

A COMPREHENSIVE GUIDE ON UAE VALUE ADDED TAX

UAE VAT SIMPLIFIED



VAT Provisions explained with the help of diagrams, flowcharts & more than 200 examples

Executive Summary of UAE VAT Provisions

Article Referencer

Industry Specific Guidance

CA. ARVIND KUMAR & CA. HIMANI JOSHI



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CA. ARVIND KUMAR
CA. HIMANI JOSHI

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

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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
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13. Shri. Nawal Sawarthia
14. Shri. Prakash Goenka
15. Shri. Manish Goenka

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PART - A

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

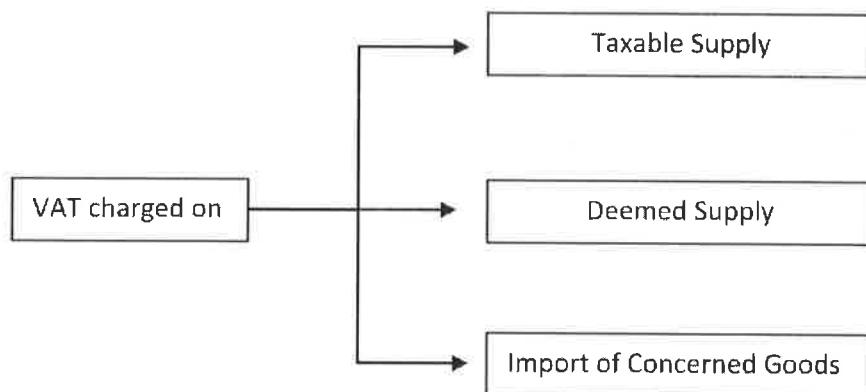
The following laws and regulations introduced in UAE constitutes VAT legal framework.

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

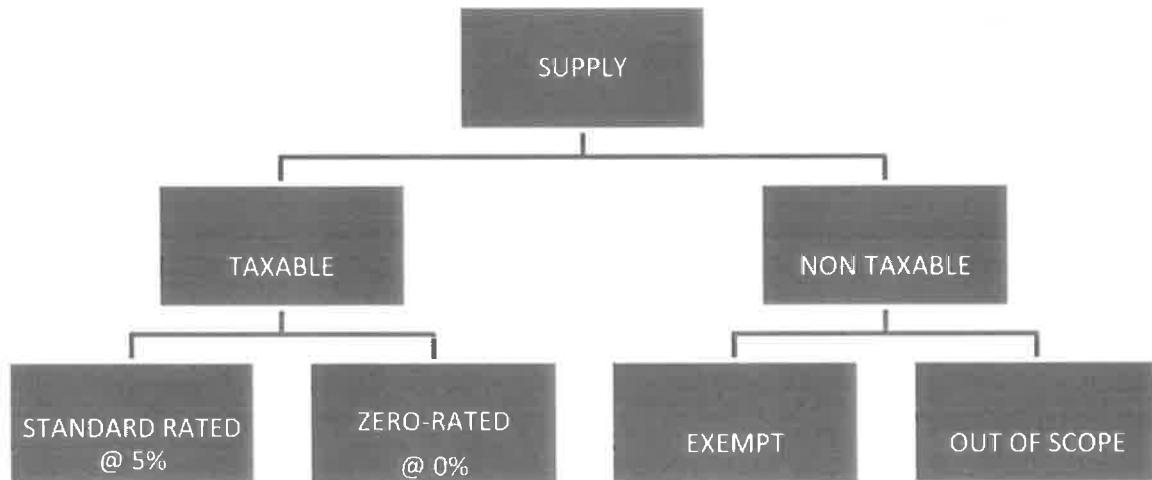
"Tax shall be imposed on every taxable supply and deemed supply made by the taxable person, including imports of concerned goods except as specified".



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

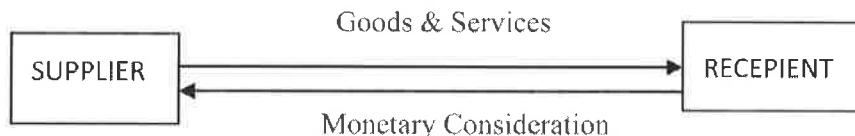
Article (3) read with Article (2) of Federal Law No. (8) of 2017 on VAT provides that a standard rate of VAT @ 5% shall be imposed on **value of every taxable supply including deemed supply and imports made by taxable person**.

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 been 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 supplied 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.

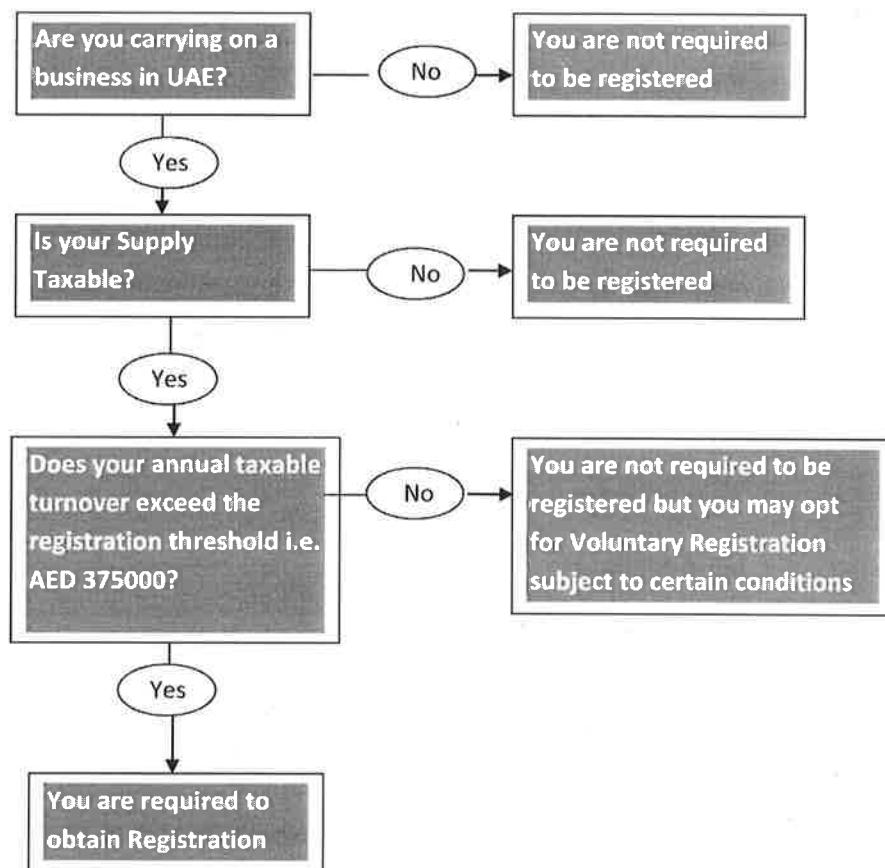
The threshold for the registration will be –

- 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
<ul style="list-style-type: none"> ❖ 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 	<ul style="list-style-type: none"> ❖ 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 	<ul style="list-style-type: none"> ❖ 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**.
 - e. 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 instances 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

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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 as public hospitals, schools and universities, defence and other important aspects of daily life.

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

i) **Direct tax;**

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)

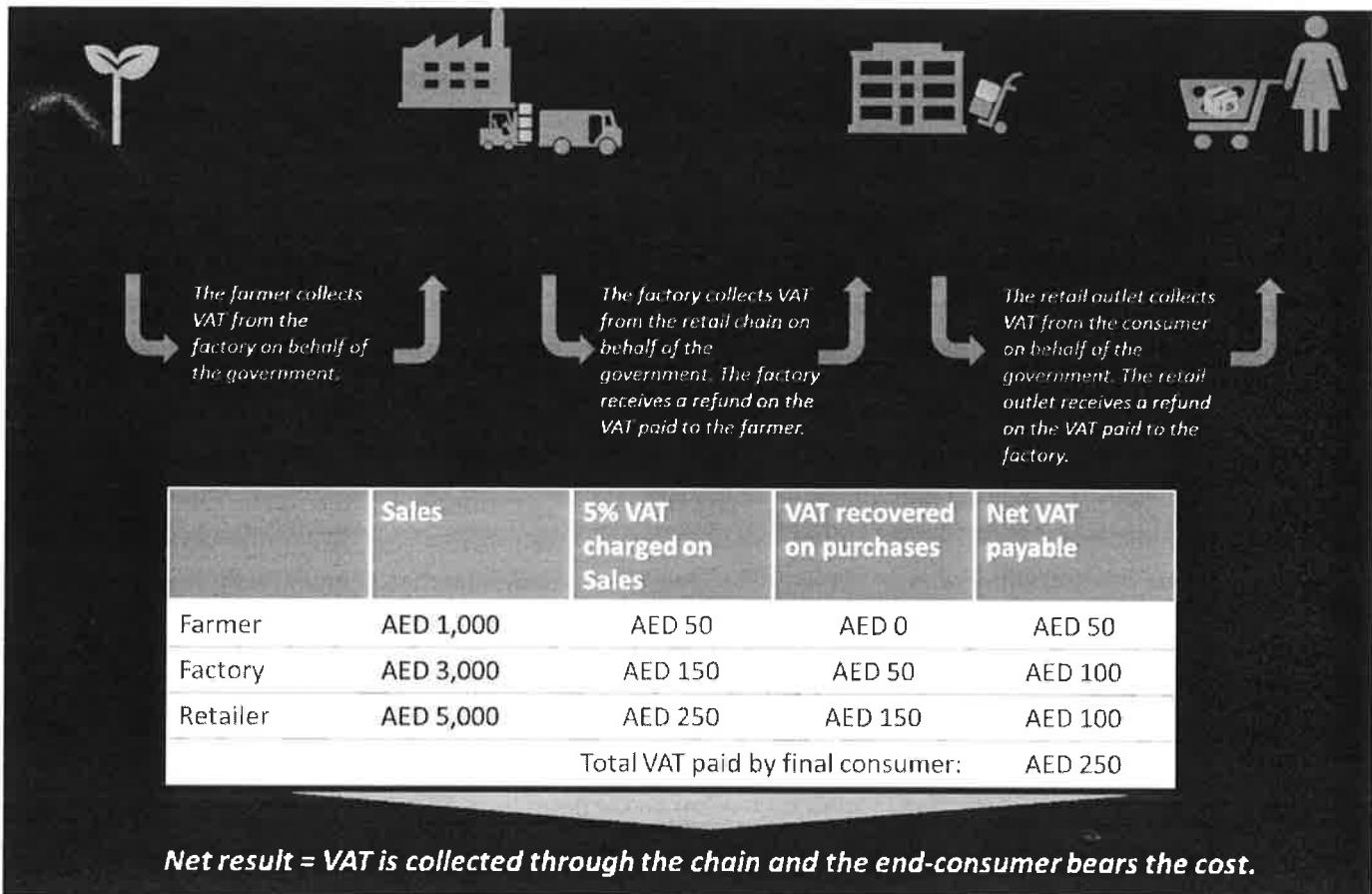
3. The retailer in turn sales the shirt to the final consumer @ AED 5000.

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.



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

In February 2017, Saudi Arabia ratified the GCC VAT framework and committed to impose VAT with effect from January 1, 2018. As 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 VAT Agreement]
- ❖ **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

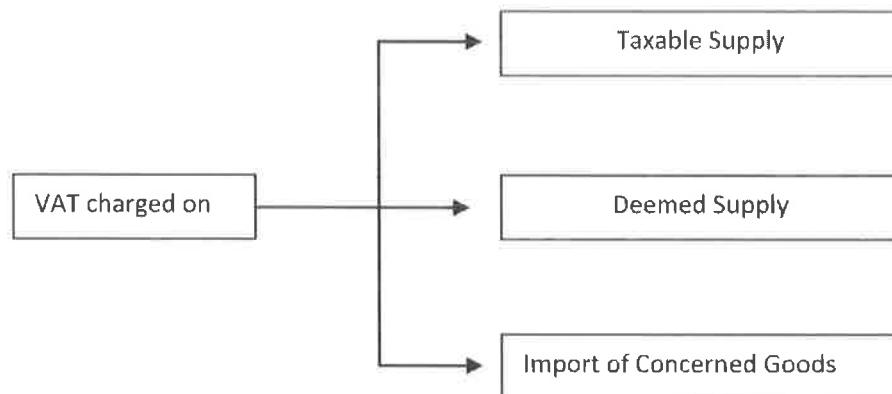
ARTICLES OF DECREE LAW ON VAT RELEVANT TO THIS MODULE

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

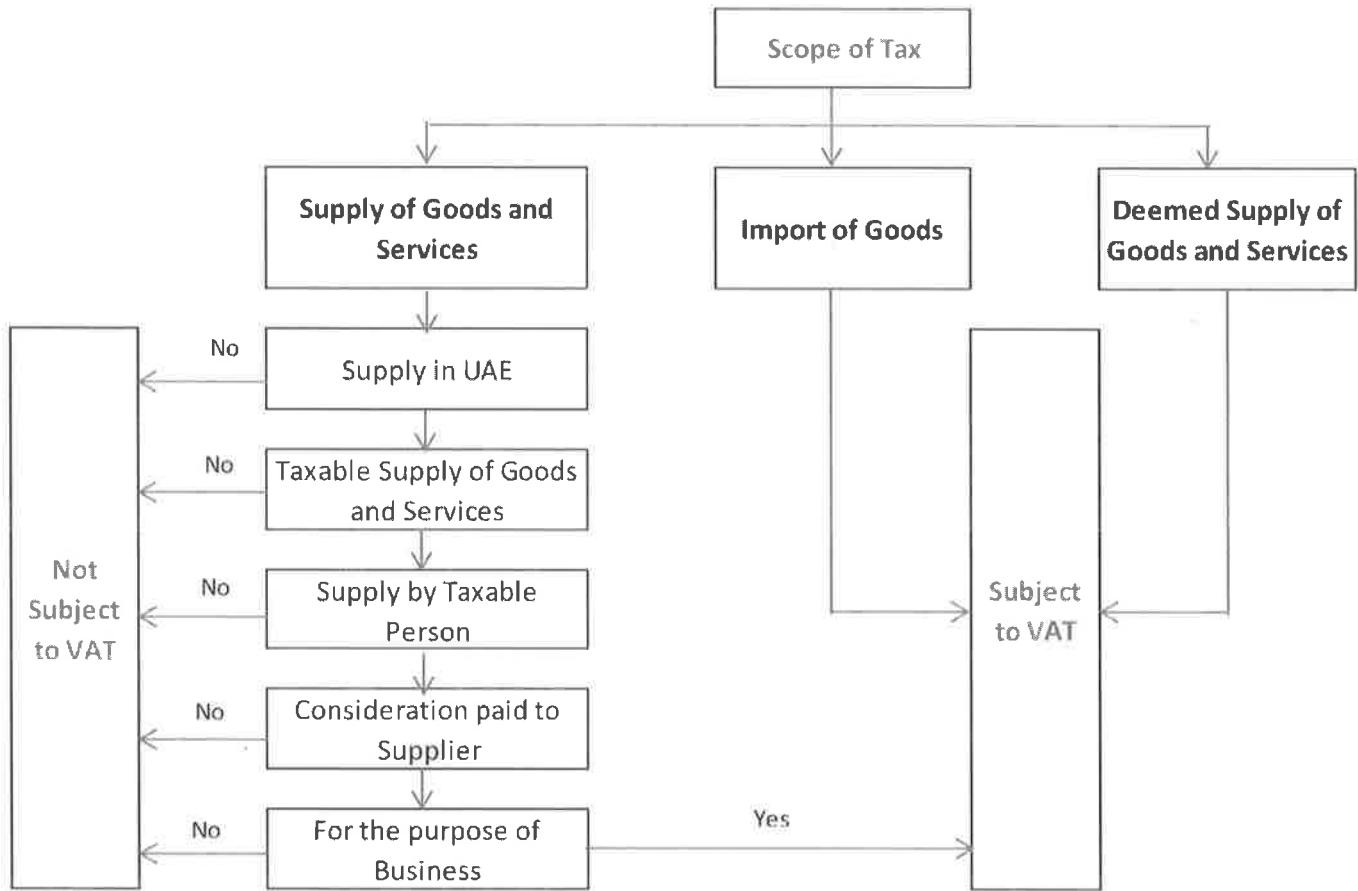
Generally, the provision of goods and services without a consideration (e.g. samples, commercial gifts) is not a supply unless it is deemed so. Tax shall also be imposed on Deemed Supply. The UAE VAT Law has provided certain cases which shall be considered as ‘deemed supply’ transactions and accordingly, 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

$$\boxed{\text{Tax Amount}} = \boxed{\text{Value of Taxable Supply}} \times \boxed{\text{Rate of Tax}}$$

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

from the tax law and makes it simple. The law also provides exemption from tax on certain supplies which has been discussed in Module 6: Zero Rated and Exempted Supply.

