exceeded the voluntary registration threshold limit i.e. AED 187,500**. The Voluntary Registration Threshold limit has been set at AED 187,500 under Article 8 of Executive Regulation.
- If the value of supplies has not exceeded but the **expenses incurred** by such person **in the preceding 12 months has exceeded the voluntary registration threshold limit i.e. AED 187,500**.
- If a person anticipates that the **value of taxable supplies will exceed the voluntary limit in the next 30 days.**
- Voluntary registration is permissible even though value of supply is not expected to exceed the voluntary threshold limit but **expenses to be incurred within the next 30 days are expected exceed the voluntary registration limit.**

VAT Groups – Registration

Two or more persons carrying on a business are able to apply for a single "group" VAT registration where:

- Each person has a place of establishment or a fixed establishment in the UAE
- The person are "related parties", and
- Either one person controls the others, or two or more persons form a partnership and controls the others.

Effect of VAT Group Registration:

- Supplies made between members of a VAT group are disregarded from VAT (i.e., no VAT is charged on supplies made between members of VAT Group).
- Suppliers made by the VAT group to an entity outside the VAT group are subject to normal VAT rules.

De-registration

De-registration means deactivation of registration and VAT number of any registered entity. VAT de-registration is required when any taxable business no longer exist and doesn't require registration.

When a business stops making taxable supplies it may apply for cancellation or de-registration of its VAT number.

A registrant must apply to the Authority for tax deregistration if he no longer makes taxable supplies; or if the value of the taxable supplies made over a period of 12 consecutive months is less than the voluntary registration threshold. They may also apply for tax deregistration if the value of taxable supplies during the past 12 months was less than the mandatory registration threshold.

For more details, refer Module **"Registration and De-registration"** of Part B of the book.

13. TAX INVOICE AND TAX CREDIT NOTE

The law mandates the issuance of a tax invoice for every supply of goods or services. Tax invoice is an important document. It not only evidences the supply of goods or services, but is also an essential document for the recipient to avail Input Tax Credit (ITC). A registered person cannot avail Input Tax Credit unless he is in possession of a tax invoice.

As per Article 59 of the Executive Regulation on VAT, a legally valid tax invoice issued by a taxable person must include all of the following information:

a. The words **"Tax Invoice" must be clearly displayed** on the invoice.
b. **The name, address and Tax Registration Number of the supplier**.
c. **The name, address and Tax Registration Number of the recipient (if registered).**
d. **A sequential or unique number** which identifies the tax invoice.

e. **The date of issue of the invoice (and the date of supply**, if different to the invoice date).
f. A **description of the goods or services** provided.
g. For each good or service: **the unit price, the quantity supplied, the applicable rate of tax and the amount payable expressed in AED.**
h. **The amount of any discount** (if any).
i. The **gross amount payable expressed in AED.**
j. If an invoice is issued in non-AED currency – **the tax amount in AED and exchange rate** must be stated.
k. If an invoice relates to a supply where the recipient must account for reverse charge VAT – **a statement that the recipient must self-account for the tax and a reference to the relevant legislation.**

TAX CREDIT NOTES

A taxable person is required to issue a Tax Credit Note after a tax invoice has been issued and there is any change in the consideration of the supply or cancellation of the supply.

Any adjustment to the output tax can be done only by way of issuance of Tax Credit Notes by the supplier. Clause 2 of Article 62 of Federal Decree Law on VAT clearly provides that **if the Output Tax calculated by the Registrant exceeds the Output Tax which should have been charged on the supply, the Registrant shall issue a Tax Credit Note** to adjust the output tax.

The Tax Credit Note must contain the following information:

a. The words **"Tax Credit Note"** clearly displayed on the invoice.
b. The **name, address, and Tax Registration Number of the Registrant making the supply.**
c. The **name, address, and Tax Registration Number of the Recipient where he is a Registrant.**
d. The **date of issuing the Tax Credit Note.**
e. **The value of the supply shown on the Tax Invoice, the correct amount of the value of the supply, the difference between those two amounts, and the Tax charged that relates to that difference in AED.**
f. **A brief explanation of the circumstances giving rise to the issuing of the Tax Credit Note.**
g. **Information sufficient to identify the supply to which the Tax Credit Note relates.**

For more details, refer Module **"Tax Invoice and Tax Credit Note"** of Part B of the book.

14. BOOKS OF ACCOUNT AND RECORD KEEPING

Taxable persons for VAT must in addition retain the following records for **at least 5 years:**

Invoices, Credit and Debit Notes	Records of:	VAT Account
❖ All tax invoices and alternative documents related to receiving the goods or services ❖ All received tax credit notes and alternative documents received ❖ All tax invoices and alternative documents issued ❖ All tax credit notes and alternative documents issued	❖ All supplies and imports of goods and services ❖ Exported goods and services ❖ Goods and services that have been disposed of or used for matters not related to business ❖ Goods and services purchased for which the input tax was not deducted	❖ VAT due on taxable supplies (incl. those pursuant the reverse charge mechanism) ❖ VAT due after error correction or adjustment ❖ VAT deductible after error correction or adjustment ❖ VAT deductible for supplies or imports

In short, the following are required to be kept to ensure accurate tax compliance. Books of account, includes below documents and records but it is not limited to:

- Annual accounts
- General ledger
- Sales register
- Purchase register
- Invoices issued or received
- Credit notes and debit notes.
- And any information necessary to verify entries.

For more details, refer Module **"Books of Account and Record Keeping"**

15. TAX RETURN FILING

Submission of Tax Returns is online.

Deadlines for submission and payment

- **The standard tax period that shall be applicable to Taxable Persons shall be a period of three calendar months ending on the date that the Authority determines.** At the time of allotment of the Tax Registration Number the Authority specifies the tax period applicable for each taxable person. To know one's taxable period, the taxable person first of all should login to the FTA e-Services portal using his registered username and password.
- Where the due date falls on a weekend or national holiday, the deadline shall be extended to the first following working day.

Reporting of transactions at an Emirates level

Taxable persons will be required to report details of the value of supplies made in each Emirate on their VAT returns.

For more details, refer Module **"Tax Return"** of Part B of the book.

16. PAYMENT OF TAX

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.

Where the due date falls on a weekend or national holiday, the due date shall be extended to the first following working day.

For more details, refer Module **"Payment of Tax"** of Part B of the book.

17. TAX REFUND

Businesses established registered under VAT in UAE may incur Input VAT. **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 claim refund of 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.

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 Decree 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.

For more details, refer Module **"Refund of Tax"** of Part B of the book.

18. TAX AUDIT AND ASSESSMENT

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.

For more details, refer module **"Tax Audit and Assessment"** of Part B of the book

19. OFFENCES, PENALTIES AND PROSECUTION

Administrative penalties

Administrative penalties are indented to address non-compliance and encourage compliance. The FTA has the power to waive or reduce penalties at its discretion (e.g. taxable person has a reasonable excuse for the error)

Few examples of the administrative violation are

- If the person conducting a business fails to keep the required records and other information
- If the person conducting a business fails to submit the data ,records and documents related to tax in Arabic language when requested by FTA
- If taxable person fails to submit a registration application with in the period required.

Tax evasion penalties

The FTA can **impose penalties for tax evasion upto 5 times the relevant tax at stake and a prison sentence.** 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.

Few examples of instance's of tax evasion:

- Where a person deliberately provides false information and data and incorrect documents to the FTA.
- Where a person deliberately conceals or destroys documents or other material that he is required to maintain and provide to the FTA.

For more details, refer Module **"Offences, Penalties and Prosecution"** of Part B of the book.

20. OBJECTIONS AND APPEALS

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. Objections to the Committee will need to be submitted within 20 business days from the date the person was notified of the FTA's revised decision, and the person must pay all taxes and penalties subject of objection before objecting to the Committee. The Committee will typically be required to give its decision regarding the objection within 20 business days from its receipt.