2. Imports will also be subjected to VAT.

As per the above provisions of law, every registered supplier has to charge and collect VAT @ 5% on the value taxable supplies from the customers at the time of sale or supply of goods and services.

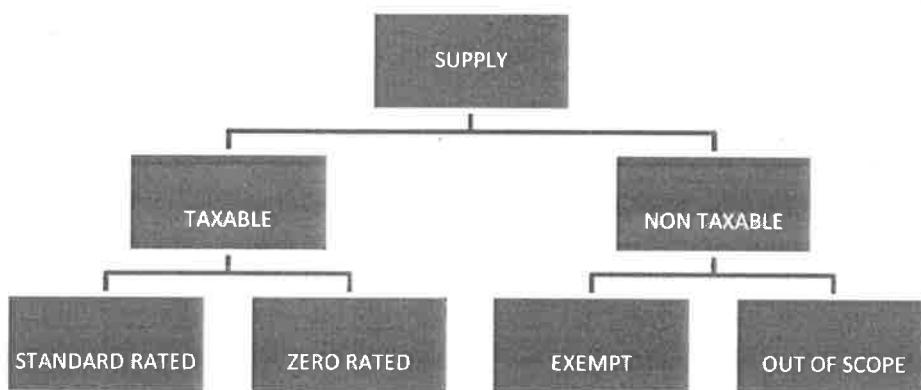
It is interesting to note that the VAT Law does not prescribe a higher rate of VAT with the power to notify the rate from time to time. As a result, any requirement to revise the rate of VAT requires an amendment to the Law itself. Further such amendment should also be agreed among the GCC member States as the GCC Framework provides for a uniform Standard Rate of 5% across the GCC.

3.3 TYPES OF SUPPLY

All 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.

It is necessary to distinguish the different types of supply as it determines if a supply is subject to VAT and the rate at which VAT is chargeable. It also determines whether any input tax incurred to make such supplies is recoverable. There are also deemed supplies which are treated as supplies even though there is no consideration involved.



1. Standard Rated Supply

If a business makes supply of standard rated goods and services, it is to charge output VAT at the standard rate i.e. 5%. All supply of goods and services with the exception of exempted and zero rated goods and services will be standard rated supplies.

2. Zero Rated Supply

In case of zero rated supplies, VAT is charged on goods and services at 0%. If a business makes zero rated goods and services, it shall charge output VAT @ 0% but can claim input VAT incurred on purchases.

The Law sets forth 14 instances where supplies may qualify for zero-rating, including exports, international transport, investment metals, first supply of residential buildings (provided it is supplied within three years of completion), crude oil and gas. Educational services as well as preventative and basic healthcare services and related goods and services may also be zero-rated if complying with the specifications in the Executive Regulations. The same have been discussed thoroughly in Module 6.

3. Exempted Supply:

In case of exempted supplies, VAT is not charged on supply of goods and services. If a business makes exempted goods and services, it cannot charge output VAT and cannot claim input VAT incurred on purchases.

As per Title Six of the Federal Decree Law, the supply of bare land, local passenger transport and the sale and lease of residential buildings will be exempt from VAT as well as financial services specified in the Executive Regulations. In module 6, all exempted supplies as provided by VAT laws have been discussed in detail.

4. Out of Scope Supply:

Out-of-scope supplies refer to supplies which are outside the scope of the VAT legislation. They also include supplies where the place of supply is outside of United Arab Emirates. No VAT needs to be charged on out-of-scope supplies and they need not be reported even in the VAT return.

3.4 RESPONSIBILITY FOR TAX

Under any tax laws, responsibility for payment of tax and discharging other liabilities are clearly defined. Without such provisions, tax laws cannot be enforced. Under UAE VAT laws also, taxable person has been fastened with responsibility to pay and discharge other liabilities. In this context, Article (4) of Federal Decree Law on VAT clearly stipulates as below;

The Tax imposed shall be the responsibility of the following:

1. *A Taxable Person who makes any supply stipulated in Clause (1) of Article (2) of this Decree-Law.*
2. *The Importer of Concerned Goods.*
3. *The Registrant who acquires Goods as stated in Clause (3) of Article (48) of this Decree-Law.*

Analysis:

In the case of Domestic transaction, the Taxable Person who ‘makes’ the Taxable Supply will be responsible to deposit the tax. In the case of Import of Concerned Goods, the Importer will be responsible. The Federal Decree Law on VAT has defined Taxable Person as “Any Person registered or obligated to register for Tax purposes under this Decree-Law”.

It is common that the burden of VAT is always passed on to customers when the Taxable Supply is made by charging VAT ‘in addition’ to the price. While this Article 4 imposes the responsibility on the Supplier or Importer to pay VAT, the VAT laws don’t give any reference to any ‘Right of the Supplier’ to recover this tax from the customer. Therefore, it is important to bear in mind that the ‘right to recover VAT from customer’ is not a statutory right but a contractual right.

Accordingly, all sales contracts must be accepted on terms ‘taxes extra’ so that it becomes legitimate for the supplier to charge VAT from customers. In other words, if the customer is not obligated to pay VAT through the terms of the contract of supply, then it is responsibility of the Supplier to bear the VAT

Forward or Reverse Charge

Under the VAT law, we can see that it is the Suppliers of goods and services who are obligated to charge and pay VAT. This type of charge can be referred to as Forward Charge. However, the law also specifies certain situations where recipient of goods are required to charge and pay VAT to the government. This is referred to as Reverse Charge.

Clause 2 of Article 4 of the Federal Law on VAT clearly stipulates that Tax shall be imposed on Importer of Concerned Goods. Thus, in case of import it is the recipient i.e. importer and not the supplier who is required to account for tax under Reverse Charge Mechanism.

MODULE 4

SUPPLY OF GOODS AND SERVICES

ARTICLES OF DECREE LAW ON VAT RELEVANT TO THIS MODULE	
Article (5)	Supply of Goods
Article (6)	Supply of Services
Article (7)	Supply in Special Cases
Article (8)	Supply of more than one component
Article (9)	Supply via Agent
Article (10)	Supply by Government Entities
Article (11)	Cases of Deemed Supply
Article (12)	Exceptions for Deemed Supply

4.1 INTRODUCTION

As we know Value Added Tax (VAT) is a type of general **destination-based tax consumption tax** that is collected incrementally, based on the value added, at each stage of production or distribution/sales. VAT is charged at each stage of the ‘supply chain’ and the Supply of goods and services is the taxable event which triggers payment of tax. In this module, the following matters have been discussed in detail.

- a) Definition of Supply of Goods and Services as per relevant legislation.
- b) Different forms of Supply and VAT applicability on them.
- c) Definition of Deemed Supply and VAT applicability on Deemed Supply.
- d) VAT impact on Mixed and Composite Supply.
- e) VAT applicability on supplies made by government entities.

4.2 SUPPLY OF GOODS & SERVICES

Supply of goods and services is the taxable event which triggers payment of tax. So, the transaction must fall under the definition of Supply before the same is subjected to VAT. VAT will not be applicable on transactions which are not covered under the definition of “Supply of Goods and Services”. The various components of Supply have been discussed in detail in the coming paragraphs.

4.2.1 SUPPLY OF GOODS

Goods are supplied in normal course of business as a sale, barter, hire purchase or any other form of supply. The above articles don't specify a list of transactions that will be regarded as Supply. It provides a 'test' or 'purpose' that must be identified in every form of supply in order to conclude if it would be a Supply or not. As per the above provisions of law, it can be said that the

supply can take place in different forms but if it results into **transfer of ownership of goods or transfer of right to use** from supplier to the recipient, the same would be considered as "Supply" and hence, it will be taxable.

It can therefore important to examine the ultimate 'purpose' of the various forms of supply in order to determine whether it is Supply or not.

Let's examine the various forms of transactions tabulated below and check if they are covered under the definition of Supply.

S.No.	Form of Supply	Ultimate Purpose	Supply or Not as per UAE VAT Law	Relevant Article of Executive Regulation on VAT
1	Sale	Transfer of Ownership	Supply	Article 2 (1)(a)
2	Barter	Transfer of Ownership	Supply	Article 2 (1)(a)
3	Hire-Purchase	Transfer of Right to Use along with Transfer of Ownership	Supply	Article 2 (1)(a)
4	Lease/Rental	Transfer of Right to Use	Supply	Article 2 (1)(a)
5	Gift	Transfer of Ownership	Supply	Article 2 (1)(a)
6	Sample	Transfer of Ownership	Supply	Article 2 (1)(a)
7	Compulsory Acquisition by Government	Transfer of Ownership	Supply	Article 2 (1)(b)
8	Agreement to Sell	Transfer of Ownership at future date	Supply	Article 2 (3)
9	Disposal as Scrap	No Transfer of Ownership. Discard goods only.	Not a Supply	
10	Demo Stock	No Transfer of Ownership. Just to test usage.	Not a Supply	
11	Pilferage & Stock Loss	No Transfer of Ownership	Not a Supply	
12	Stock Transfer to Branch	No Transfer of Ownership	Not a Supply	

As evident from above table, where any transaction does not satisfy the ultimate 'purpose' specified in Article 2 of Executive Regulation, then such arrangement will not be Supply.

Now, let's analyse the definition of Transfer of Ownership and Transfer of Right to Use.

Transfer of Ownership:

Transfer of ownership in general parlance means transfer of risk and reward associated with the goods. Therefore, ownership gives right to the person to hold, use and enjoy the goods. The owner even has the right to destroy the goods as risk and reward associated with the goods remains with the owner. Since, ownership is transferred by way of a contract whether verbal or written, all the following essential elements of legally valid contract must be present.

- The contract for transfer of ownership of goods can either be written or verbal
- There must be 2 legally capable parties to the contract
- Legally valid ownership should be in existence
- There must be legally accepted consideration agreed between parties
- There must be intention of parties to enter into legally binding contract

Transfer of Right to Use:

Clause 1 of Article 2 of Executive Regulation provides that Transfer of Right to Use goods is considered as Supply. However, Clause 2 of the same article clearly states that **a transfer of the right to use any assets shall not be treated as a supply of Goods unless the other Person is able to dispose of them as owner**. It means the transferee must have the **absolute rights to use the**

goods in order to constitute a Supply. If there is any limitation on the transfer, then it is not a transfer of right to use but “mere use” such as when we enter a Bus or Taxi, we do not receive the right to use the Vehicle. In order to constitute a Supply, not only physical custody but lawful possession must be handed-over to the receiver or his representative.

Deferred Transfer of Ownership

Clause 3 of Article 2 of Executive Regulation refers to the deferred or delayed transfer of ownership. It provides that “*Entry into a contract between two parties causing the transfer of Goods at a later time shall be considered a supply of Goods where the agreement mentions a transfer or intention to transfer the ownership of Goods or a future transfer of ownership of Goods*”.

This particular clause covers all types of agreement to sell transactions including Hire-Purchase transaction. Within the meaning of this clause, Hire-Purchase transaction is considered as supply as lawful possession of the goods is passed to the receiver immediately and absolute ownership is transferred at future date after all payments are made by the hire-purchaser to the supplier.

Example 1: ABC LLC a registered entity under UAE VAT laws buys a dump truck for AED125, 000 under a hire purchase agreement with a bank. The ownership of the truck is caveat by the bank until the company makes full payment of the hire purchase loan amount. This hire purchase transaction is a supply of goods and subject to UAE VAT.

Goods

Goods has been defined by Executive Regulation as “Physical property that can be supplied including but not limited to real estate, water, and all forms of energy as specified in this Decision”. The definition has got the following components.

Physical Property: First of all, the goods must be in physical form. This itself excludes those that are non-physical i.e. intangible such as brand name, goodwill, software (not on any media) and even electricity and light. It also excludes those which are not legally permitted to be owned or have proprietary rights over living beings/objects such as wild animals, human beings, human organs. Thus, Non-physical and non-proprietary objects are not included in ‘Goods’.

Real Estate: Goods in common parlance, includes only movable property and therefore excludes immovable property. However, the definition of goods as per executive regulation appears to deviate from the natural meaning of goods. The intention of the law is to tax supply of both movable and immovable property by covering the same into definition of goods. Real estate has further been defined under Article 21 of Executive Regulation as “real estate” includes as an example:

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

Water: Water is a natural resource that is free. Water that no one can exercise proprietary rights over is therefore excluded from the general understanding of physical property and hence, cannot be covered under first limb of the definition of goods. The inclusive part of the definition thus specifically includes Water and considers supply of water as supply of goods. It is to be noted that the definition doesn’t give any reference to the form of supply of water. In absence thereof, water in all forms shall be considered as goods. Hence, supply of bottled water, distilled water or even water supplied by government agencies i.e. Dubai Electricity and Water Authority to individual households will be considered as supply of goods and hence, taxable.

Specified Forms of Energy: Article 2 (4) (c) of the Executive Regulations specifies Energy includes electricity and gas, including biogas, coal gas, liquefied petroleum gas, natural gas, oil gas, producer gas, refinery gas, reformed natural gas, and tempered liquefied petroleum gas, and any mixture of gases, whether used for lighting, or heating, or cooling, or air conditioning or any other purpose.

Article 5 of Federal Decree Law on VAT: The following shall be considered a supply of Goods:

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

Article 2 of Executive Regulation: The following shall be considered as supply of Goods:

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

4.2.2 SUPPLY OF SERVICES

Article 6 of Federal Decree Law on VAT: A supply of Services shall be every supply that is not considered a supply of Goods, including any provision of Services specified in the Executive Regulation of this Decree-Law.

Article 3 of Executive Regulation: The following shall be considered as supply of Goods:

The supply of anything other than the supply of Goods shall be regarded as a supply of Services including any of the following:

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

The careful perusal of above articles reveals the following:

Firstly, a transaction that is ‘not’ considered a Supply of Goods is a Supply of Services. A transaction not to be considered a Supply of Goods requires that it should first contain all the essential components of Supply. If it was not at all a Supply, then it cannot become a Supply but of Services. Once the transaction is established to be a Supply, though not of Goods, it then becomes a Supply of Services.

In order to understand the definition of Services, it is important to understand definition of Goods. Goods are defined by law as physical property that can be supplied. Accordingly, Services will include all non-physical property and non-proprietary objects. For instance, any software available for download on internet is a non-physical property and does not fit into the definition of Goods and hence would be considered as Services.

It is pertinent to discuss here that items that have been expressly included in the definition of goods such as real estate, water and specified forms of energy do not also come within the scope of Services because these are specifically included in the definition of Goods. Once something is included into the definition of Goods, it gets excluded from the definition of Services. Further, it is important to note that Goods which are exempted or zero-rated will not fall into Supply of Services because they are still considered Supply of Goods.

Secondly, all below stated transactions which are declared by Executive Regulation will be Services.

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

4.2.3 SUPPLY IN SPECIAL CASES

VAT laws provides for separate set of rules to determine taxability of certain scenarios like issuance of vouchers, transfer of business etc. The same has been discussed in detail here below.

A. SALE / ISSUANCE OF VOUCHER

In modern trade these days, gift vouchers, redeemable vouchers, discount coupons, reward points, cash back schemes and similar other sales promotion schemes are commonly employed particularly by the retail industry. Let’s discuss all the schemes and their taxability one by one.

Cash Back Schemes

These are schemes under which a manufacturer or a distributor or wholesaler undertakes to refund cash to a retail customer on the making of specific purchases. Under this scheme, the manufacturer sends money to the value of the voucher directly back to the customer after qualifying purchase is made.

The manufacturer’s taxable amount will be amount calculated after reducing amount reimbursed to the retail customer.

Reward Points

When a customer purchases goods from a shop and receives a coupon that entitles him to a ‘benefit or points’ which can be adjusted against his next purchase. In this case, the liability of the customer is reduced on next purchase to the extent of ‘benefit or points’ awarded from previous purchase. Reduction in the ‘amount payable’ in the next purchase through the issue of this coupon is nothing but the ‘discount’.

Gift Card/Voucher

When a customer pays money to purchase a ‘gift-card’ bearing the value of money paid which can be redeemed at the time of making purchase. This is a case where the gift-card is a bearer instrument that represents ‘stored value of money’ that is accepted as payment of consideration.

Discount Vouchers

The supplier of goods may sell vouchers at a discount to companies who purchase them to distribute them free to their staff, or to resell to the public. The supplier undertakes to accept a voucher in full or part payment of goods purchased by a retail customer who was not the buyer of the voucher. Here the customer does not pay any money to acquire these cards and the supplier who accepts these cards at the time of its surrender is entitled to collect payment from the company.

As per the definition of Voucher provided by the law, only the gift voucher and discount vouchers are within the meaning of Vouchers which has been defined in the decree law as "*Any instrument that gives the right to receive Goods or Services against the value stated thereon or the right to receive a discount on the price of the Goods or Services. Vouchers do not include postage stamps issued by the Emirates Post Group.*"

It must be noted that **Vouchers by themselves are neither Good nor Services. So, sale of vouchers cannot be considered as taxable supply. Tax liability is created only at the time of redemption of voucher when actual sale of goods and services take place and consideration for such sale is surrender value of voucher.**

As per Clause 1 of Article 7 of Federal Decree Law on VAT, the sale or issuance of any Voucher shall be considered as supply only when the received Consideration at the time of supply or sale of voucher exceeds its advertised monetary value. In such a case, it shall be considered as supply and taxable accordingly. Its value shall be the difference between the consideration received by the supplier of the Voucher and the advertised monetary value of the Voucher.

Generally speaking, it is rare that vouchers are issued for a price more than its advertised monetary value so that it becomes taxable. So, as per the general practice, issue of sale of vouchers shall be exempted from VAT.

B. TRANSFER OF BUSINESS

Article No. 7 of Federal Decree Law on VAT provides that "Transfer of Business" will NOT be considered a Supply if the following conditions are satisfied.

(a) There must be transfer of whole or independent part of the business

While analysing this provision, it must be understood that Business is not a legal entity but an operational aspect representing the Business. A single legal entity is free to undertake more than one business. For example, a LLC may have a trading license to sell IT products and at the same time it may also have a service license to provide technology consultancy services. The LLC can be said to have two businesses i.e. trading and services. Transfer of the trading business would be regarded as transfer of business even though the LLC continues with the service business. Further, both the businesses trading and services can be independently transferred leaving behind the LLC without any business. Owners of the transferred businesses are free to commence yet another business under the same legal entity.

Transfer of Business refers to the complete transfer of this Business in its entirety including all assets and liabilities pertaining to the business. A mere transfer of the assets will not qualify as a transfer of business. The transfer must have the effect of putting the transferee in possession of a business. The transferee is generally in possession of a business when he takes over the business assets and liabilities such as goodwill, premises, fixture & fittings, staff, on-going contracts and outstanding debts and taxes. In the case where only part of the business is transferred, that part must be capable of being operated independently. It is irrelevant whether the transferee operates the part business together with or separately from his other businesses.

Where the shares of a limited company are transferred from one person to another, there is no Transfer of Business as the assets still belong to the limited company (i.e. no change in the ownership of assets).

(b) The buyer is a Taxable Person

The transferor of the business must ensure that the transferee is registered under VAT and must have TRN number at the time of transfer in absence thereof the supply will be taxable and accordingly transferor will have to account and pay for tax.

(c) There must be intention to continue the same business.

The business or part of that business must be a going concern at the time of the transfer. There must not be any closure of the business immediately after the transfer, except for temporary closure necessary to prepare the business for operation under the new ownership.

Apart from complying with above conditions stipulated by law, there are some other points as well which needs to be considered both by the transferor and transferee at the time of transfer of business.

1. Record Keeping: Both the transferor and transferee must maintain proper records on the transferred assets. Records to be kept should include information on the assets' description and value. Both parties must also be able to reconcile the difference if any, in the value of the transferred assets immediately before and after the transfer.

2. Claiming Input Tax Credit on “Transfer of Business” related expenses: The transferor or the transferee can claim input tax for the Input VAT paid on expenses relating to the “Transfer of Business” provided the business assets are to be used exclusively to make taxable supplies. Conversely, if the assets of the acquired business are to be used exclusively to make exempt supplies, input VAT paid on the expenses attributable to the Transferred Business can be claimed.

Now, let's understand “Transfer of Business” (TOB) cases with the help of some examples cited below.

Example 2: Transfer of a property rental business

Company A is a VAT-registered business that owns several non-residential properties. A derives rental income from leasing out these properties. Company B is also a VAT registered business in UAE. A enters into an agreement with B to sell one of its non-residential properties, a commercial building. The terms of the sale and purchase agreement include the following:

- (a) The sale of the building includes existing plant, equipment, fixtures and fittings owned by A;
- (b) B undertakes to continue the property leasing business after the transfer;
- (c) All the units in the property will be transferred to B;
- (d) the existing occupation agreement (tenancy and license) including rental, fee and security deposits collected will be transferred to B. B will discharge and fulfil all obligations of A under the original tenancy and license agreements;
- (e) The building maintenance contracts will be assigned to B. B will take over the deposits (cash and guarantee) and refund the deposits to service providers in accordance to contractual terms;
- (f) The sale includes works-in-progress such as upgrading of lifts. B will take over the contractual obligations and be responsible for making payment or refunding deposits to the relevant service providers; and

By taking over the entire building together with the existing tenancy and licensing agreements, security deposits, building maintenance and works contracts, B is in possession of the property leasing business. As B derives rental income from existing tenancy and licensing agreements after the transfer, B is carrying on the same kind of business as A. Since B is also able to satisfy all other qualifying conditions (e.g. B is VAT registered on the date of transfer), the transfer of property rental business from A to B will not be considered as Supply. Hence, the same cannot be subjected to tax.

Example 3: Transfer of business operations without transfer of premises

Company C's principal activities are those relating to manufacturing. As part of business restructuring, C intends to transfer its manufacturing operations to related Company D. C retains the ownership of the manufacturing plant and will only derive rental income from the lease of the plant. D will take over all licenses, intellectual properties, customer contracts, supplier contracts, employees and plant and equipment related to the manufacturing operations.

The fact that the business premises are not transferred does not affect D from taking over the business in its entirety. It is not necessary for D to own the manufacturing plant to operate a manufacturing business. As such, the transfer of the manufacturing operations will be covered under Article 7. Hence, the same is not a supply.

Example 4: Transfer of assets to a new legal entity

Law firm E is a VAT registered partnership business. E's existing partners decided to convert the partnership business into a limited liability partnership (LLP). On the transfer date, the LLP becomes VAT registered, takes over E's assets and liabilities and continues to operate the same business.

The above transfer is not a Supply as **all** the business' assets, operations and processes are passed over and continued in the same manner by a new VAT-registered entity.

Example 5: Amalgamation

Company F and its related Company G intend to enter into a voluntary amalgamation. Under the amalgamation, F and G would be combined into a single legal entity where F would be the surviving entity and the business of G would be subsumed under F.

Notwithstanding that there is no actual sale of business from G to F, the effect of the amalgamation is that the entire business of G would be transferred as a going concern to F. All assets and liabilities are transferred to F and F would carry on G's business in addition to its existing business. The same cannot be considered as a Supply as per the provisions of Clause 2 Article 7 of Federal Decree Law on VAT.

Article 7 of Federal Decree Law on VAT

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

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

4.2.4 SINGLE COMPOSITE SUPPLY

Business transactions do not always represent supply in simple "Plain Vanilla" manner. In a consumer centric market, supply of goods and services are most often bundled together and supplied at a single price. This is where law interferes in order to avoid any loopholes.

Article 4 of the Executive Regulation on VAT specifies the conditions for treating a supply made of more than one component for one price. Single Composite Supply refers to a single supply with more than one component. This article refers to the Goods or Services as a 'component' of the supply.

As per the article, a supply shall be treated as Single Composite supply only if all of the following conditions are satisfied.

1. The supply must consist of a **principal component**. This is the main component of the supply against which consideration is received by the supplier.

Example 6: An Airline Company supplies standard rated domestic flights for a single price. This includes the provision of in-flight catering. The catering is provided for the comfort and convenience of passengers. In this case, transportation service is the principal component against which airline charges the passenger.

2. The other components of supply can either consist of integral component or incidental component or tie-in components.
 - a) **Integral Components:** These are the components of a supply that are essential or necessary to the supply as a whole. These form integral part of the supply.

In the above example, the supply of catering services is integral to the main supply. However, it should be noted that if the flight ticket sold to the passenger by the airline company is exclusive of the meals provided to him during the flight, the supply of flight services and the supply of meals by the company to the passenger are treated as two separate supplies.

In another example, An agent supplies a tourism package consisting of air-ticket, hotel room, transport, tourist guide and tour to various sites and he charges a single price. The supply is a composite supply where the main supply is the tour and the other components are seen as integral or incidental to the main supply.

- b) **Incidental components:** These components naturally accompany the supply but generally are not significant part of the supply. Examples of such components are provision of manual booklet provided with new electronic goods or the service of packaging or delivery of goods at the time of sale.

Example 7: ABC LLC buys a car from a car dealer. The contract for the purchase of the car is inclusive of its delivery. In this case, the principal supply is the goods (the car) and the incidental supply is the delivery services. The dealer is making a composite supply in this case.

- c) **Tie-in components:** These are the low value components supplied along with the main or principal component. This type of component is always given as a free item. Examples of tie-in goods are a toothbrush (free item) sold with toothpaste (main supply), a plate given as free item on sale of a consumer durable item.
- 3. The price of the different components of the supply is not separately identified or charged by the supplier. In other words, the components are sold as a package for a single price.
- 4. All components of the supply are supplied by a single supplier.

Conclusion: The test to determine whether the supply is a single composite supply or mixed supply is whether all below conditions tabulated are satisfied or not.

Conditions	Composite Supply
One Price One Invoice	Yes
Principal Component	Yes
Integral, Incidental or Tie-in Component	Yes
Same supplier for all components	Yes
VAT Treatment of Supply	VAT shall be charged on the value of the composite supply stated in the invoice. Tax rate is based on the tax rate applicable to the principal or main component.

Article 8 of Federal Decree Law on VAT

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

Article 4 of Executive Regulation on VAT

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

4.2.5 MIXED or MULTIPLE SUPPLY

If the Supply consists of more than one component, then it could either be Single Composite Supply or Mixed Supply. Clause 5 of Article 4 of Executive Regulation on VAT clearly provides that if supply consists of more than one component, then the supply shall be treated as mixed or multiple supplies if the same is not a single composite supply.

The following indicators suggest a transaction is a mixed supply.

- (a) Separate pricing where separate prices on different components of the supply are listed out.
- (b) The individual components are not integral to each other. They are not interdependent or connected to each other as well.
- (c) A single price is charged for separate principal supplies.
- (d) The components are supplied by different suppliers separately.
- (e) There is time differential between parts of the supply.

The above indicators are not exhaustive or conclusive proof of a mixed supply but if the transaction has more of these indicators, it is likely that it is a mixed supply. However, the ultimate test is that the Supply must have more than one component and the Supply is not a Single Composite Supply. If both the conditions are satisfied, the same is the case of a mixed or multiple supplies. It should be noted that in such a case, all the supplies should be separately valued and charged to tax accordingly.

Now, let's understand the same with the help of example given below.