As a final step, if the person is not satisfied with the decision of the Committee, the person may challenge its decision before the competent court if the sum in dispute exceeds Dirham 100,000. The appeal must be made within 20 business days from the date of the appellant being notified of the Committee's decision.

For more details, refer Module **"Objection & Appeals"** of Part B of the book.

21. TRANSITIONAL PROVISIONS

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, for the purposes of avoiding tax.

In case the supply of goods and performance of services are made on or after 1st January 2018 or an invoice is issued or Consideration is paid before the commencement date i.e. before 1st January 2018 in respect of a Supply which occurs on or after the commencement date, the Supplier of the Goods or services shall be considered to make a Taxable Supply on the date the Goods or services are supplied. In such cases the Taxable Person shall issue an additional invoice showing the Tax charged on the Supply of Goods or services, unless this Tax was included on the invoice issued before the commencement date of the Law.

For more details, refer Module **"Transitional Rules"** of Part B of the book.

II. FREQUENTLY ASKED QUESTIONS

Federal Tax Authority has issued FAQs on its website www.tax.gov.ae. The same is reproduced here for quick reference of the readers.

i. GENERAL VAT QUESTIONS

1. What is VAT?

Value Added Tax (or VAT) is an indirect tax. Occasionally you might also see it referred to as a type of general consumption tax. In a country which has a VAT, it is imposed on most supplies of goods and services that are bought and sold.

VAT is one of the most common types of consumption tax found around the world. Over 150 countries have implemented VAT (or its equivalent, Goods and Services Tax), including all 29 European Union (EU) members, Canada, New Zealand, Australia, Singapore and Malaysia.

VAT is charged at each step of the 'supply chain'. Ultimate consumers generally bear the VAT cost while Businesses collect and account for the tax, in a way acting as a tax collector on behalf of the government.

A business pays the government the tax that it collects from the customers while it may also receive a refund from the government on tax that it has paid to its suppliers. The net result is that tax receipts to government reflect the 'value add' throughout the supply chain. To explain how VAT works we have provided a simple, illustrative example below (based on a VAT rate of 5%).

2. What is the difference between VAT and Sales Tax?

A sales tax is also a consumption tax, just like VAT. For the general public there may be no observable difference between how the two types of taxes work, but there are some key differences. In many countries, sales taxes are only imposed on transactions involving goods. In addition, sales tax is only imposed on the final sale to the consumer. This contrasts with VAT which is imposed on goods and services and is charged throughout the supply chain, including on the final sale. VAT is also imposed on imports of goods and services so as to ensure that a level playing field is maintained for domestic providers of those same goods and services.

Many countries prefer a VAT over sales taxes for a range of reasons. Importantly, VAT is considered a more sophisticated approach to taxation as it makes businesses serve as tax collectors on behalf of the government and cuts down on misreporting and tax evasion.

3. Why is the UAE implementing VAT?

The UAE Federal and Emirate governments provide citizens and residents with many different public services – including hospitals, roads, public schools, parks, waste control, and police services. These services are paid for from the government budgets. VAT will provide our country with a new source of income which will contribute to the continued provision of high quality public services into the future. It will also help government move towards its vision of reducing dependence on oil and other hydrocarbons as a source of revenue.

4. Why does the UAE need to coordinate VAT implementation with other GCC countries?

The UAE is part of a group of countries which are closely connected through "The Economic Agreement between the GCC States" and "The GCC Customs Union". The GCC group of nations have historically worked together in designing and implementing new public policies as we recognize that such a collaborative approach is best for the region.

5. When will the VAT go into effect and what will be the rates?

VAT will be introduced across the UAE on 1 January 2018 at a standard rate of 5%.

6. How will the government collect VAT?

Businesses will be responsible for carefully documenting their business income and costs and associated VAT charges. Registered businesses and traders will charge VAT to all of their customers at the prevailing rate and incur VAT on goods / services that they buy from suppliers. The difference between these sums is reclaimed or paid to the government.

7. Will VAT cover all products and services?

VAT, as a general consumption tax, will apply at 5% to all transactions of goods and services unless specifically exempted in Article (46) of the Federal Decree-Law No. (8) of 2017 on Value Added Tax or subject to a rate of Zero as per Article (45) of the Federal Decree-Law.

8. Will the cost of living increase?

The cost of living is likely to increase slightly, but this will vary depending on the individual's lifestyle and spending behaviour. If your spending is mainly on those things which are relieved from VAT, you are unlikely to see any significant increase.

9. What measures will the government take to ensure that businesses don't use the VAT implementation as an excuse to increase prices?

VAT is intended to help improve the economic base of the country. Therefore, we will include rules that require businesses to be clear about how much VAT you are paying for each transaction. You will have the required information to decide whether to buy something or not.

10. How can one object to the decisions of the Authority?

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. Objections to the Committee will need to be submitted within 20 business days from the date the person was notified of the FTA's revised decision, and the person must pay all taxes and penalties subject of objection before objecting to the Committee. The Committee will typically be required to give its decision regarding the objection within 20 business days from its receipt.

As a final step, if the person is not satisfied with the decision of the Committee, the person may challenge its decision before the competent court. The appeal must be made within 20 business days from the date of the appellant being notified of the Committee's decision

11. How do I include my Customs Registration in my records at the FTA?

Log into the FTA e-Services portal via E-SERVICES, and go to EDIT on the VAT section and enter your Customs Registration Number. This will automatically update your records.

12. What is a residential building for VAT purposes?

A residential building is a building or part thereof that is intended and designed for occupation by individuals, and mainly includes buildings which can be occupied by any person as main place of residence. It does not include:

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

13. What is a commercial building for VAT purposes?

A commercial building is any building or part thereof that is not a residential building. Examples would be offices, warehouses, hotels, shops, etc.

14. What is a supply in relation to real estate?

A supply of real estate may include the sale, lease or giving the right in any real estate.

15. Is a residential building subject to VAT?

The first supply of a new residential building within the first three years of it being constructed shall be zero-rated. All subsequent supplies shall be exempt, even if within the first three years.

16. Is commercial real estate subject to VAT?

All supplies of commercial properties are subject to VAT at 5%, and this includes all buildings or parts thereof that are not residential buildings.

17. Does the owner of real estate have to register for VAT?

The owners of residential buildings do not have to register for VAT if they do not have any other business activities. Where owners have other business activities, they should consider their obligations further.

The owner of any building that is not residential, will have to register if the value of the supplies over the preceding 12 months exceeds AED 375,000 or it is expected that they will exceed AED 375,000 over coming 30 days.

18. Can a real estate owner recover VAT paid in relation to real estate?

An owner of residential building will not be able to recover VAT in respect of expenses related the exempt supply of the residential buildings.

An owner of a commercial building will generally be able to recover VAT in respect of expenses related to the supply of the building.

19. How is a mixed-use building (residential and commercial) treated for VAT?

The rent or sale of a residential part of the building shall be treated as zero-rated or exempt, depending on whether this is a first supply or a subsequent supply.

The rent or sale of a commercial part of the building shall be treated as subject to VAT at 5%.

The tax incurred by the owner on the building needs to be apportioned where there is an exempt supply, and the portion related to the taxable supply (at 0% and 5%) may be recovered.

20. Will VAT be charged on the property I am renting?

The rent of residential building will generally be exempt from VAT. The rent of commercial building will be subject to VAT at 5%

ii. VAT FOR BUSINESSES

1. Who can or will be able to register for VAT?

A business must register for VAT if their taxable supplies and imports exceed the mandatory registration threshold of AED 375,000.

Furthermore, a business may choose to register for VAT voluntarily if their supplies and imports are less than the mandatory registration threshold, but exceed the voluntary registration threshold of AED 187,500.