Example 8 : A hamper (different goods packaged together) consisting of wheat flour, canned foods, sweets, branded chocolates, crackers, cakes, non-alcoholic drink and fruit juices is on sale at a single price of AED500. This is a case of mixed supply. The components can be made available separately and are not interdependent on each other. The components are capable of being separate supplies in themselves.

The following table summarizes the indicators of the multiple supplies.

Conditions	Composite Supply
One Price One Invoice	Yes
Principal Component	No
Integral, Incidental or Tie-in Component	No
Same supplier for all components	Yes
VAT Treatment of Supply	VAT shall be charged based on the tax rate applicable to separate components.

4.2.6 SUPPLY via AGENT

Article 9 of Federal Decree Law on VAT:

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

In order to understand this provision, we need to understand the meaning of agency and principal-agent relationship first. The principal-agent relationship is an arrangement in which one entity legally appoints another to act on its behalf. In a principal-agent relationship, the agent acts on behalf of the principal. The formal terms of a specific principal-agent relationship are generally but not necessarily described in the contract. The agent is most often an individual responsible for carrying out the task assigned by the principal. Common examples of the principal-agent relationship include retaining a lawyer to perform legal work, or asking an investment advisor to diversify a portfolio of stocks.

The objective test is generally employed by courts to determine existence of principal-agent relationship. If the objective of the contract between parties is the bind one of them for acts of another then the relationship is that of principal and agent. In simple words, if the parties have agreed that one of them will act on behalf of the other then a principal-agent relationship is found by the courts. Let's understand this by practical business situations cited below.

Example 9: ABC LLC appoints XYZ LLC as sales agent for selling mobile phones in MEA region. The sales order is raised by agent XYZ LLC whenever an order is received from third party in the region. On the basis of sales order received from agent, company ABC LLC raise invoice to third party directly whereas the agent is responsible for delivering the stock and collection of dues from the third party. XYZ LLC is entitled to receive commission against such sales from ABC LLC.

In this arrangement, the relationship between ABC LLC and XYZ LLC is that of principal and agent as the delivery of goods are made by XYZ on behalf of ABC. Thus, the value of supply will be taxable in the hands of principal only as per clause 1 of Article 9 of Law. Accordingly, ABC shall be responsible to pay tax on goods supplied to through agent to third parties.

Example 10: ABC LLC appoints XYZ LLC for distribution of "B" brand mobile phones in MEA region. ABC LLC sells goods to XYZ LLC which in turn sells the product on to his customers, adding a margin to cover his own costs.

In this case, principal to principal relationship exists between ABC and XYZ as XYZ is not selling goods to customers on the behalf of ABC. Therefore, against all sales made by XYZ LLC in independent capacity, it has to account and pay for tax.

4.2.7 SUPPLY BY GOVERNMENT ENTITIES

Article 10 of Federal Decree Law on VAT:

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

Article 10 of Decree Law states that if the government carries out any activity, the same shall be treated as making a supply if below mentioned conditions are satisfied.

- a. Activities are carried out while performing sovereign functions.
- b. Activities are in competition with the private sector.

Let's understand what sovereign functions actually include. Sovereign functions are primarily inalienable functions, which the State only could exercise. Taxation, defence and police functions including maintenance of law and order, legislative functions, administration of law are the sovereign functions of the State.

So, any supply of goods or provision of services by the government will be considered as supply if the same is in competition with the private sector and are carried out in a non sovereign capacity.

4.3 DEEMED SUPPLY

In the previous section, we have seen that a transaction will be considered as Supply and hence taxable only if it is covered under the definition of Supply. However, when a supply does not come within the definition of Supply, it can still be brought under the purview of tax by treating the same as a "Deemed Supply".

Thus, the deeming fiction of the law provides the meaning contrary to the general definition provided under the law.

Article No. 11 of Federal Law on VAT lays down four specific classes of transactions which are deemed as "Supply".

A supply is considered "Deemed" if the supply of goods or services was all or part of a taxable person's assets, but no longer considered to be as such (provided the supply was made without consideration).

Similarly, the supply is “Deemed” if implemented through a transfer by a Taxable Person of Goods forming part of his business assets from the UAE to another VAT-implementing GCC state, or from the Taxable Person’s business in a VAT implementing GCC state to his business in UAE.

The same applies to the supply of goods or services for which Input Tax may be recovered but was used, in part or whole, for purposes other than Business, but only to the extent of non-Business use, as well as for Goods in the ownership of the Taxable Person as at the date of Tax Deregistration.

4.3.1 The Cases of Deemed Supply (Article 11)

As per Article 11 of Federal Decree Law on VAT, the following cases are considered as Deemed Supply:

i) Change of Use of Asset

Goods once received from the supplier during the course of any supply become ‘Business Asset’ in the hands of recipient. Business assets may be capitalized as fixed assets or retained in inventory as current assets. Input tax reduction is availed by the recipient on these goods unless it is disallowed specifically by law. **Then if these business assets, for any reason, are not to be considered as business assets, it would be deemed to be a Supply under clause of Article 11.** Since this change occurs ‘after’ the business assets have been supplied, the same would be deemed to be a supply on the date of such change provided such supply is **without consideration**: for example, donations, gifts, samples, promotions, demo stock, destructive tests, etc.

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.

Let's try to understand this provision with the help of examples given below.

Example 10: ABC LLC is a company whose business is selling cars. The company purchases 10 cars for sale and claimed input tax on the acquisition. The company decided to gift one of the cars as a sales promotion to the winner of lucky draw. In this case, the company has to account for VAT on the car being used for promotion since it will be considered as a “Deemed Supply” of goods.

Example 11: ABC Rent-a-Car LLC bought a motor car to be used as a hire and drive vehicle for his clients. When the permit issued by the Transport Authority expires, the company decides to give it to one of its senior managers in appreciation of a good service. The company has to account VAT on the car since it is a “Deemed Supply” of goods.

ii) Stock Transfer

Taxable Person in one Implementing State (any GCC member country from 2019 onwards) may make ‘stock transfers’ to/from another Implementing State. These transfers may ‘go out’ or ‘come in’ but within GCC countries and not outside GCC region. This provision deems such stock transfers to be Supply.

In case, such stock transfer is considered, by the Unified Customs Law, to be a ‘temporary transfer’ or in case when such stock transfer is via an Agent and the supply is included as a Taxable Supply by the Agent, then this provision will not apply.

Example 12: ABC LLC is a company which is into the business of selling perfumery products in UAE. During the normal course of business, the company transfers stock from Dubai to one of its branches in KSA. In this case, the company has to account for VAT on the stock being transferred to KSA since it will be considered as a “Deemed Supply” of goods within the meaning of this clause.

iii) Non-Business Purpose

Once input tax is recovered, there is a duty imposed on the Taxable Person to apply the supplies in making outward supplies and pay tax accordingly so as to maintain the tax chain. Having recovered input tax, if the supplies are used for any non-business use, it means that to that extent, there will be no payment of tax which is contrary to the objective of law.

Cases where there is a non-business use of supplies includes destruction of inputs, theft, deterioration, personal consumption, pre-production material used, etc. In all such cases, the liability has been cast on the business to pay tax on such supplies. It is to be noted that the tax recovered is not to be reversed but the use itself is taxable.

Goods may expire or may be damaged and subsequently written-off and destroyed in the course of business. If the written-off goods are sold as scrap, it is subject to VAT 5% and the company has to issue a tax invoice. For written-off goods which are disposed off other than by sale, VAT registered person is required to keep the related documents as proof that the goods has been written-off and disposed. For example, if such goods have been destroyed, then a certificate of destruction has to be signed by the company's shareholders or director which is to be kept for audit purpose. Documents that should to be kept by VAT registered person for the written-off goods are as follow:

- (a) Audited report / financial statement and management report;
- (b) Audited accounts reporting the written-off goods;
- (c) Evidence that the asset has no commercial value;
- (d) Evidence that the asset is spoiled / unusable / expired;
- (e) approved letter by relevant body of the government for disposal / destruction (if any)
- (f) Destruction certificate signed by company's chairman / director;
- (g) Other documents as proof the asset has been disposed / destroyed.

It should be noted that although there is no specific provision under UAE VAT laws which requires maintenance of records in case of stock damage, pilferage, loss or destruction, above set of records should be maintained as evidence.

iv) Stock Deregistration

When a person ceases to be registered under VAT, the person may be holding goods such as raw materials, semi-finished stocks, trading stocks, land, plant and machinery at the time of deregistration where input tax on these goods has been claimed. In line with the VAT principles, the person is deemed to be making a supply of goods which formed part of his business asset at the time of deregistration. The person is required to account and pay for the VAT on the supply if the supply of goods is a standard rated supply.

Let's consider an example to clear our understanding about this provision of law.

Example 13: Mr X is a VAT registered supermarket (general store) owner. As his business has substantially reduced over the last year, he has decided to close the business and retire. At the time of deregistration he has goods on hand valued at AED50,000. Mr. X's final VAT return will therefore show his supplies made during the last taxable period plus the AED50,000 value of the goods on hand during the deregistration

Article 11 of Federal Decree Law on VAT:

The following cases shall be considered as Deemed Supply:

1. A supply of Goods or Services, which constituted the whole assets of a Taxable Person or a part thereof, but are no longer considered to be as such, provided that the supply was made without Consideration.
2. The transfer by a Taxable Person of Goods that constituted a part of his business assets from the State to another Implementing State, or from the Taxable Person's business in an Implementing State to his Business in the State, except in the case where such transfer:
 - a. Is considered as temporary under the Customs Legislation.
 - b. Is made as part of another Taxable Supply of these Goods.
3. A supply of Goods or Services for which Input Tax may be recovered but the Goods or Services were used, in part or whole, for purposes other than Business, and such supply shall be considered as deemed only to the extent of the use for non-business purposes.
4. Goods and Services that a Taxable Person owns at the date of Tax Deregistration.

4.3.2 EXCEPTIONS FOR DEEMED SUPPLY

While cases of Deemed Supply have been very specifically provided in article 11, Article 12 of Decree Law read with Article 5 of the Executive regulation on VAT provides certain exceptions. There are five specific classes of exception in this article where the transactions are **NOT considered Supply**. The same has been discussed below in details.

i) Input Tax not recovered

Deemed supply is restricted to goods on which the person has already claimed the input tax. However, there is no deemed supply where the business can prove that no credit for input tax has been claimed on such supply of goods and services. So, even if the use of the asset has been changed or the same is used for non business purpose, the same will not be taxable if no input tax has been claimed at the time of acquisition of the goods and services.

ii) Exempted Supply

In case of exempted supply, deeming provision will not be applicable. It means such supplies can't be treated as deemed supply even if the same is not used for business. The rationale behind this provision exempted supplies are not subjected to tax at any stage of the supply chain, so there is no point considering it as Deemed Supply.

iii) Capital Asset Scheme

Capital Asset has been defined under Article 57 of the Executive Regulation on VAT as **Capital Asset** is a single item of expenditure of the Business amounting to AED 5,000,000 or more excluding Tax, on which Tax is payable and which has estimated useful life equal or longer than:

- a) 10 years in case of a building or a part thereof.
- b) 5 years for all Capital Assets other than buildings or parts thereof.

If any capital asset has ceased to be used for the business or is destroyed, sold or otherwise disposed of before the end of the period referred as above, adjustment of the input tax recovered at the time of acquisition needs to be done in accordance with the provisions of Capital Asset Scheme given under Article 58 of the Executive Regulation on VAT.

Where any Input Tax Credit adjustment has been done as per Article 58, the Capital Asset in question cannot be considered as a Deemed Supply as per clause 1 (c) of Article 7 of Executive Regulation on VAT. Thus, this provision effectively operates to save supplies that have complied with CAS.

iv) Samples & Gifts

Deemed Supply includes both Samples and commercial gifts. However, this provision excludes such transactions 'up to a value' to be specified by Executive Regulation from the operation of the provisions of article 11. The Regulations provides a value limit of AED 500 within a 12-month period in respect of gifts to each recipient and an overall cap of AED 2,000 (Output VAT) on all deemed supplies by the taxable person in the same period.

In simple words, the overall limit for such supply of gifts and samples during the last 12 month is AED 40,000 considering the standard tax rate of 5%. Any supply of gifts and samples within the limit will not be taxable if both the below conditions are satisfied.

- a) The value of supply to **each recipient** within a 12-month period shall not exceed AED 500 and;
- b) The total value of supply within a 12-month period shall not exceed AED 40 000.

Article 12 of Federal Decree Law on VAT

A supply is not considered as deemed in the following cases:

1. If no Input Tax was recovered for the related Goods and Services.
2. If the supply is an Exempt Supply.
3. If the recovered Input Tax has been adjusted for the Goods and Services pursuant to the Capital Assets Scheme.
4. If the value of the supply of the Goods, for each Recipient of Goods within a 12-month period, does not exceed the amount specified in the Executive Regulation of this Decree-Law, and the Goods were supplied as samples or commercial gifts.
5. If the total Output Tax due for all the Deemed Supplies per Person for a 12-month period is less than the amount specified in the Executive Regulation of this Decree-Law.

Article 5 of Executive Regulation on VAT:

The following are the exceptions related to Deemed Supply:

1. The supply shall not be regarded as a Deemed Supply in any of the following instances:
 - a. Where the Input Tax on the relevant Goods or Services is not recovered.
 - b. Where the supply is exempted.
 - c. Where the refunded Input Tax on Goods and Services is amended according to the Capital Assets Scheme.
 - d. Where the value of the supply of Goods for each recipient, within a 12-month period, does not exceed AED 500, and the supply made is to be used as samples or commercial gifts.
 - e. Where the total of Output Tax payable on all Deemed Supplies for each Person for a 12-month period is less than AED 2,000.
2. For the purposes of Paragraphs (d) and (e) of Clause (1) of this Article, the 12-month period is a period preceding the end of the month in which the Person makes a supply referred to in either of those Clauses.

MODULE 5

VALUE OF SUPPLY

ARTICLES OF DECREE LAW ON VAT RELEVANT TO THIS MODULE

Article (2)	Scope of Tax
Article (3)	Rate of Tax
Article (34)	Value of Supply
Article (35)	Value of Import
Article (36)	Value of Supply for Related Parties
Article (37)	Value of Deemed Supply
Article (38)	Tax-Inclusive Prices
Article (39)	Value of Supply in case of Discount or Subsidies
Article (40)	Value of Supply of Vouchers
Article (41)	Value of Supply of Postage Stamps
Article (42)	Temporary Transfer of Goods
Article (43)	Charging Tax based on Profit Margin

ARTICLES OF EXECUTIVE REGULATION ON VAT REEVANT TO THIS MODULE

Article (25)	Market Value of Supply
Article (26)	Apportionment of Single Consideration
Article (27)	Price Excluding Tax
Article (28)	Discount, Subsidies and Vouchers
Article (29)	Profit Margin Scheme

5.1 INTRODUCTION

Determination of “Value of Supply” is important under VAT as without it amount of tax can’t be calculated. Generally, VAT, Import Duties or Consumption Taxes are “Ad Valorem” taxes. In simple words, such taxes levied as a percentage of value of the item it is imposed on, and not on the item’s quantity, size, weight, or other such factors.