Similarly, a business may register voluntarily if their expenses exceed the voluntary registration threshold. This latter opportunity to register voluntarily is designed to enable start-up businesses with no turnover to register for VAT.

2. What are the VAT-related responsibilities of businesses?

All businesses in the UAE will need to record their financial transactions and ensure that their financial records are accurate and up to date. Businesses that meet the minimum annual turnover requirement (as evidenced by their financial records) will be required to register for VAT. Businesses that do not think that they should be VAT registered should maintain their financial records in any event, in case we need to establish whether they should be registered.

VAT-registered businesses generally:

- must charge VAT on taxable goods or services they supply;
- may reclaim any VAT they've paid on business-related goods or services;
- keep a range of business records which will allow the government to check that they have got things right

If you're a VAT-registered business you must report the amount of VAT you've charged and the amount of VAT you've paid to the government on a regular basis. It will be a formal submission and it is likely that the reporting will be made online.

If you've charged more VAT than you've paid, you have to pay the difference to the government. If you've paid more VAT than you've charged, you can reclaim the difference.

3. What does a business need to do to prepare for VAT?

Concerned businesses have time to prepare before VAT will come into effect in January 2018. Businesses will need to meet requirements to fulfil their tax obligations. Businesses should have started so that they will be ready later. To fully comply with VAT, we believe that businesses may need to make some changes to their core operations, their financial management and book-keeping, their technology, and perhaps even their human resource mix (e.g., accountants and tax advisors). It is essential that businesses try to understand the implications of VAT now and once the legislation is issued make every effort to align their business model to government reporting and compliance requirements. We will provide businesses with guidance on how to fully comply with VAT once the legislation is issued. The final responsibility and accountability to comply with law is on the business.

4. When are businesses supposed to start registering for VAT?

VAT registration has opened in October 2017 for businesses that need to be registered by 1 January 2018. Any business that is required to be registered for VAT and charge VAT from 1 January 2018 must be registered prior to that date.

According to the Federal Law No. (7) on Tax Procedures, the Authority has 20 business days to review and respond on registration applications.

Registration applications shall be submitted via the E-Services Portal on the FTA website www.tax.gov.ae

5. When are registered businesses required to file VAT returns?

Taxable Persons must file VAT returns with the FTA on a regular basis, within 28 days of the end of the Tax Period, which shall be:

- Quarterly for businesses with an annual turnover below AED150m
- Monthly for businesses with an annual turnover of AED150m or more.

The Tax returns shall be filed online using eServices.

6. What kind of records are businesses required to maintain, and for how long?

Businesses are required to keep records which will enable the Federal Tax Authority to identify the details of the business activities and review transactions. The documents which are required and the time period for keeping them is clarified in Federal Law no. (7) of 2017 on Federal Tax procedures and the Cabinet Decision No. (36) of 2017 on the Executive Regulation of the Federal Law No (7) of 2017 on Tax Procedures.

7. How long must a taxable person retain VAT invoices for?

Any taxable person must retain VAT invoices issued and received for a minimum of 5 years.

8. How should a business determine the place of supply?

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

For a supply of goods, the place of supply should be the location of goods when the supply takes place with special rules for certain categories of supplies (e.g. water and energy, cross border supplies).

For the supply of services, the place of supply should be where the supplier is established with special rules for certain categories of supplies (e.g. cross border supplies between businesses).

9. Can businesses offset customs duty against VAT payments?

VAT shall be payable in addition to the custom duties paid by the importer of the goods and cannot be deducted. VAT shall be computed on the value that includes the customs duties.

10. How will real estate be treated?

The VAT treatment of real estate will depend on whether it is a commercial or residential property. Supplies (including sales or leases) of commercial properties will be taxable at the standard VAT rate (i.e 5%).

On the other hand, supplies of residential properties will generally be exempt from VAT. This will ensure that VAT would not constitute an irrecoverable cost to persons who buy their own properties. In order to ensure that real estate developers can recover VAT on construction of residential properties, the first supply of residential properties within 3 years from their completion will be zero-rated.

11. What sectors will be zero rated?

VAT will be charged at 0% in respect of the following main categories of supplies:

- Exports of goods and services to outside the GCC;
- International transportation, and related supplies;

- Supplies of certain sea, air and land means of transportation (such as aircrafts and ships);
- Certain investment grade precious metals (e.g. gold, silver, of 99% purity);
- Newly constructed residential properties, that are supplied for the first time within 3 years of their construction;
- Supply of certain education services, and supply of relevant goods and services;
- Supply of certain Healthcare services and supply of relevant goods and services.

12. What sectors will be exempt?

The following categories of supplies will be exempt from VAT:

- The supply of some financial services (clarified in VAT legislation);
- Residential properties;
- Bare land; and
- Local passenger transport

13. Will there be VAT grouping?

Businesses that satisfy certain requirements covered under the Legislation (such as being resident in the UAE and being related/ associated parties) will be able to register as a VAT group. For some businesses, VAT grouping will be a useful tool that would simplify accounting for VAT.

14. Will there be bad debt relief?

VAT registered businesses will be able to reduce their output tax liability by the amount of VAT that relates to bad debt which has been written off by the VAT registered business. The legislation will include the conditions and limitations concerning the use of this relief.

15. Will there be a margin scheme?

To avoid double taxation where second hand goods are acquired by a registered person from an unregistered person for the purpose of resale, the VAT-registered person will be able to account for VAT on sales of second hand goods with reference to the difference between the purchase price of the goods and the selling price of the goods (that is, the profit margin). The VAT which must be accounted for by the registered person will be included in the profit margin. Further details of the conditions to be met in order to apply this mechanism can be found in the Executive Regulations of the Federal Decree-Law No. (8) of 2017 on Value Added Tax.

16. How will partial exemption work?

Where a VAT registered person incurs input tax on its business expenses, this input tax can be recovered in full if it relates to a taxable supply made, or intended to be made, by the registered person. In contrast, where the expense relates to a non-taxable supply (e.g. exempt supplies), the registered person may not recover the input tax paid.

In certain situations, an expense may relate to both taxable and non-taxable supplies made by the registered person (such as activities of the banking sector). In these circumstances, the registered person would need to apportion input tax between the taxable and non-taxable (exempt) supplies.

Businesses will be expected to use input tax (ratio of recoverable to total) as a basis for apportionment in the first instance although there will be the facility to use other methods where they are fair and agreed with the Federal Tax Authority.

17. What are the cases that would lead to the imposition of penalties?

Penalties will be imposed for non-compliance.

Examples of actions and omissions that may give raise to penalties include:

- A person failing to register when required to do so;
- A person failing to submit a tax return or make a payment within the required period;
- A person failing to keep the records required under the issued tax legislation;
- Tax evasion offences where a person performs a deliberate act or omission with the intention of violating the provisions of the issued tax legislation.

18. Will there be any special schemes for SMEs?

No special rules are planned for small or medium sized enterprises. However, the FTA is providing through its website materials and resources for these entities to assist them in their enquiries.

19. Will there be transitional rules?

Special rules will be provided to deal with various situations that may arise in respect of supplies that span the introduction of VAT. For example:

- Where a payment is received in respect of a supply of goods before the introduction of VAT but the goods are actually delivered after the introduction of VAT, this means that VAT will have to be charged on such supplies. Likewise, special rules will apply with regards to supplies of services spanning the introduction of VAT.
- Where a contract is concluded prior to the introduction of VAT in respect of a supply which is wholly or partly made after the introduction of VAT, and the contract does not contain clauses relating to the VAT treatment of the supply, then consideration for the supply will be treated as inclusive of VAT. There will, however, be special provisions to allow suppliers to charge VAT in situations where their recipient is able to recover their VAT but where there is no VAT clause.

20. How will insurance be treated?

Generally, insurance (vehicle, medical, etc) will be taxable. Life insurance, however, will be treated as an exempt financial service.

21. How will financial services be treated?

It is expected that fee based financial services will be taxed but margin based products are likely to be exempt.

22. How will Islamic finance be treated?

Islamic finance products are consistent with the principles of sharia and therefore often operate differently from financial products that are common internationally.

To ensure that there are no inconsistencies between the VAT treatment of standard financial services and Islamic finance products, the treatment of Islamic finance products will be aligned with the treatment of similar standard financial services.

23. Can UAE nationals claim VAT?

A scheme will be introduced to allow a UAE national who is not registered for VAT to reclaim VAT paid on goods and services relating to constructing a new residence which will be privately used by the person and his family. This will allow the recovery of VAT on such expenses as contractor's services and building materials.

24. How quickly will refunds be released?

Refunds will be made after the receipt of the application and subject to verification checks, with a particular focus on avoiding fraud.

25. Will FTA issue rulings or provide tax advice?

In the course of its interaction with taxpayers, the FTA may provide its views on various matters in the law. Taxpayers may choose to challenge these views. It should be noted that penalties may be imposed on taxpayers who are found to violate any tax laws and regulations.

26. Will it be possible to issue cash receipts instead of VAT invoices?

A supplier registered or required to be registered for VAT must issue a valid VAT invoice for the supply. To be considered as a valid VAT invoice, the document must follow a specific format as mentioned in the legislation. In certain situations the supplier may be able to issue a simplified VAT invoice. The conditions for the VAT invoice and the simplified VAT invoice are mentioned legislation.

27. Will there be any VAT that businesses are not allowed to claim?

VAT will not be deductible in respect of expenses incurred for making non-taxable supplies. Furthermore, input tax cannot be deducted if it is incurred in respect of specific expenses such as entertainment expenses e.g. employee entertainment.

28. Under which conditions will businesses be allowed to claim VAT incurred on expenses?

VAT on expenses that were incurred by a business can be deducted in the following circumstances:

- The business must be a taxable person (the end consumer cannot claim any input tax refund).
- VAT should have been charged correctly (i.e. unduly charged VAT is not recoverable).
- The business must hold documentation showing the VAT paid (e.g. valid tax invoice).
- The goods or services acquired are used or intended to be used for making taxable supplies.
- VAT input tax refund can be claimed only on the amount paid or intended to be paid before the expiration of 6 months after the agreed date for the payment of the supply.

29. Will non-residents be required to register for VAT?

Non-residents that make taxable supplies in the UAE will be required to register for VAT unless there is any other UAE resident person who is responsible for accounting for VAT on these supplies. This exclusion may apply, for example, where a UAE business is required to account for VAT under a reverse charge mechanism in respect of a purchase from a non-resident.

30. Will VAT be paid on imports?

VAT is due on the goods and services purchased from abroad.

In case the recipient in the State is a registered person with the Federal Tax Authority for VAT purposes, VAT would be due on that import using a reverse charge mechanism.

In case the recipient in the State is a non-registered person for VAT purposes, VAT would be paid on import of goods from a place outside the GCC. Such VAT will typically be required to be paid before the goods are released to the person.

31. How will Government Entities be treated for VAT purposes?

Supplies made by government entities will typically be subject to VAT. This will ensure that government entities are not unfairly advantaged as compared to private businesses.

Certain supplies made by government entities will, however, be excluded from the scope of VAT if they are not in competition with the private sector or where the entity is the sole provider of such supplies. It is likely certain government entities will be entitled to VAT refunds – this is designed to avoid budgeting issues and provide a level playing field between outsourced and insourced activities.

For the supplies provided for government entities, the treatment of such supplies shall depend on the same supply and not on the recipient of the supply. Therefore, if the supply is subject to the standard tax rate, the treatment would remain the same even if it is provided to a government entity.

32. Will Businesses have to report on their business in each of the Emirates?

Businesses will need to complete additional information on their VAT returns to report revenues earned in each Emirate.

Further detail on this can be found in the Executive Regulation of the Federal Decree-Law No. (8) of 2017 on Value Added Tax.

33. Will the goods exempt from customs duties also be exempt from VAT?

Not necessarily. Some goods that are imported may be exempt from customs duties but subject to VAT.

PART – B

GUIDE

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MODULE 1

VAT FUNDAMENTALS

1.1 TAX

Tax is the means by which governments raise revenue to pay for public services. Government revenues from taxation are generally used to pay for things such public hospitals, schools and universities, defence and other important aspects of daily life.

Taxes are of different types. These can be classified 2 major categories.

i) **Direct and;**

ii) **Indirect Tax.**

- A direct tax is **collected by government from the person on whom it is imposed** (e.g., income tax, corporate tax).
- An indirect tax is **collected for government by an intermediary** (e.g. a retail store, wholesaler, factory) from the person that ultimately pays the tax (e.g., VAT, Sales Tax).

1.2 VALUE ADDED TAX

Value Added Tax (or VAT) is an indirect tax. It is referred to as a type of general consumption tax. VAT is one of the most common types of consumption tax found around the world. Over 150 countries have implemented VAT (or its equivalent, Goods and Services Tax), including all 29 European Union (EU) members, Canada, New Zealand, Australia, Singapore and Malaysia. VATs raise about a fifth of total tax revenues both worldwide and among the members of the Organisation for Economic Co-operation and Development (OECD). As of 2016, 166 of the world's approximately 193 countries employ a VAT, including all OECD members except the United States.

Generally, **VAT is defined as a Multi Stage Destination based Consumption Tax on Value Added during each stage of Supply Chain.** Now, let's analyse all these components of VAT.

DESTINATION PRINCIPLE

VAT can be implemented either under **"origin" or "destination" principle. Origin based tax is one which is levied, collected and retained by the State where the goods are produced.** If the goods are taxed in the State where they are produced, it is said to be taxed on the basis of its place of production or origin. Under the 'origin principle', value added domestically on all goods and services whether they are exported or internally consumed is subjected to tax. Thus, exports are taxable under this principle while imports are exempt.

Under the Destination principle, any goods and services are charged to tax by the country where goods and services are actually consumed. Accordingly, all imports are subjected to VAT whereas exports are not. This principle is widely accepted across various countries. The reason is that Destination principle treats imported goods at par with domestic products unlike the origin principle which gives indirect protection and even preference to the producers abroad. The origin principle amounts to unfair treatment of domestic producers as compared to foreign business. In the GCC Framework, destination principle is preferred for taxation of products consumed within the various Emirates of the country.

Multi Stage Tax on Value Added

Another important feature of VAT is that it is **charged at each step of the 'supply chain'**. VAT is levied at each stage in the entire Supply Chain right from the Manufacturing to Distribution to Final Consumption. **Ultimate consumers generally bear the VAT cost while Businesses collect and account for the tax, in a way acting as a tax collector on behalf of the government.**

- The first stage of the supply chain starts with the procurement of the raw materials. This means, when a manufacturer procures raw material, he has to pay VAT at the time of procurement.
- The raw material is used for manufacturing goods. Once manufactured, the goods are sold to distributor or wholesaler. This sale of goods by manufacturer will be subject to VAT.
- At the next stage of supply chain, the wholesaler will sell to retailers which again will attract VAT.
- The goods are then sold by retailers to the final consumer. This sale is again subjected to VAT.

A business pays the government the tax that it collects from the customers while it may also receive a refund from the government on tax that it has paid to its suppliers. The net result is that tax receipts to government reflect the 'value added' throughout the supply chain.

1.3 MECHANICS OF VALUE ADDED TAX

As the name suggests, Value Added Tax is designed to tax only the value added by a business on the services and goods it purchases from the market. VAT registered businesses are allowed to deduct VAT (input VAT) which they have paid on purchases subject to certain conditions. The difference between the Output VAT (VAT charged to customers) and the Input VAT (paid on purchases) is reported and paid to the government as Value Added Tax. If the business has paid more VAT than they have collected, then they can recover this amount from the government.