However, there is an exception to this rule provided by the statute. Article (43) read with Executive Regulation to this decree provides for the circumstances where Tax is charged on profit margin basis. Article (43) reads as follows:

“The Registrant may, in any Tax Period, calculate and charge Tax based on the profit margin earned on the Taxable Supplies as specified in the Executive Regulation of this Decree-Law and not based on the value of these supplies, and shall notify the Authority of the same”

Further, 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

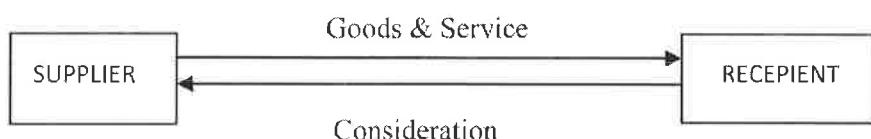
Tax Amount = Tax Rate (%) multiplied by Value of (Taxable Supply + Deemed Supply + Imports)

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

5.2 VALUE OF SUPPLY - CONSIDERATION

The value of a supply is the value on which VAT is chargeable. Value of supply in turn depends on whether there is a consideration or not. The importance of consideration can be understood from the definition of Taxable Supply given under Article 1 of Decree Law which defines it as a supply of Goods or Services for a Consideration by a Person conducting Business in the State, and does not include Exempt Supply. The definition itself implies that if there is no consideration there will be no taxable supply unless the same is treated as Deemed Supply. Therefore, the term Consideration needs to be analyzed in details.

Consideration has been defined by law 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.*"



From the above definition, following conclusions can be drawn.

1. It refers to the payment received by the supplier or any other person on the behalf of supplier in relation to the supply. There is no reference as to the person who is required to pay consideration and who is required to collect the money. Therefore, a third party to a contract can also contribute towards consideration.
2. Consideration includes not only what has been paid but also which supplier may expect to receive in future.
3. Consideration can be in the form of money or other acceptable forms of payment. With the emergence of new technologies, there are many other forms of settlement of consideration.
4. The Phrase "*All that is received or expected to be received for the supply of Goods or Services*" means there must be direct link between supply of goods / services and consideration. As long as there is a direct link between the supply made and consideration given, there is a Supply under VAT.

Example 1: ABC LLC enters into contracts with a XYZ LLC to provide gift hampers worth AED 10,000 to its business clients during Ramadan. The consideration for the supply of the hampers is paid by XYZ as stipulated in the contract. The supply of hampers to the clients by XYZ is a taxable supply made by Flora to Angel since there is a direct link between the supply made and the consideration given.

Payments which may not be Consideration

Payment received is not a consideration when there is no direct link between the payment and the supply or there is no supply of goods or services in return for the payment. The following are the instances where there is no consideration.

i) Fine and Penalty Charges

If a payment is a fine or a penalty, then it is not a consideration. However, if the fine or penalty is actually an additional consideration for a supply in fulfilment of the terms and conditions of the agreement or arrangement, it is a consideration for the supply and is subject to VAT.

For example, a fine that is imposed on illegal parking is not a consideration.

However, a fine or a penalty charge for late payment of receivables against sale of goods to customers is a consideration for a supply.

ii) Grants and Donation

Monetary donation which is freely given with no expectation of anything in return is not a consideration for any supply.

iii) Sponsorship Payment

Sponsorship payment which involves the sponsor receiving clearly identifiable benefits in return, either in terms of advertising and publicity is a consideration for any supply. On the other hand, if the sponsorship does not involve any identifiable benefits in return, then the sponsorship payment is not a consideration for the supply.

iv) Project Funding

Businesses and government bodies may sponsor a research and development project by contributing funds to the project. The funding of the project is not a consideration for a supply since there is no direct benefit flowing to the business.

iv) Deposits

Deposit whether refundable or not refundable or in the form of security given in respect of any supply of goods or services, is not part of the consideration for the supply if it does not form part of the payment for the supply.

Generally most deposit payments represent consideration, as the amount paid over is intended by the parties to the contract to be offset against the purchase price once the supply has been made. Such payments fall within the scope of taxable supply and hence, tax must be accounted for on receipt of the deposit.

Example 2: ABC LLC awards a building contract to XYZ Construction LLC. As per the contract XYZ is required to submit a security deposit in the form of a banker's guarantee of 5% of the contract sum for non-performance. Since this deposit will be refunded upon completion of the contract, it is not subject to VAT as there is no supply made.

5.2.1 Value of Supply Where Consideration is Wholly in Money

Clause 1 of the Article 34 of the Decree Law on VAT deals with cases where consideration received is wholly in money. It would be easy in such a case to determine the value of goods if the consideration is wholly in money.

The value of supply can be equated as follows in case where consideration is fully received in monetary form.

$$\text{Value of Supply} + \text{VAT} = \text{Money Consideration}$$

Example 3: A local VAT-registered supermarket sells a packet of dry fruits for AED40 before the addition of VAT. The value of supply in such a case will be AED 40. The VAT amount will be 5% of the value of supply, which is AED2.00. The consideration in money will be the addition of the value of supply and the VAT which is AED 40.

Consideration in money refers to payment made in cash, cheque, credit card, monetary voucher, token or other means whether in physical or electronic form.

Example 4: Mr. A downloaded an application from a web site to his android phone. The application cost him AED 525 which is paid via credit card. The monetary consideration in this case is AED 525 which will be inclusive of VAT (5%). Thus, the value of supply is AED 500 and VAT levied thereon is AED 25.

Note that for consideration inclusive of VAT the VAT amount to be calculated using the following formula.

$$\text{VAT Amount} = (\text{Total Consideration} \times \text{Rate of VAT}) \div (100 + \text{Rate of VAT})$$

5.2.2 Value of Supply Where the Consideration is not Wholly in Money

A. CONSIDERATION NOT IN MONEY

It refers to a consideration made in the form other than money. It covers anything done or given or made in exchange for the supply.

For example:

- (a) Barter transaction;
- (b) Exchange of service; or
- (c) Condition imposed on making the supply.

Non-monetary consideration exists when a supply is made in return for payment in the form of goods or services. In this situation it is necessary to determine the amount that would have been given in money for the supply if something had been done instead of monetary consideration.

A typical example of such a case is illustrated below.

Example 5: A marketing company offers a Supermarket with a supply of 100 cartons of mineral water at a price which is 50% lower from the market price, on the conditions that the supermarket provides a special shelf at the cashier's counter for the company to display its product for 2 weeks.

By agreeing to provide a special shelf, the supermarket is providing nonmonetary consideration, with the value equals to the 50% reduction in the price of the mineral water.

B. CONSIDERATION NOT WHOLLY IN MONEY (PARTLY NON-MONETARY)

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 wholly in money, value of supply can be mathematically presented as

$$\text{Value of Supply} = \text{Monetary Consideration} + \text{Market Value of Non Monetary part of the Consideration}$$

Example 6: A new model of I phone is supplied for AED 3000 along with the exchange of old model of I phone and the price of new model without such exchange is AED 4000.

In the above example, the recipient of goods pays the consideration to the supplier in both monetary and non monetary form. Total consideration paid consists of money which is AED 3000 and old model of I phone which is the non monetary consideration. Thus, value of non monetary component of consideration in this case shall be AED 1000 and total Value of Supply shall be equal to AED 4000.

In situations where consideration is partly in monetary form and partly in non-monetary form, the value of the supply depends on the market value of the non-monetary part of the consideration. Thus, market value plays an important part in determination of value of supply in those cases.

MARKET VALUE RULE

Ascertaining market value may pose challenge in absence of specific rules provided by the law. In order to mitigate litigation risk with respect to determination of "Market Value", specific provision has been given by the Article 25 of the Executive Regulation on VAT.

As per Article 25, there are 3 rules for determining market value of supply. These rules shall be applied on the hierachal order. Let's discuss these rules below one by one.

Rule 1: The Market Value of any supply of goods or services at a given date is the consideration in money in which the supply of those goods or services would generally fetch, if supplied under the similar circumstances at that date and made between persons who are not connected in any manner.

In other words, if the same supply exists at or about the same time and under same circumstances, the arm's length transaction price of this supply is considered as the Market Value.

Market value of goods and services at a given date = Consideration in money that will be received if the same goods and services are supplied to an **independent party** at the **same date** under **similar circumstances**.

So, there are three conditions that need to be considered at the time of application of this rule.

- i) The transaction is made between independent persons so that supply is at arm's length price. If the two parties are related, market value will not be determined on the basis of this rule.
- ii) The supply of goods or services in question has been made at the same or about the same time.
- iii) The supply is under similar circumstances. If the below conditions are satisfied during the course of the trade, it can be inferred that supply has been made under similar circumstances.
 - a) The recipient of the supply is at the same or substantially the same trade level; for e.g. all recipients are wholesalers.
 - b) The quality, reputation and nature of the supply are same or identical and
 - c) The size, quantity or duration of the supply is the same.

Rule 2: Where the market value of a supply of Goods or Services at a given date cannot be determined as mentioned under Clause (2) of this Article, the market value is the Consideration in money which a similar supply would achieve if supplied in similar circumstances at that date in the State, being a supply freely offered and made between Persons who are not connected in any manner.

In simple words, **Market Value** of the goods and services in question shall be the value of **Similar Supply** being freely offered and made between persons who are not connected or related.

The phrase "similar supply", in relation to a supply of Goods or Services, means any other supply of Goods or Services that, in respect of the characteristics, quality, quantity, functional components, materials, and reputation, is the same as, or closely or substantially resembles that supply of Goods or Services.

Thus, there are three conditions that need to be considered at the time of application of this rule.

- i) **The value of similar goods or services** supplied at or about the same time needs to be considered for the purpose of determining market value of goods and services in question.
- ii) The value of similar goods and services will be considered as market value only if **the transaction is made freely between independent persons**. If the two parties are related, market value will not be determined on the basis of this rule.
- iii) The supply of similar goods and services is under **similar circumstances**. If the below conditions are satisfied during the course of the trade, it can be inferred that supply has been made under similar circumstances.
 - a) The recipient of the supply is at the same or substantially the same trade level; for e.g. all recipients are wholesalers.
 - b) The quality, reputation and nature of the supply are same or identical and
 - c) The size, quantity or duration of the supply is the same.

Example 7: An accountancy firm agrees to prepare the books for an IT company for the financial year 2018. In return, the company designs a specific computer program for the accountancy firm. The taxable supply of the accountancy services is for the consideration of the specific computer program. As there is no identical computer program available for valuation purposes, reference may be made to the price of a similar computer program performing similar functions.

Rule 3: Where the market value of any supply of Goods or Services cannot be determined as mentioned under Clauses (2) and (3) of this Article, the market value shall be determined by reference to the replacement cost of identical Goods or Services, with such supply being offered by a supplier who is not connected to the Recipient of Goods or Recipient of Services in any manner.

In simple words, **Market Value** of the goods and services in question shall be the **Replacement cost of Identical Supply** being freely offered and made between persons who are not connected or related. It needs to be noted that the term "Replacement Cost" has not been defined under VAT laws.

Thus, below stipulated conditions that needs to be considered at the time of application of this rule. This rule will be applicable only if market value cannot be determined on the basis of Rule 2 and Rule 3.

- i) **The Replacement cost of identical goods or services** needs to be as market value of goods and services in question.
- ii) **The transaction is made freely between independent persons.** If the two parties are related, market value will not be determined on the basis of this rule.

Article (34) of Federal Law No. (8) of 2017 on VAT:

The value of supply of Goods or Services for Consideration shall be as follows:

1. If the entire Consideration is monetary, the value of the supply shall be the Consideration less the Tax.
2. If all or part of the Consideration is not monetary, the value of the supply is calculated as the overall monetary part plus the market value of the non-monetary part of the Consideration, and shall not include the Tax.
3. For Services received by the Taxable Person who is obligated to calculate the Tax in accordance with Clause (1) of Article (48) of this Decree-Law, the value of the supply shall be equal to the market value of the consideration without addition of the Tax on that supply.
4. If the Consideration is related to matters other than the supply of Goods or Services, the value of the supply shall be equal to the part of the Consideration that is related to such supply as stated in the Executive Regulation of this Decree-Law.
5. The Executive Regulation of this Decree-Law shall specify the rules to determine the market value.

5.3 VALUE OF SUPPLY – EXCEPTION TO MARKET VALUE RULE

Generally, in all cases other the cases specifically provided in the law, transaction value i.e. the monetary consideration received by the supplier of goods or services shall be accepted as the value of taxable supply and taxed accordingly.

The law has provided specific circumstances where value of taxable goods or services will be determined as per specific provisions given in the decree law.

5.3.1 Value of Supply for Related Parties

As an exception to Articles (34) and (35) of this Decree-Law, the value of the supply or Import of Goods or Services between Related Parties shall be considered equal to the market value if the following conditions are met:

1. The value of the supply is less than the market value.
2. If the supply is a Taxable Supply and the Recipient of Goods or Recipient of Services does not have the right to recover the full Input Tax on such supplies. .

Related Parties has been defined under Article 1 of Federal Law No. (8) of 2017 on VAT.

It reads as "*Two or more Persons who not separated on the economic, financial or regulatory level, where one can control the others either by Law, or through the acquisition of shares or voting rights.*"

As per the definition, relationship is being established based on the basis of control. This shall also include all the holding – subsidiary relationships, including subsidiary of a subsidiary companies.

The key term used in this clause is|control. In addition to shareholding, control is said to exist if one person can exercise legal restraint over the other. For example: A Ltd hold 60% shares of B Ltd and B Ltd holds 55% shares of C Ltd. It can be said that A Ltd, B Ltd and C Ltd are all related parties.

Example 8: ABC LLC and DEF are related parties as per the given definition in Article 1 of this Decree law; wherein ABC is a supplier of house-keeping services and DEF is engaged in letting/leasing out of both commercial and residential properties. ABC charged AED 50,000 for supplies made in a month which has market value of AED 60,000.

Case (i): ABC is supplying house-keeping services taxable at 5% to B. In this case, DEF is not eligible to recover full Input tax on services received from ABC because the said input would also be used by DEF LLC in a provision of letting out of residential properties, being exempted supplies under Article 46(2). Thus, the value of supply in this case would be market value of such service i.e. AED 60,000 which is not the actual consideration paid.

Case (ii): In the above case, if the said services were used by DEF only in provision of letting out of commercial property which is fully taxable. DEF will be eligible to recover full input tax paid on the said input services. Thus, the provisions of Article 36 do not apply here and value of such supply will be the actual consideration charged i.e. AED 50,000.