Let's understand this by means of an example of how VAT operates in supply chain.

1. A farmer grows and sells cotton for AED 1000 and adds VAT at 5% (AED 5) on the sale price as output tax (VAT) to the factory. If the farmer has not incurred any input tax on his purchases, he has a net VAT payable to the government of AED 5.

In this case, Output VAT on Sales = AED 50 (5% of AED 1000)

Tax on Input i.e. Purchase = AED 0

Net VAT payable by the farmer to the government = AED 50 (= Output VAT - Input VAT)

2. The factory manufactures shirt from the cotton thus purchased from Farmer and sells it to retailer @ AED 3000.

In this case;

Output Tax charged on sales by the factory to retailer = AED 150 (=5% of AED 3000)

Input tax paid by the factory to farmer = AED 50

Thus, Net VAT payable by the factory to the government = AED 100 (AED 150 – AED 50)

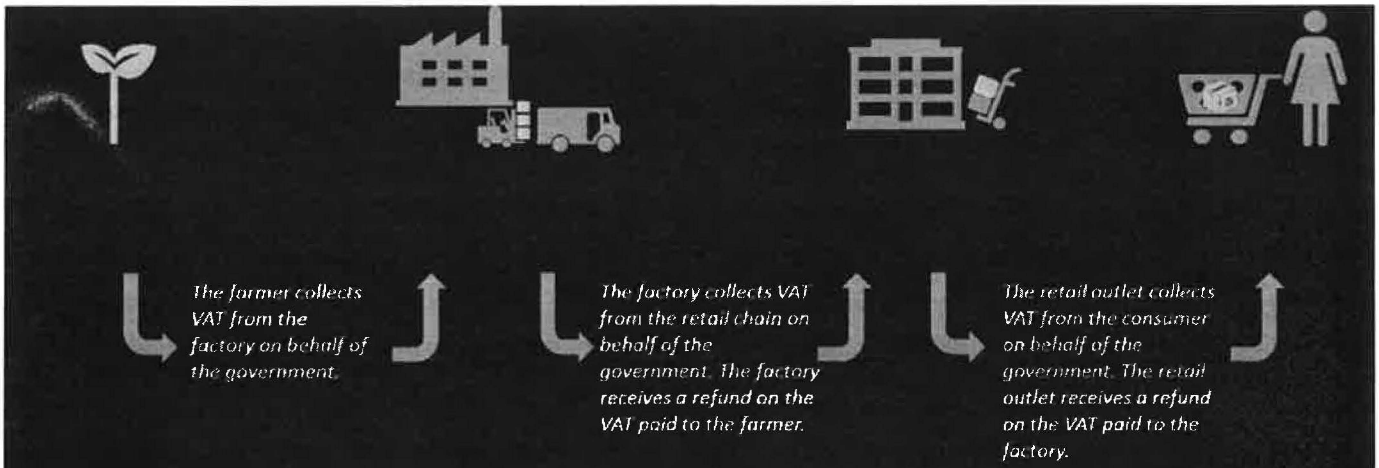
3. The retailer in turn sales the shirt to the final consumer @ AED 5000.

The retailer has incurred an input tax of AED 150 on its purchase from the factory, and charges 5% of AED 5000 (AED 250) on its selling price as output tax to the consumer. The retailer therefore has a net VAT payable of AED 100 to the government.

It should be noted that during the entire supply chain of shirt, total VAT collected by the government is AED 250 (=5% of 5000) which is also, 5 % of the selling price of shirt.

This value-added effect is achieved by prohibiting end-consumers to recover VAT on purchases, but permitting businesses to do so.

It can be tabulated as below.



	Sales	5% VAT charged on Sales	VAT recovered on purchases	Net VAT payable
Farmer	AED 1,000	AED 50	AED 0	AED 50
Factory	AED 3,000	AED 150	AED 50	AED 100
Retailer	AED 5,000	AED 250	AED 150	AED 100
		Total VAT paid by final consumer:		AED 250

Net result = VAT is collected through the chain and the end-consumer bears the cost.

1.4 METHODS OF CALCULATING VALUE ADDED TAX

There are two main methods of calculating VAT:

1) **Invoice based method** - Using the Invoice method, sales transactions are taxed, with the customer informed of the VAT on the transaction, and businesses may receive a credit for VAT paid on input materials and services. The credit-invoice method is the most widely employed method, used by all national VATs except for Japan.
2) **Accounts based method or Subtraction method** - Using the subtraction method, at the end of a reporting period, a business calculates the value of all taxable sales then subtracts the sum of all taxable purchases and the VAT rate is applied to the difference. The subtraction method VAT is currently used by Japan.

1.5 HISTORY OF VAT

VAT was first introduced by France in the 1950s. Maurice Laure, Joint Director of the France Tax Authority, implemented the VAT on 10 April 1954, although German industrialist Dr. Wilhelm von Siemens proposed the concept in 1918. Initially it was directed at large businesses, and later on extended to include all business sectors in France. Currently, in France, it is the most important source of state finance, accounting for nearly 50% of state revenues.

1.6 VALUE ADDED TAX AND SALES TAX - A COMPARISON

Value-added tax avoids the cascading effect of sales tax by taxing only the value added at each stage of production. For this reason, throughout the world, VAT has been gaining popularity over traditional sales taxes. In principle, VAT applies to all provisions of goods and services. VAT is assessed and collected on the value of goods or services that have been provided every time there is a transaction (sale/purchase). The seller charges VAT to the buyer, and the seller pays this VAT to the government. If, however, the purchasers are not the end users, the tax they have paid for such purchases can be deducted from the tax they charge to their customers. The government only receives the difference; in other words, it is paid tax on the gross margin of each transaction, by each participant in the sales chain.

In theory, sales tax is normally charged on end users (consumers). The main disadvantage of VAT is the extra accounting required by those in the middle of the supply chain. However, the major advantage of the VAT system is that, all sellers collect tax and pay it to the government. A purchaser has an incentive to deduct input VAT, but must prove it has the right to do so, which is usually achieved by holding an invoice quoting the VAT paid on the purchase, and indicating the VAT registration number of the supplier. Thus, the system of internal check is inherent under VAT which makes almost impossible for the tax payers to avoid tax and get involved in some sort of tax evasion.

1.7 VALUE ADDED TAX - CRITICISM

The "value-added tax" has been criticized as the burden of it falls on personal end-consumers of products. **Some critics consider it to be a regressive tax, meaning that the poor pay more, as a percentage of their income, than the rich.** Defenders argue that relating taxation levels to income is an arbitrary standard, and that the value-added tax is in fact a proportional tax in that people with higher income pay more in that they consume more. The effective progressiveness or regressiveness of a VAT system can also be affected when different classes of goods are taxed at different rates. To maintain the progressive nature of total taxes on individuals, countries implementing VAT have reduced income tax on lower income-earners as well as instituted direct transfer payments to lower-income groups, resulting in lower tax burdens on the poor.

Revenues from a value-added tax are frequently lower than expected because they are difficult and costly to administer and collect. In many countries, however, where collection of personal income taxes and corporate profit taxes has been historically weak, VAT collection has been more successful than other types of taxes. VAT has become more important in many jurisdictions as tariff levels have fallen worldwide due to trade liberalization, as VAT has essentially replaced lost tariff revenues.

VAT avoidance in certain industries (small-scale services, for example) is more, particularly where cash transactions predominate, and VAT may be criticized for encouraging this. From the perspective of government, however, VAT may be preferable because it captures at least some of the value added. For example, a building contractor may offer to provide services *for cash* (i.e. without a receipt, and without VAT) to a homeowner, who usually cannot claim input VAT back. The homeowner will thus bear lower costs and the building contractor may be able to avoid other taxes (profit or payroll taxes).