5.3.2 Value of Deemed Supply

Article 37 of the decree law reads as

"As an exception to Articles (34) and (35) of this Decree-Law, the value of the supply in the case of a Deemed Supply when the Taxable Person purchases Goods or Services to make Taxable Supplies but does not use those Goods or Services for that purpose, will be equal to the total cost incurred by the Taxable Person to make this Deemed Supply of Goods or Services."

The Cases of Deemed Supply

The following cases shall be considered as Deemed Supply as per Article 11 of Federal Law No. (8) of 2017 on VAT:

1. A supply without consideration of Goods or Services, which ceases to be the whole or part of assets of a taxable person.
2. The transfer by a Taxable Person of Goods that constituted a part of his business assets from the State to another Implementing State, or from the Taxable Person's business in an Implementing State to his Business in the State, except in the case where such transfer:
 - a. Is considered as temporary under the Customs Legislation.
 - b. Is made as part of another Taxable Supply of these Goods.
3. A supply of Goods or Services for which Input Tax may be recovered but the Goods or Services were used, in part or whole, for purposes other than Business, and such supply shall be considered as deemed only to the extent of the use for non-business purposes.
4. Goods and Services that a Taxable Person owns at the date of Tax Deregistration.

In simple words it can be concluded that following shall be considered as deemed supply and taxable accordingly.

- a) Transfer of goods and services without consideration. This will cover cases of gift, samples.
- b) Transfer of business assets are taxable and are considered deemed supply if transfer takes place from UAE to other VAT implementing GCC state or vice versa.
- c) Purchase of goods or services on input tax credit has been taken, but such goods or services are used for purpose other than business. This includes cases of pilferage, destruction of stock etc.
- d) Goods in the ownership of taxable person at the time of deregistration.

In all the above cases of deemed supplies, value of supply that will be subjected to VAT shall be the total cost incurred by the taxable person as there is no consideration charged explicitly by the supplier.

5.3.3 Value of Import

In general, goods destined for the U.A.E.'s Customs Zones are subject to duty under the GCC's Common Customs Law while goods destined for Free Trade Zones are exempt from duty. As a member of the GCC, the U.A.E. applies the GCC common external tariff comprising of **four ad-valorem tariff rates: zero, 5 percent, which is the general tariff rate, and 50 percent and 100 percent, applied on alcohol and tobacco, respectively.** Nearly 97 percent of all tariff lines are ad valorem; **duties are levied on the CIF value of imports.** Consequently, the import duty and taxes payable are calculated on the complete shipping value, which includes the cost of the imported goods, the cost of freight, and the cost of insurance. There are no additional taxes for products shipped to the U.A.E.

Common custom law for GCC may be referred to in this regard. Article 26 of the Common Custom Law provides that "*The value for customs purposes shall be calculated according to the rules and principles set forth in the rules of implementation.*"

Article 35 of the Federal Decree Law on VAT:

"The Import value of Goods consists of:

1. The customs value pursuant to Customs Legislation, including the value of insurance, freight and any customs fees and Excise Tax paid on the Import of the Goods. Tax shall not be included in the Value of the Supply.
2. If it is not possible to determine the value pursuant to Clause (1) of this Article, the value shall be determined based on alternate valuation rules stated in the applicable Customs Legislation".

Methods of Customs Valuation as specified in Rules of Implementation of GCC Common Custom Law:

A. Imported goods will be valued on the basis, and in the order, of the following:

- 1) The transaction value provided for in Clause IV;
- 2) The transaction value of identical goods provided for in Clause V (a), if the transaction value cannot be determined according to Clause IV;
- 3) The transaction value of similar goods provided for in Clause V (b), if the transaction value of identical goods cannot be determined;
- 4) The deductive value provided for in Clause VI, if the transaction value of similar goods cannot be determined;
- 5) The computed value provided for in Clause VII, if the deductive value cannot be determined; or
- 6) The flexible method provided for in Clause VIII, if the computed value cannot be computed.

B. The importer may request application of the computed value method before the deductive value method. Such request must be made at the time of submitting the Customs Declaration to the customs port. If the importer makes the request, but the value of the imported goods cannot be determined using the computed value method, the goods will be valued using the deductive value method if it is possible to do so. If it is found impossible, the value will be determined according to Clause VIII.

So, the above rules of implementation specify 6 methods of determination of value of imported goods. These are namely a) Transaction value b) Transaction value of identical goods c) Transaction value of similar goods d) Deductive Value e) Computed Value and f) Flexible method. For more details, refer Module "Guide for Importers" of Part C of the book.

The **Bill of Entry** issued by the custom authority will be considered as a reference document for the purpose of determination of Value of Supply of Imported Goods.

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

Example 9: ABC LLC, a company incorporated and registered in UAE imported goods from China for a customs value of AED 500,000 as per Bill of Entry. The rate of import duty is 5%. The value on which VAT is chargeable is as follows:

Case I: The imported goods are subject to excise tax

Customs Value = AED 500,000

Import duty 5% = (AED 500,000 x 5%) = AED 25,000

Total value for VAT = AED 500,000 + AED 25,000 = AED 525,000

VAT Amount = 5% of AED 525,000 = AED 26,250

Case II: The imported goods are subject to excise tax of 50% i.e. in the case of Excise dutiable items such as, Carbonated drinks, Energy drinks etc.

Total value of Import as per Bill of Entry = AED 500,000

Add: Custom Duty @ 5% = AED 25,000

Total Import value for Excise Tax = AED 525,000

Add: Excise Tax (on the above) @ 50 % = AED 262,500

Total Value after Excise Tax = AED 525,000 + AED 262,500 = AED 787,500

Total VAT = 5% of AED 787,500 = AED 39,375

- **Supply in Foreign Currency** - For supplies involving foreign currencies, any sum relevant for determining value (e.g. the amount stated in Tax Invoice) must be converted into UAE Dirham according to the exchange rate approved by the Central Bank at the date of supply.
- It should be noted that VAT is accounted for on the basis of Reverse Charge Mechanism in respect of imported goods and services. In simple words, the amount of output VAT can be claimed as Input in books as well at the time of importation of goods and services. Output VAT is not required to be paid in cash at the time of importation of goods.

5.4 VALUE OF SUPPLY – SPECIFIC CASES

Article 39, 40, 41 and 42 of the Federal Law No (8) of 2017 on VAT deals with determination of taxable supplies in specific cases.

5.4.1 Value of Supply in Case of Discount or Subsidies

When discounts are made before or after the date of Supply or subsidies provided by the State to the supplier for that supply, the value of the supply shall be reduced in proportion to such discounts or subsidies.

Any discount allowed before or after the time of supply shall not be included in the value of supply. It is because VAT amount cannot be charged on the discount amount which is neither paid nor payable in case of sale of the goods. Similar is the case with the subsidies provided by the state. Subsidies given by the state shall not form part of the value of supply. Accordingly, no tax is payable on the subsidies given by the government.

If the business offer a discount on condition that something happens later (contingent discount e.g. on condition that the customer buys more), then the value is based on the full amount paid. If the customer later earns the discount, the value is then reduced and can be adjusted by issuing a credit note.

Example 10: X LLC is a manufacturer who manufactures mobile phones and has appointed distributors for selling goods. As per the distribution agreement X LLC has to pay target bonus of 5% by way of credit note for those distributors who have achieved target of AED 1 million.

One of the distributors achieved the target and accordingly has been issued credit note amounting to 70,000 AED. In this case discount given by X LLC by issuance of trade note shall not form part of the value of supply and accordingly input tax credit received by the distributor on AED 70,000 shall be reversed.

Article 39 – Value of Supply in case of Discounts/Subsidies

1. The value of supply may be reduced in the case of a discount if the following conditions are met:
 - a. The customer has benefited from the reduction in price.
 - b. The supplier funded the discount.
2. The value of a discount shall be the amount by which the Consideration is reduced.
3. The value of a discount shall not include the value of any Voucher used, and any such reduction will be ignored unless that Voucher was provided for no Consideration.

5.4.2 Value of Supply of Vouchers

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

The term “Voucher” has been defined in the decree law as “*Any instrument that gives the right to receive Goods or Services against the value stated thereon or the right to receive a discount on the price of the Goods or Services. Vouchers do not include postage stamps issued by the Emirates Post Group.*”

A Voucher or Coupon is a document that can be redeemed for a financial discount or rebate when purchasing a product. Customarily, coupons are issued by manufacturers or by retailers, to be used in retail stores as a part of sales promotions. If the coupon is issued by the retailer, it means the product was never offered at the original price and the coupon represents a reduction in the amount paid and the sales prices.

As per Article (7) the sale or issuance of any Voucher shall be considered as supply only when the received Consideration exceeds its advertised monetary value. In such a case, it shall be considered as supply and taxable accordingly. Its value shall be the difference between the consideration received by the supplier of the Voucher and the advertised monetary value of the Voucher.

Example 11:

The face value of the Voucher = AED 250

The sale value of the Voucher (actual consideration received) = AED300

VAT chargeable = (AED300 – AED250) X 5% = AED 2.5

Hence, VAT on value in excess of the face value of Voucher will be charged at the time of issue of Voucher whereas VAT on the face value of the Voucher shall be charged at the time of redemption of Voucher.

Generally speaking, it is rare that vouchers are issued for a price more than its advertised monetary value so that it becomes taxable. So, as per the general practice, issue of sale of vouchers shall be exempted from VAT.

Where the Voucher was issued and sold by the Supplier for Consideration that is less than the value stated on the Voucher, the value of a discount shall be the difference between the value of the Voucher and the Consideration paid for that Voucher.

5.4.3 Value of Supply of Postage Stamps

Article 41 of the Federal Decree Law provides that the value of supply for postage stamps that allow the user to use postal services in the State shall be the amount shown on the stamp.

5.4.4 Value of Supply in Case of Temporary Transfer of Goods from Designated ZONE

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

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

There are over 45 free zones in UAE and 20 in Dubai alone and each caters to a specific business category. These zones offer the following major advantages to the enterprise if they are set up in these zones.

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

If we look up the definition, these trade free zones are not necessarily be the “Designated or VAT Free” Zones.

The following free zones have been notified by Cabinet Decision No. (59) of 2017 on Designated Zones.

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

If Goods are transferred temporarily from the domestic market into any of the Designated Zones mentioned above or outside the State for completing the manufacturing or repair and later on to re-imported into the State, the value of the supply when re-Imported shall be the value of the Services rendered by the Designated Zone enterprise.

In simple words, VAT shall be charged on the total value addition made on such goods in the form of manufacturing or repairing done in the Designated Zones.

For instance,

Value when transferred to Designated Zone = AED 20,000

Value of services rendered /Value addition made = AED 30,000

Total value after manufacturing/ repair or further process = AED 50,000

Value of Supply When Re-Imported from Designated Zone to Mainland = Value of services rendered/ value addition made = AED 50,000. Hence, VAT has to be charged on AED 50,000/-

5.5 VALUE OF SUPPLY – TAX INCLUSIVE

In the case of taxable supplies, displayed price / published price shall include the Tax as per Article 38 of Federal Decree Law on VAT. Instances where prices do not include tax shall be determined by the executive regulations of this Decree law. Accordingly, Article 27 of Executive Regulation on VAT contains instances and conditions where the published price is exclusive of Tax.

- The Taxable Person shall declare prices as being exclusive of Tax in the following cases:
 - a. The supply of Goods or Services for Export.
 - b. Where the customer is a Registrant.
 - c. Import of Concerned Goods and Services by Taxable Person.
 - d. Where a Registrant makes a Taxable Supply to another Registrant of any crude or refined oil, unprocessed or processed natural gas, or any hydrocarbons, and the Recipient of these Goods intends to either resell the purchased Goods as crude or refined oil, unprocessed or processed natural gas, or any hydrocarbons, or use these Goods to produce or distribute any form of energy.
- Where the declaration of prices as being exclusive of Tax applies, the price should be clearly identified as being exclusive of Tax.

5.6 PROFIT MARGIN SCHEME

VAT is normally charged on the full value of goods sold. However, the Profit Margin Scheme allows an eligible person who meets all the conditions imposed under the Margin Scheme to calculate and **charge VAT on the Margin** i.e. the difference between the price at which the goods are supplied (selling price) and the price at which the goods were acquired (purchase price). If there is no margin (because the purchase price exceeds or equals to the selling price), then no VAT is imposed for such supply. Since VAT is charged on the margin, no credit of Input Tax thus paid can be claimed or recovered.

As per Article 29 of the Executive Regulation on VAT, Profit Margin Scheme shall be applicable only if the conditions as stipulated there under are met. Let's discuss all these points stated below.

The Scheme is optional. A Taxable Person may not elect to calculate Tax by reference to the profit margin in respect of specified Goods if a Tax Invoice or other document is issued for that supply mentioning an amount of Tax chargeable on the supply.

I. Goods Qualifying under the Scheme:

The scheme is only applicable to taxable person who are dealing in following **specified goods**. There are 3 types of goods which are covered under the scheme.

- a) Second-hand Goods (These are tangible movable property that is suitable for further use as it is or after repair)
- b) Antiques (Goods which are more than 50 years old)
- c) Collector's items. (It includes coins, stamps, currencies and other items of scientific, historical and archaeological interest.)

II. Person Eligible for the Profit Margin Scheme

The Taxable Person may calculate Tax on any supply of Goods by reference to the profit margin only if all of the following conditions are satisfied:

- a) The taxable person has made supply of goods specified under the scheme (e.g. second-hand goods, antique goods, collector's items); and
- b) Those specified items are purchased from non-registered person or from taxable person who supplied specified goods under profit margin scheme and charged tax accordingly; and
- c) The taxable person has not claimed credit of input tax on goods supplied.

III. Maintenance of Records

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

The records may be maintained by the registrant in the format given in **Exhibit I** below

Exhibit I: Example of a Margin Scheme Record

No	Sell			Purchase			Margin inclusive VAT 5%	VAT Amount		Additional Information		
	Date	Inv No.	Amount (AED)	Date	Inv No.	Amount (AED)				Regd. No / Chassis No	Make	Others
1.	10.1.2018	XXX1	29,350	1.1.2018	I001	22,000	7,350	350	Jun 2015	xxxxxxxx	Car - Ford	xxxxxxx
2.	05.2.2018	XXX2	10,000	10.1.2018	ABC1	5,000	5,250	250	Aug 2015	xxxxxxxx	Honda	Civic

Calculation of VAT under Profit Margin Scheme

Calculation of Tax under the Scheme has been explained with the help of Example given below.

Example 12: ABC LLC, a car dealer bought a used car from Mr. X who is a non-VAT registered person, at a price of AED 40,000. ABC LLC then sells the used car to an individual (non-VAT registered person), Mr. Y, for AED 50,000 using the margin scheme. The calculation of VAT is shown in the table below:

Selling Price	AED 50,000
Purchase Price	AED 40,000
Gross Margin	AED (50,000 – 40,000) =AED 10,000
VAT	5/105 x AED 10,000 =AED 476.00 (not to be shown on the invoice)

Value of the car	Selling price less VAT = AED (50,000 – 476.00) = AED 49,524.00
Output tax (to be accounted by ABC)	AED 476.00
Input tax (for ABC)	AED 0.00 (no VAT charged to ABC and thus no input tax to be claimed by ABC)

Charging Tax based on Profit Margin – Article 43 of Federal Decree Law on VAT

1. The Registrant may, in any Tax Period, calculate and charge Tax based on the profit margin earned on the Taxable Supplies as specified in the Executive Regulation of this Decree-Law and not based on the value of these supplies, and shall notify the Authority of the same.
2. The Executive Regulation of this Decree-Law shall specify the conditions to be met for the application of the provisions of this Article.

Accounting for Tax on the Margin – Article 29 of Executive Regulation on VAT

1. The Taxable Person may calculate Tax on any supply of Goods by reference to the profit margin in the following situations:
 - a. Where he made a supply of Goods mentioned in Clause (2) of this Article which were purchased from either:
 - 1) A Person who is not a Registrant.
 - 2) A Taxable Person who calculated the Tax on the supply by reference to the profit margin.
 - b. Where he made a supply of Goods for which Input Tax was not recovered in accordance with Article (53) of this Decision.
2. The Goods to which Clause (1) of this Article refers are Goods which have been subject to Tax before the supply which shall be subject to the profit margin scheme and those Goods are:
 - a. Second-hand Goods, meaning tangible moveable property that is suitable for further use as it is or after repair.
 - b. Antiques, meaning goods that are over 50 years old.
 - c. Collectors' items, meaning stamps, coins and currency and other pieces of scientific, historical or archaeological interest.
3. A Taxable Person may not elect to calculate Tax by reference to the profit margin in respect of Goods referred to in paragraph (a) of Clause (1) of this Article if a Tax Invoice or other document is issued for that supply mentioning an amount of Tax chargeable on the supply.
4. The profit margin is the difference between the purchase price of the Goods and the selling price of the Goods, and the profit margin shall be deemed to be inclusive of Tax.
5. The Taxable Person must keep the following records in respect of supplies made in accordance with this Article:
 - a. A stock book or a similar record showing details of each Good purchased and sold under the profit margin scheme.
 - b. Purchase invoices showing details of the Goods purchased under the profit margin scheme. Where the Goods are purchased from Persons who are not Registrants, the Taxable Person must issue an invoice showing details of the Goods himself, including at least the following information:

- 1) The name, address and Tax Registration Number of the Taxable Person.
 - 2) The name and address of the Person selling the Good.
 - 3) The date of the purchase.
 - 4) Details of the Goods purchased.
 - 5) The Consideration payable in respect of the Goods.
 - 6) Signature of the Person selling the Good or authorized signatory.
6. Where a Taxable Person has charged Tax in respect of a supply with reference to the profit margin, the Taxable Person shall issue a Tax Invoice that clearly states that the Tax was charged with reference to the profit margin, in addition to all other information required to be stated in a Tax Invoice except the amount of Tax.

5.7 CONCLUDING SUMMARY

Our entire discussion on “Value of supply” has been summarised and tabulated below for quick recap.

Type of Transaction	Valuation Method
Where the consideration is monetary	Actual consideration paid or payable
Where consideration is non monetary	Market value of non monetary part of consideration
Import of Goods	Value including insurance, freight, customs fees and excise tax paid on imported goods as per the provisions of common custom law of GCC
Supply involving related party	Market value of supply if value charged is less than the market value of supply
Deemed Supply	Cost incurred to make deemed supply
Goods eligible under Profit Margin Scheme	VAT is charged on the Profit Margin. The profit margin is the difference between the purchase price of the Goods and the selling price of the Goods, and the profit margin shall be deemed to be inclusive of Tax.

As evident from the above table, determination of the value of taxable supply can't be a difficult proposition as in most of the cases; the taxable person has to pay tax on transaction value. Thus, monetary consideration paid or payable by the recipient of goods or services shall generally be the value of taxable services. There can be few cases where transaction value is not applicable. Those circumstances have been clearly identified by the law.

However, valuation has always been prone to litigation risk and can be subject matter of litigation between the assessee and the revenue. It is more likely that the assessee will try to find out ways and methods to minimise the value of the taxable goods and services so that their tax liability gets reduced.

The government needs to be complimented for its effort to bring out the simplified tax laws.

MODULE 6

ZERO-RATED AND EXEMPTED SUPPLY

ARTICLES OF DECREE LAW ON VAT RELEVANT TO THIS MODULE

Article (44)	Supply and Import Taxable at Zero Rate
Article (45)	Zero Rated Supply
Article (46)	Supply Exempt from Tax
Article (47)	Supply of More Than One Component

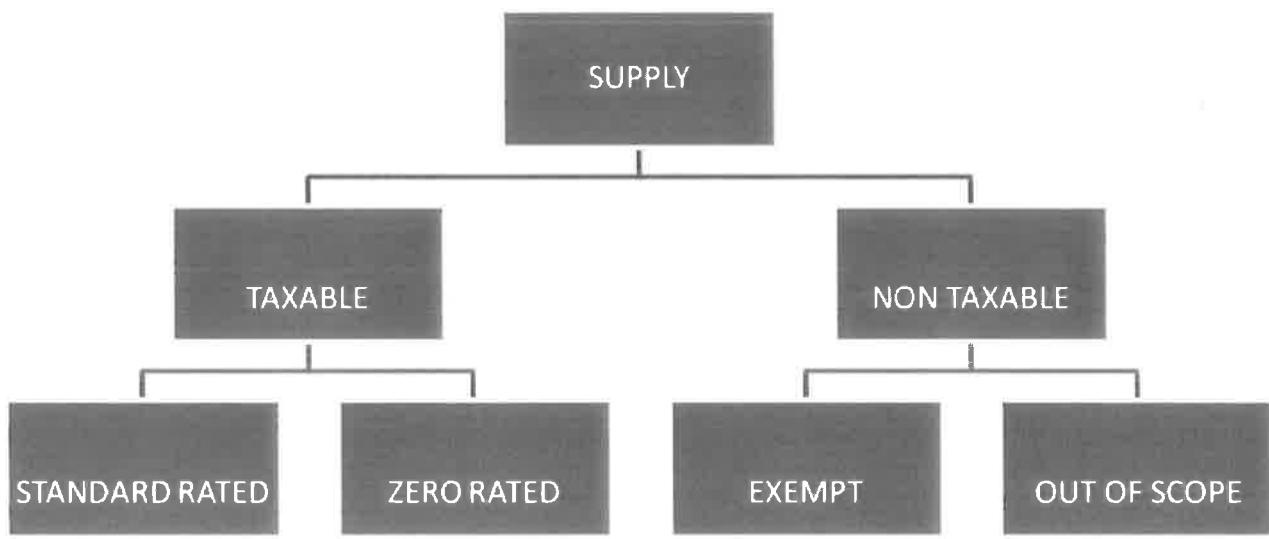
ARTICLES OF EXECUTIVE REGULATION ON VAT RELEVANT TO THIS MODULE

Article (30)	Zero-rating the export of goods
Article (31)	Zero-rating the Export of Services
Article (32)	Zero-Rating Exported Telecommunications Services
Article (33)	Zero-rating international transportation services for Passengers and Goods
Article (34)	Zero-rating certain means of transport
Article (35)	Zero-rating Goods and Services Supplied in Connection with Means of Transport
Article (36)	Zero-rating of precious metals
Article (37)	Residential buildings
Article (38)	Zero-rating of Buildings Specifically Designed to be Used by Charities
Article (39)	Zero-rating Converted Residential Building
Article (40)	Zero-rating Education Services
Article (41)	Zero-rating Healthcare Services
Article (42)	Tax Treatment of Financial Services
Article (43)	Exemption of Residential Buildings
Article (44)	Exemption of Bare Land
Article (45)	Exemption of Local Passenger Transport Services
Article (46)	Tax on Supplies of More Than One Component

6.1 INTRODUCTION

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.



It is necessary to distinguish the different types of supply because the very nomenclature of the category of supply itself indicates whether a supply is subject to VAT or not and the rate at which VAT will be chargeable. It also determines whether any input tax incurred to make such supplies is claimable.

As per the GCC VAT Agreement, each member state is free to set their own rules regarding what shall be the exempted supplies and what shall be zero-rated supplies.

Article 29 of Common VAT Agreement of the States of GCC provides that

1. Each Member State may exempt or tax at zero-rate the following sectors in accordance with the conditions and provisions set by that Member State:
 - a) Education sector;
 - b) Health sector;
 - c) Real estate sector; and
 - d) Local transport sector.
2. Each of the Member States may subject its oil, oil derivatives and gas sector to Tax at zero-rate in accordance with the conditions and provisions set by each Member State.

Nevertheless, each state has the right to zero-rate other items as they see fit, rather than having to follow any guidelines.

Now, let us analyze the relevant provision of UAE VAT laws regarding Zero-rated and Exempted supplies in the below paragraphs.

6.2 ZERO RATED SUPPLIES

The term “Zero-rated Supplies” itself indicates at what tax rate such supplies are subject to Tax. As the name suggest, Zero-rated supplies are charged to tax at the rate of 0 % on the value of taxable supply. In simple words, it can be said that no taxes are

collected by the government on zero-rated supplies. Also, there are also exempted supplies on which no tax liability is imposed by the government.

Now, the obvious question that rises in our mind is how both Zero-rated and Exempted Supplies are different in terms of their tax impact.

Standard-rated and zero-rated supplies are considered to be ‘taxable supplies’ under the VAT Law. The rates of tax in respect of such supplies are 5% and 0% respectively. Thus, a zero-rated supply is a taxable supply on which VAT is levied at the rate of 0%. However, an **Exempt Supply** is defined as a supply of goods or services for consideration while conducting business in the State, where no tax is due and no Input Tax may be recovered, except according to the provisions of this Decree-Law.

Registered VAT entities making zero-rated supplies are entitled to claim their input tax deductions in respect of tax paid on goods or services at the time of purchase. Contrary to this, any Registered VAT entity cannot claim an input tax deduction in respect of tax paid on goods or services acquired in the course of making exempt supplies.

The overall impact of zero-rated supplies is that there is no tax impact ultimately on such industry since tax paid on input can be recovered and there is no tax burden on the final consumers as well.

Also, it is to be understood that a person that makes only exempt supplies cannot register for VAT as they are not providing taxable supplies under the VAT laws.

As per Article 45 of Federal Decree-Law No. 8 of 2017, there are 14 goods and services that are subject to zero-rated VAT.

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

i) Direct or Indirect Exports outside Implementing States

Export of Goods:

The first on the list is the **direct or indirect export** outside the Implementing states in the GCC, as clearly stated in the executive regulation of this decree-law.

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

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

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

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

B. Indirect Export: An Export of Goods to a destination outside of the Implementing States, where the overseas customer is responsible for arranging the collection of the Goods from the supplier in the State and who exports the Goods himself, or has appointed an agent to do so on his behalf. A typical example of indirect export as stipulated under clause 8 above will be sale goods from duty-free shops. In other words, sale from duty-free shops to outbound passengers are subject to zero rate of tax provided below conditions are fulfilled.

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

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

Export of Services:

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

- **Services performed outside Implementing States**

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

Example 1: A Dubai based Construction Company providing services to a property builder based in Abu Dhabi in respect of building situated in Egypt. Such services will be zero rated as it is performed outside State.

- **Place of Recipient of Services outside Implementing State**

The Services are supplied to a Recipient of Services who does not have a Place of Residence in an Implementing State and who is outside the State at the time the Services are performed. A Person shall be considered as being “outside the State” if they only have a short-term presence in the State of less than a month, or the only presence they have in the State is not effectively connected with the supply.

Example 2: An IT consulting firm in Dubai enters into contract with UK based company to develop accounting software for its subsidiary in Ireland. Supply of services in this case will be zero-rated.

- **Outbound Tour Packages**

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

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

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

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

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

ii) International Transportation Services for Passengers and Goods

A. The following international transport services will be zero-rated.

- a) Transporting passengers or Goods from a place in the UAE to a place outside the UAE
- b) Transporting passengers or Goods from a place outside the UAE to a place in the UAE
- c) Transporting passengers from a place in the UAE to another place in the UAE by sea or air or land as part of an international transport of those passengers if either the first place of departure, or the final place of destination, is outside the UAE.
- d) The transport of Goods from a place in the UAE to another place in the UAE if the Services are supplied as part of the supply of Services of transporting Goods either from a place in the UAE to a place outside the UAE or from a place outside the UAE to a place in the UAE

It can be concluded that any transportation service that originates and ends outside UAE is considered as international transport services and thus zero-rated, even if the carrying of passengers or goods passes through more than one place in the state .

Example 4: Mr. A books a flight to London from Dubai which transits at Abu Dhabi before proceeding to London. The air fare from Dubai to Abu Dhabi is zero-rated as the final destination for the journey is outside UAE. Similarly, the airfare from Abu Dhabi to London is zero-rated.

B. The following goods or services will also be zero-rated if supplied in respect of international transport services in accordance with clause 2 of Article 33 of Executive Regulation on VAT

- a) Goods which are supplied for use or sale on an aircraft or a ship. This will include supply of food and beverages onboard, sale of duty free goods on board.
- b) Services supplied during the supply of international transportation services.
- c) Service of insuring, or the arranging of the insurance, or the arranging of the transport of passengers or Goods.

Services in relation to International Transportation of Goods and Services	VAT Rate applicable
Lounge Services – included in airfare	0%
Lounge Services – extra charged	Standard Rate – 5%
Excess Baggage	0%
Food and Beverage supplied on board	0%
Goods sold on board	0%
Cargo Handling Services (e.g. loading, unloading, reloading, stowing, securing of cargo, preparing or amending customs declaration, preparing or amending bills of lading, airway bills, and certificates of shipment)	0%
Cabin handling services (transfer, loading and unloading of meals, cleaning services)	0%
Insurance Services	0%
Postage stamp issued by Emirates Post Group	0%

iii) Air Passenger Transport in the State considered as International Carriage under Warsaw Convention

As mentioned under Clause 3 of Article 45, the transport of air passenger in the country is also included “if it is considered an “international carriage” pursuant to Article (1) of the Warsaw Convention for the Unification of Certain Rules Relating to International Carriage by Air 1929.”