Another avenue of criticism of implementing a VAT is that the increased tax passed to the consumer will increase the ultimate price paid by the consumer.

Another limitation of VAT is its' inability to counter Carousel Fraud and Missing Trader Fraud particularly in cases of zero rated supplies. Because exports are generally zero-rated (and VAT refunded or offset against other taxes), this is often where VAT fraud occurs. **Missing trader fraud** and the related **carousel fraud** is the theft of Value Added Tax (VAT) from a government by organised crime gangs who exploit the way VAT is treated within multi-jurisdictional trading where the movement of goods between jurisdictions is VAT-free. This allows the fraudster to charge VAT on the sale of goods, and then instead of paying this over to the government's collection authority, to abscond, taking the VAT with them. This is termed "missing trader" as the trader goes missing with the VAT.

In Europe, the main source of problems is called carousel fraud. VAT Fraud had been a major problem in the UK. There are also similar fraud possibilities inside a country. To avoid this, in some countries like Sweden, the major owner of a limited company is personally responsible for taxes.

MODULE 2

STRUCTURAL AND LEGAL FRAMEWORK

2.1 VAT REGIME IN GCC

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

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

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

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

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

2.2 GCC VAT FRAMEWORK

The Unified GCC VAT Agreement, which was officially released in May 2017, provides a general framework to be followed by the GCC while allowing the individual member states some freedom to adopt different VAT variants in respect to certain matters. Each GCC country will issue its own domestic legislation to implement VAT based on the underlying principles in the common framework. The GCC VAT framework has 15 sections with 78 articles. The 33 page document outlines the outcomes from the resolution of the GGC Supreme Council meeting which took place in December 2015. This agreement is not a document containing VAT rules that the collective GCC states will implement, but rather a framework on which respective GCC member countries VAT legislation will be based.

According to the VAT framework, VAT will apply to most goods and services with some exceptions on basic food items, essential healthcare, education and sale or lease of residential property.

GCC Unified VAT Agreement gives countries discretion to choose treatment in certain sectors where it does not affect intra-GCC trade. However, there will be certain aspects of this framework which will be mandatory on all GCC states to implement.

The following are the policy areas which the GCC Countries have discretion to decide upon the approach to be taken:

- **VAT groups** [Article 4, GCC VAT Agreement]
- **Application of exemption, or zero rating or standard rating of certain supplies** [Article 29 (1), GCC VAT Agreement] relating to:
  - Health
  - Education
  - Real Estate
  - Local Transport
- **Application of the standard rate or zero rate to:**
  - Oil & Gas [Article 29 (2), GCC VAT Agreement]
  - Food [Article 31, GCC VAT Agreement]
  - Supply of a means of transport [Article 33, GCC VAT Agreement]
- **Exceptions to payment of VAT** (or allowing refund) in special cases [Article 30, GCC VAT Agreement] in relation to:
  - Government bodies, Charities
  - Some companies in relation to international event hosting agreements
  - Citizens of a Member State constructing homes for private use
  - Farmers and Fishermen
- **Financial services – exempt or not** [Article 36, GCC VAT Agreement]
- **Input tax deduction – Conditions** [Article 44, GCC VAT Agreement]
- **Input tax apportionment methods** [Article 46, GCC VAT Agreement]
- **Tax period** [Article 60, GCC VAT Agreement]
- **Tax Payment – date and method** [Article 63, GCC VAT Agreement]
- **Repayment/refund of tax** [Article 65, GCC VAT Agreement]
- **Tax refunds for Tourists** [Article 68, GCC VAT Agreement]
- **Tax refunds for international organisations and diplomatic bodies** – Conditions/limitations and the option to apply zero-rating [Article 69, GCC VATAgreement]
- **Transitional rules** – Minimum set of rules provided [Article 73, GCC VAT Agreement]
- **Appeals – Conditions and limitations** [Article 74, GCC VAT Agreement]

GCC VAT Agreement structure

Chapters	Titles
Chapter One	Definitions and General provisions
Chapter Two	Supplies within the Scope of the Tax
Chapter Three	Place of Supply
Chapter Four	Tax Due Date
Chapter Five	Tax Calculation
Chapter Six	Exceptions

Chapters	Titles
Chapter Seven	Exceptions on Importation
Chapter Eight	Persons who are Obliged to Pay Tax
Chapter Nine	Tax Deduction
Chapter Ten	Obligations
Chapter Eleven	Special Treatments of Tax Refunds
Chapter Twelve	Exchange of information between Member State
Chapter Thirteen	Transitional Provisions
Chapter Fourteen	Appeals
Chapter Fifteen	Closing Provisions

2.3 UAE CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK

The United Arab Emirates is comprised of seven emirates, viz., Abu Dhabi, Dubai, Sharjah, Ajman, Ras Al Khaimah, Fujairah and Umm Al Quwain. Each Emirate has a Ruler and the seven Rulers together form the Federal Supreme Council. United Arab Emirates was established on the 2nd of December 1971 and since, its establishment the UAE had set a temporary constitution. In July 1996, the Federal Supreme Council made the provisional Constitution permanent and the city of Abu Dhabi became the capital of the federation. As per the Constitution of the UAE the Ruler of Abu Dhabi is the President and Ruler of Dubai shall be the Vice President and Prime Minister of the Federal Government.

The Constitution has 152 articles establishing the basis of the UAE and the rights of citizens in ten areas that are:

1. The federation, its constituencies and principal aims
2. The fundamental social and economic basis of the federation
3. Public freedom, rights and duties
4. The federal authorities
5. Federal legislations, decrees and authorities in charge
6. The emirates
7. Allocation of legislative, executive and international jurisdiction between the federation and the emirates
8. Financial affairs of the federation
9. Armed forces and security forces
10. Final and transitional provisions.

Article 45 of the Constitution provides for five federal authorities:

1. The Federal Supreme Council
2. The President and the Vice President of the UAE
3. The Cabinet or the Council of Ministers
4. The Federal National Council
5. The Federal Judiciary.

Articles 46 to 109 of the Constitution state further provisions relating to the roles, responsibilities and powers of the federal authorities. The Constitution has also laid down the relationship between the federal and local governments. Article 122 provides that the emirates shall have jurisdiction in all matters not assigned to the exclusive jurisdiction of the federation. **As per entry no. 6 of Article 120 of the Constitution, the Union has exclusive legislative and executive powers for matters in relation to "Union Finance, Union Taxes, Duties and Fees".** Further as per Article 121, the Union has exclusive legislative powers in relation to penal law, civil and commercial transactions and company law procedures before the civil and criminal laws.

The Federal Supreme Council is the highest constitutional authority that has the legislative and executive powers to ratify Federal laws, decrees, plans and general policies. The **Supreme Council**, comprising the rulers of the seven emirates, elects a president and vice-president from amongst its members to serve for a renewable five-year term in office. The Supreme Council has both legislative and executive powers.

The Council of Ministers, described in the Constitution as 'the executive authority' for the Federation, is headed by a prime minister, chosen by the president in consultation with the Supreme Council. The prime minister then proposes the Cabinet, which requires the president's ratification.

The Federal National Council which is the Parliament of the Country is a body which is largely consultative and does not have the powers to veto or initiate laws. It does have the powers to examine and amend proposed legislation. The Federal National Council (herein after referred as FNC) is made up of 40 members of whom 20 members are elected by 7000 notables who are chosen by the local governments to represent the various social groups and tribes. The other 20 members are nominated by Ruler of each Emirate. Abu Dhabi and Dubai have 8 members each in the FNC; Sharjah and Ras Al Khaimah have 6 members and the other emirates, viz., Ajman, Umm Al Quwain and Fujairah have 4 members each.

The Federal judiciary, which is accorded independence under the Constitution, includes the Federal Supreme Court and Courts of First Instance. The Federal Supreme Court comprises five judges appointed by the Supreme Council. The judges decide on the constitutionality of federal laws and arbitrate on inter-emirate disputes and disputes between the Federal Government and the emirates.

Constitutional Amendment and Law Making Process

Article 144 provides that if the Supreme Council considers that the topmost interests of the federation require the amendment of this Constitution, it shall submit a draft constitutional amendment to the Federal National Council.

The procedure for approving the constitutional amendment shall be the same as the procedure for approving laws. The approval of the Federal National Council, for a draft constitutional amendment, shall require the agreement of two-thirds of the votes of attending members. The President of the Union shall sign the constitutional amendment in the name of the Supreme Council

Sharia Law Applicability in Relation to VAT, Excise and Customs

The Sharia Law is governed by the Quran. Though the core principles of Law in UAE are drawn from Sharia Law, most of the legislations are comprised of a mix of Sharia and European concepts of civil law. These principles have influenced the drafting and interpretation of laws in the UAE.

The **five core principles of Sharia** are:

(a) **Charging of interest is forbidden** – money is not a commodity that can be traded nor does its value change over a period of time and hence interest earned is unjust income.

(b) **Risk shall be shared** – as income cannot be derived from interest, the investors share the profits or losses in the proportion of the amount they invest into the transactions.

(c) **Uncertainty in a contract is prohibited** – the parties involved in a contract must undertake the contract with full knowledge of all the terms.

(d) **Competence** – parties should have the legal capacity to understand and assume the obligations under the contract.

(e) **Consent** – parties to the contract should give their consent under free will without any coercion or duress.

2.4 UAE VAT LEGAL FRAMEWORK

Under Article 54 (4) of the Constitution the President has the powers to sign and promulgate the Federal Laws, Decrees, and Decisions sanctioned by the Supreme Council. In exercise of this power conferred by the Constitution, the Honourable

President of the UAE, issued the **'The Federal Law No. (8) of 2017 on Value Added Tax** on 27 August 2017. The UAE VAT law provides the legal framework for the UAE introduction of VAT on the 1st January 2018. UAE VAT law is only one part of the framework, the VAT Executive regulations provide detailed provisions on the UAE's VAT implementation.

On 15 March 2017, the Honourable President of the UAE, issued 'The Federal Law No. (7) of 2017 on Tax Procedure (Tax Procedure Law). The Tax Procedures Law defines a set of common procedures and rules to be applied to all tax laws in the UAE, namely, VAT and Excise tax laws, and sets the rights and obligations of the FTA and the taxpayer. It covers tax procedures such as audits, objections, refunds, collections and obligations, which include tax registration, tax return preparation, submission, payment and voluntary disclosure rules, in addition to tax evasion and general provisions.

The Tax Procedure Law sets the foundation for regulating the administration and collection of taxes and clearly defining the role of the FTA. Accordingly, The Federal Tax Authority ('FTA') has been established by the government to administer VAT and Excise Taxes, plus any future taxes, introduced in the UAE. FTA has been entrusted with the following roles and responsibilities under "Federal Law No. 13 of 2016 on Establishment of Federal Tax Authority".

- Responsible for collecting taxes and reviewing Taxable Person compliance.
- Available to provide guidance and direction to Taxable Persons in order to support them in meeting their tax compliance obligations.
- Decision making capacity in areas of tax technical complexity.
- Responsible for conducting tax audits and administering penalties.

Thus, UAE VAT Legal Framework comprises of the following legislative documents.

1. **The Federal Decree-Law No. (8) of 2017 on Value Added Tax** issued by the President of the United Arab Emirates.
2. **Cabinet Decision No. (52) of 2017 on the Executive Regulations of the Federal Decree-Law No (8) of 2017 on Value Added Tax** issued by the Cabinet which provides detailed rules and provisions on VAT.
3. **The Federal Law No. (7) of 2017 on Tax Procedure** issued by the President of the United Arab Emirates.
4. **Cabinet Decision No. (36) of 2017 on the Executive Regulations of the Federal Law No (7) of 2017 on Tax Procedures** issued by the Cabinet – which defines a set of common procedures and rules to be applied to all tax laws in the UAE, namely, VAT and Excise tax laws.
5. **Cabinet Resolution No. (40) of 2017 on Administrative Penalties for Violations of Tax Laws in the UAE** issued by the Cabinet
6. **Cabinet Decision No. (56) of 2017 on Medications and Medical Equipment Subject to Tax at Zero Rate** issued by the Cabinet
7. **Cabinet Decision No. (59) of 2017 on Designated Zones for the purposes of the Federal Decree-Law No. (8) of 2017 on Value Added Tax**
8. **The Federal Decree-Law No. (13) of 2016 on Establishment of Federal Tax Authority** responsible for administration of Tax Laws particularly VAT and Excise Laws

MODULE 3

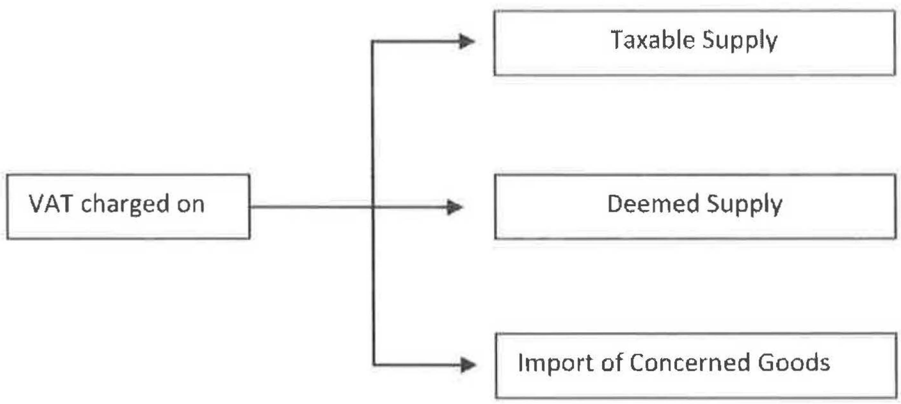
LEVY OF TAX

ARTICLES OF DECREE LAW ON VAT RELEVANT TO THIS MODULE	
Article (2)	Scope of Tax
Article (3)	Tax Rate
Article (4)	Responsibility for Tax

3.1 SCOPE OF TAX

For the purpose of collecting tax, the authority must have power to impose or levy tax given under the legislation. Accordingly the power to impose Value Added Tax has been conferred by Article 2 of Federal Law No. 8 of 2017 on Value Added Tax. **Article 2** of the said law reads as under:

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



Let's analyse each component in detail.

i) Taxable Supply

The term **'taxable supply'** is defined to mean the ***supply of goods or services for consideration by a person conducting business in UAE and would not include exempt supply***. This Article defines the limit or the boundary within which a business transaction will be taxable.

A careful perusal of Article 2 of the Federal Law on VAT reveals the following.

1. All the taxable supply of goods and services shall be subject to tax. Taxable supply has been defined as **"A supply of Goods or Services for a Consideration by a Person conducting Business in the State i.e. UAE and does not include Exempt Supply".** Before any transaction is considered as a taxable supply, it must satisfy all the conditions stated below.

   a. **There must be supply of goods and services.** Goods or Services must be involved in a transaction of supply. Goods have been defined as physical property that can be supplied including but not limited to real estate, water, and all forms of energy. The same has been dealt with in detail in the module "Supply of Goods and Services".

b. **Two Persons must be involved in the transaction** i.e. one will be a supplier of goods and services and other shall be the recipient of goods and services. It is based on the premise that a person can't supply goods to himself in normal course of business. It is also not possible for one Person to pay the Consideration to himself. Further, branches of the same Business located in different Emirates also do not satisfy this requirement of 'two' Persons and hence transfer of stock among branches cannot be treated as a Taxable Supply. Further, it is to be noted that the person can either natural or a legal person.

c. **Transaction must occur in the course of Business of the Person**. Business has been defined by Article 1 of Decree Law on VAT as ***Any activity conducted regularly, on an ongoing basis and independently by any Person, in any location, such as industrial, commercial, agricultural, professional, service or excavation activities or anything related to the use of tangible or intangible properties.***

   The business activities need to be conducted on a regular basis. Stray or occasional transactions that are business like cannot be equated with business even if such transactions result in some profit. Moreover, the parties to the business transaction must be independent to each other. Therefore, employee receiving salary from the employer against the service provided cannot be considered as business activity.

d. **Consideration must exist in exchange for the goods or services** provided by the supplier. Article 1 defines Consideration as ***All that is received or expected to be received for the supply of Goods or Services, whether in money or other acceptable forms of payment.***

   As per the definition, consideration can either be in monetary or non monetary form. Consideration in money can be paid in various forms such as cheques, bank drafts, online payment, credit cards and digital wallets.

   Further, it can be inferred that exchange of 'goods for goods' or 'services for services' or 'goods for services' would also come within this definition of consideration due to the words 'forms of payment'. Support may be derived from **Article 34: Value of Supply where consideration 'not in monetary form'.** Thus, barter transaction is not only recognised but expressly dealt with by the law. In simple words, it can be concluded that taxable supply includes barter transactions as well where goods and services are exchanged by 2 legal or natural persons during the course of business.

e. The person conducting business must be in the State. State here means United Arab Emirates. Business 'in' UAE is another important requirement for treating any supply as taxable.

ii) Deemed Supply

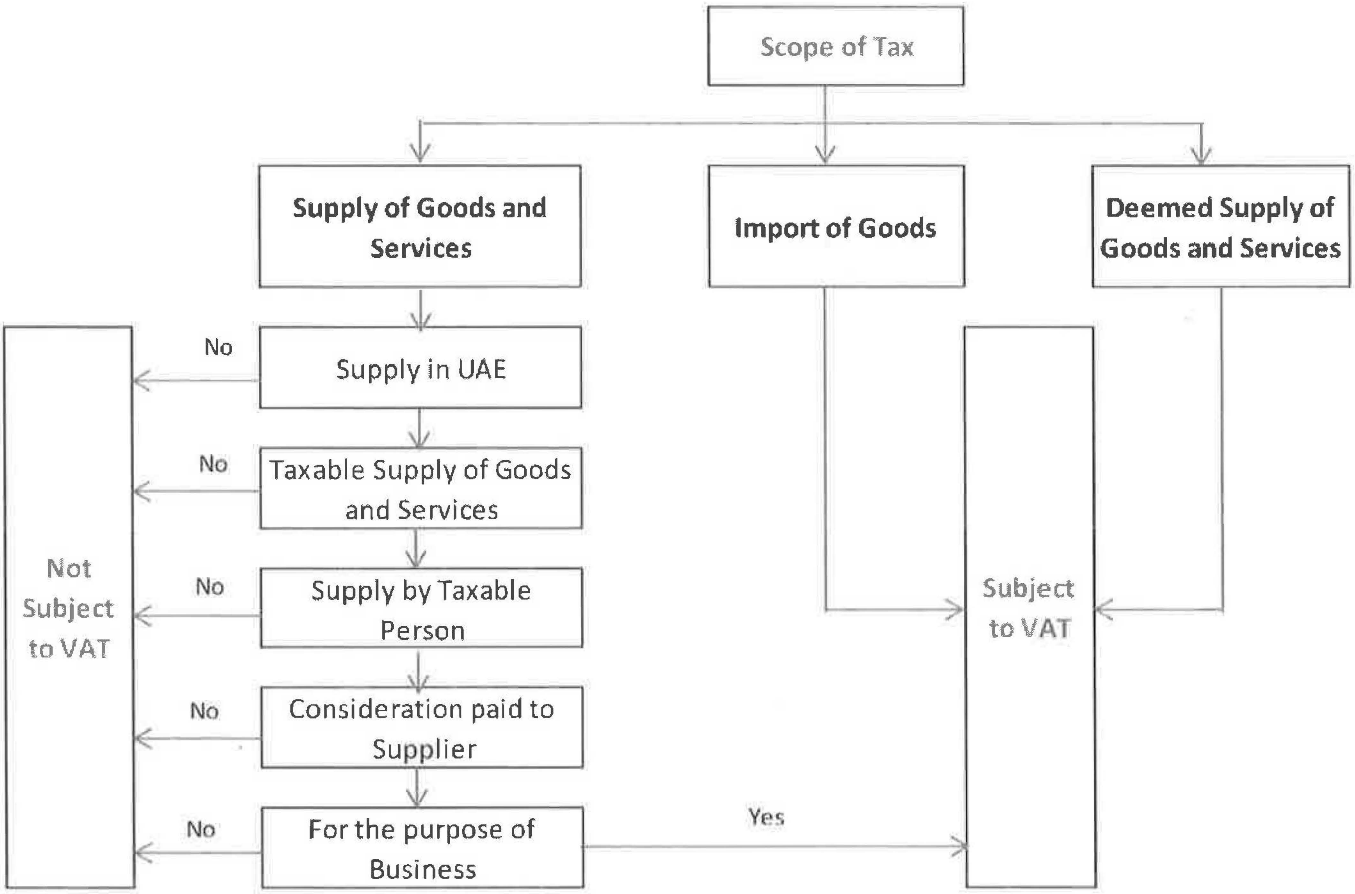
Generally, the provision of goods and services without a consideration (e.g. samples, commercial gifts) is not a supply unless it is deemed so. Tax shall also be imposed on Deemed Supply. The UAE VAT Law has provided certain cases which shall be considered as 'deemed supply' transactions and accordingly, would attract VAT levy. All the cases of Deemed Supply have been cited in the next module on "Supply of Goods and Services".

The rationale behind this is that if supplies were not deemed, the goods are being enjoyed by the recipient tax free, while input tax incurred on the purchase of the goods would have been claimed by the business.

iii) Import of Concerned Goods

Import of Concerned goods is also subjected to tax as per Article 2 of the Federal Decree Law. Any exception to this shall be notified in the Executive Regulation. **Import refers to *"arrival of goods from abroad into the State."*.** Although import of services is also covered by the definition, services are not part of the Scope of Tax in this limb. It is pertinent to note that **Concerned Goods are defined to mean those Goods that 'would not be exempt if supplied in the State'.** So, Goods that are taxable had they been' supplied in UAE would be subjected to VAT even when they are imported into UAE. Similarly, exempt goods and services when imported will not be subjected to UAE VAT.

The below flow chart illustrates the scope of VAT in UAE.



3.2 QUANTIFICATION OF VALUE ADDED TAX

There are 2 ingredients for calculation of any consumption tax whether VAT or GST. These are

a) **Tax Rate**
b) **Value of Taxable Supply**

Value of supply or import when multiplied with the rate of tax i.e. 5 %, it gives the amount of output tax to be paid to the government. The term Output Tax has been defined under law as "*Tax charged on a Taxable Supply and any supply considered as a Taxable Supply.*"

Mathematically, the formula for calculation of ad-valorem tax can be represented as

Tax Amount	=	Value of Taxable Supply	×	Rate of Tax

Article 3 of Federal Law on VAT reads as under:

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

A careful perusal of the above article reveals the following.

1. Other than Zero Rated or Exempted Supplies as specified in Title Six of the Decree Law, a standard rate of 5% shall be applicable on Value of all supplies of goods and services. This single rate of tax itself removes a lot of ambiguity