Warsaw convention is an international convention which regulates liability for international carriage of persons, luggage, or goods performed by aircraft. It was originally signed in 1929 in Warsaw, Poland.

iv) Supply of Air, Sea and Land Means of Transport

In accordance with the Executive Regulations of Decree-Law on VAT, the supply of air, sea, and land means of transport for the transportation of passengers and goods which are to be used for commercial transportation purpose only and the same should not be used for recreation, pleasure or sport

As per the above provisions, the supply of following means of transportation is zero-rated.

- i) Aircraft designed for commercial purpose and not for recreation, pleasure or sport.
- ii) Ship, boat or floating structure designed for commercial purpose and not for recreation, pleasure or sport.
- iii) Bus or Train designed for public transportation of 10 or more passengers.

Article 34 of Executive Regulation on VAT: Zero-rating certain means of transport

The supply of the means of transport shall be subject to the zero rate in the following cases:

- 1. A supply of an aircraft that is designed or adapted to be used for commercial transportation of passengers or Goods and which is not designed or adapted for recreation, pleasure or sports.
- 2. A supply of a ship, boat or floating structure that is designed or adapted for use for commercial purposes and which is not designed or adapted for recreation, pleasure or sports.
- 3. A supply of bus or train that is designed or adapted to be used for public transportation of (10) or more passengers.

v) Goods & Services related to the Supply of the Means of Transport

Article 35 of Executive Regulation on VAT: Certain goods and services supplied in connection with a zero-rated means of transport are zero-rated

Goods

- Goods supplied in the course of operating, repairing, maintaining or converting the means of transport. So, supply of spare parts, components during repair of any such means of transport will fall under this category and thus zero-rated.
- The goods supplied must be incorporated into, affixed to, attached to, or form part of the means of transport.
- Consumable goods that becomes unusable or worthless as a direct result of being used in operation, repair, maintenance or conversion process.

Fuel and other oil and gas products are not zero-rated as per clarification by the FTA.

Services

- Services supplied directly in connection with the means of transport for operating, repairing, maintaining or converting the means of transport.
- Services supplied directly in connection with parts and equipment if the services are carried out onboard the means of transport for the purpose of repairing or maintaining it, provided:
 - The services are carried out on board
 - The equipment or part is removed for repair or maintenance and is subsequently held in stock for the future use as spares, or
 - The part or equipment cannot be repaired & is exchanged for a like-for-like replacement.

vi) Supply of Aircraft & Vessels for Rescue

Supply of Aircrafts and vessels that are meant for rescue and assistance by air or sea will be zero rated. .

vii) Investment in Precious Metal

The eight on the list is the supply or import of investment precious metals.

As per Article 36 of Executive Regulation on VAT, supply or import of precious metals shall be zero-rated. Precious metal means gold, silver and platinum having purity of 99 % or more and are in tradable form in global bullion market.

Hence considering the above rule, jewellery made up of any metal irrespective of percentage of purity will not be zero-rated.

Investment in Precious Metals (Gold, Silver and Platinum)	VAT Rate
> 99 % pure and tradable	0%
> 99 % pure	5 %
Jewellery	5 %

ix) Sale of the Residential Building

The first supply of residential buildings within (3) years of its completion, either through sale or lease in whole or in part, according to Article 45 of Decree Law on VAT read with Article 37 of the Executive Regulation of this Decree-Law, shall be zero rated.

Article (37) of Executive Regulation on VAT: Residential buildings

1. The phrase “residential building” means a building intended and designed for human occupation, including:
 - a. Any building or part of a building that the person occupies, or that it can be foreseen that a person will occupy, as their principal place of residence.
 - b. Residential accommodation for students or school pupils.
 - c. Residential accommodation for armed forces and police.
 - d. Orphanages, nursing homes, and rest homes.
2. A “Residential building” does not include any of the following:
 - a. Any place that is not a building fixed to the ground and can be moved without being damaged.
 - b. Any building that is used as a hotel, motel, bed and breakfast establishment, or hospital or the like.
 - c. A serviced apartment for which services in addition to the supply of accommodation are provided.
 - d. Any building constructed or converted without lawful authority.
3. A building shall be considered as a residential building if a small proportion of it is used as an office or workspace by the occupants, if it includes garages and gardens used in conjunction with it, or it includes any other features that may be said to comprise part of the residential building.

It is to be noted that **other services related to buildings (including but not limited to) are subject to VAT at standard rate of 5 %**

- Maintenance of buildings
- Owners associations and other related services
- Electricity, water, gas, cooling
- Real-estate agent fees

x) Charitable Buildings Supplies

If the buildings are for the purpose of being used by charities, the first supply shall be zero-rated (sale or lease) in accordance with Article 38 of Executive Regulation of this Decree Law.

Article (38) of Executive Regulation on VAT: Buildings Specifically Designed to be Used by Charities

1. The first sale or a lease of a building, or any part of a building, shall be zero-rated if the building was specifically designed to be used by a Charity and solely for a relevant charitable activity.
2. In Clause (1) of this Article, “relevant charitable activity” means an activity for the purpose other than for the purpose of profit or benefit to any proprietor, member, or shareholder of the Charity, and one which is undertaken by the Charity in the course or furtherance of its charitable purpose or objectives to carry out a charitable activity in the State as approved by the Ministry of Community Development, or under the conditions of its establishment as a charity under Federal or Emirate Decree, or as otherwise licensed to operate as a Charity by an agency of the Federal or Emirate Governments authorised to grant such licences.

xi) First Supply of Converted Residential Building

Buildings that are converted from non-residential to residential through sale or lease will be zero rated in accordance with Article 39 of Executive Regulation of this Decree Law.

Article (39) of Executive Regulation on VAT: Zero-rating Converted Residential Building

1. The first supply of a building, or any part of a building, which is converted to a residential building shall be subject to the zero rate provided that the supply takes place within 3 years of the completion of the conversion and the original building, or any part of it, was not used as a residential building and did not comprise part of a residential building within (5) five years prior to the conversion work commencing.
2. The presence of shared or common facilities, or dividing walls or similar features in a residential building should not cause the residential building to be considered or any part thereon as part of a pre-existing residential building.

xii) Oil & Gas

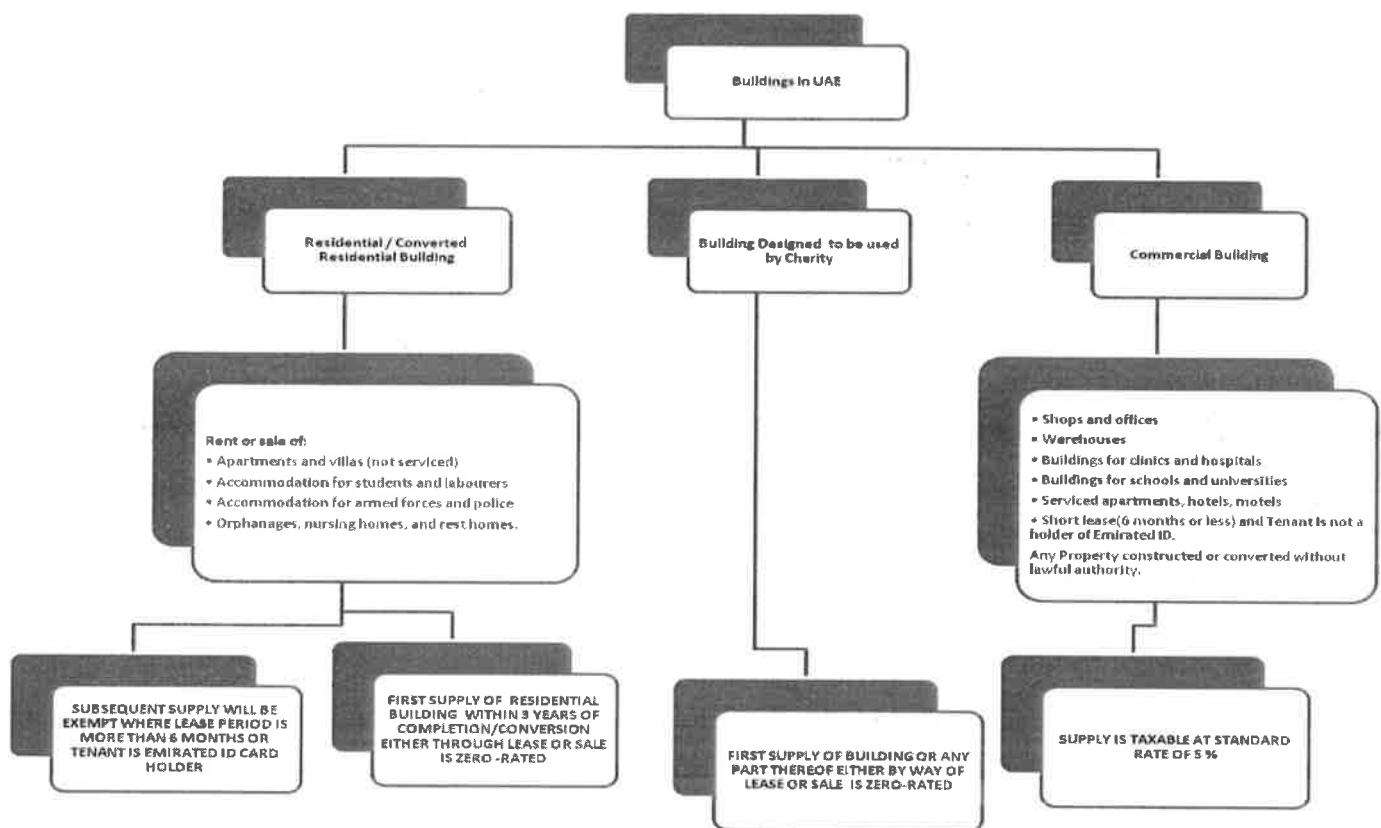
Supply of crude oil and natural gas are zero rated. Tax rates applicable to the oil and gas industry are as follows. For more details, refer guide on Oil and Gas Industry.

Oil and Gas	VAT rate
Crude oil and natural gas	0%
Other oil and gas products including petrol at the pump	5%

xiii) Educational Services

As per the Executive Regulation of this Decree-Law, zero rated shall apply on educational services and related goods and services for nurseries, preschool, elementary education, and higher education institutions that are owned or funded by the federal or local government.

The tax impact on educational services is being clarified in this section of the module. Refer to FAQs given here below.



• What is the VAT treatment of education?

The main educational services and related goods and services supplied shall be zero rated, if supplied by any of the following ‘qualifying educational institutions’:

- Nurseries, preschools and schools
- Higher educational institutions owned or funded by Federal or local Government.

This means that a ‘qualifying educational institution’ shall not charge VAT on the zero rated educational services they provide, and will be able to recover the VAT they pay on related costs when they file their tax returns.

Any educational services provided by other entities not listed above shall be subject to the standard rate (i.e. 5%).

• Does a ‘qualifying educational institutions’ have to register for VAT?

Provision of educational services by a ‘qualifying educational institutions’ is a zero-rated taxable supply. Hence, if the supplies exceed the Mandatory Registration Threshold of AED375,000, then the institution needs to register. It may apply for exceptions from registration via the registration application if the institution does not provide any services or goods taxed at the standard rate of 5%. Applying for an exception will relieve the school from filing regular returns, but would also mean the school cannot recover the input tax incurred on its expenses.

- **Can anybody supply zero-rated education?**

Only ‘**qualifying educational institutions**’ can provide zero rated supplies. ‘Qualifying educational institutions’ are those educational entities recognised by the federal or local competent government entity regulating the education sector where the course is delivered, and in the case of higher education institutions the institutions that are either owned by the federal or local government or receive more than 50% of their annual funding directly from the federal or local government. That means that education provided by all other educational entities does not qualify for zero-rating and such institutions must charge standard-rate VAT on their supplies of education.

- **Is all education supplied by education institutions zero-rated?**

Only educational services which are provided in accordance with the curriculum recognised by the federal or local competent government entity regulating the education sector where the course is delivered can be zero-rated. If an educational entity supplies education that is not in accordance with a recognised curriculum, it must charge VAT at the standard rate (i.e. 5%) on those supplies.

In a limited number of cases, an educational institution may provide educational services to students free of charge and the education is wholly funded by Government grants. Provided the conditions for zero-rating are still met i.e. it is a recognised curriculum supplied by an educational institution, then the grant income can be treated as a zero-rated.

- **What about related goods and services?**

If a ‘qualifying educational institution’ supplies other goods and services that are directly related to a zero-rated supply of education, they qualify for zero-rating as well. For example, books and digital reading material supplied by educational institutions that are related to the curriculum being taught also qualify for zero-rating.

- **Are there any exceptions to zero-rating?**

Yes. There are supplies related to the provision of the education services which are subject to the standard rate (i.e. 5%), such as:

- a. Goods and Services supplied by a ‘qualifying educational institution’ to persons who are not enrolled in it;
- b. Any Goods, other than educational materials provided by a ‘qualifying educational institution’, that are consumed or transformed by the students being taught by it;
- c. Uniforms or any other clothing which are required to be worn by a ‘qualifying educational institution’, irrespective of whether or not they are supplied by such institution as part of the supply of educational services.
- d. Electronic devices used in educational services, irrespective of whether or not supplied by a ‘qualifying educational institution’ as part of the supply of educational services.

- **What is the VAT treatment of student accommodation?**

Student accommodation is included within the definition of residential accommodation; therefore the supply of student accommodation (other than the first supply of a new residential building) will be exempt from VAT. Educational institutions which also supply accommodation to students will be unable to recover VAT incurred on costs which directly relate to the provision of the accommodation.

- **What about grant income or sponsorship received?**

In some cases, educational institutions may receive grant income or sponsorships from the Government or third parties. The VAT treatment of grant/sponsorship income depends on whether you are providing the donor with a benefit in return for the funding received. Where a benefit is provided, you are likely to be making a taxable supply of services for VAT purposes and should account for the VAT on the income received. A benefit could include e.g. naming an event after a sponsor, giving free of charge or reduced price tickets in return for the sponsorship, displaying the sponsors logo in a predominant place on flyers etc. However, where there is no significant benefit received, the income will be treated as outside the scope of VAT.

- Is grant funded research subject to VAT?**

Again, the VAT treatment of grant income received to fund research depends on the extent of the benefit provided to the founder of the research. Where the educational institution is required to provide certain deliverables in return for the funding and is required to provide the intellectual property and other products of the research to the funder then this will be a supply of research services and subject to VAT at 5%. However, where the funder does not receive anything in return for the funding other than incidental information e.g. progress updates, records of expenses, evidence that the research has been conducted as requested, then this is will not be considered to be a supply of services by the educational institution and the grant income received will be outside the scope of VAT. VAT incurred on costs which are linked to an outside the scope supply and not linked to a taxable supply made by the business should not be recoverable as an overhead cost of the business in line with the business' input tax apportionment percentage.

Further, VAT rate applicable to different services relating to education sector is tabulated below.

EDUCATION	VAT Rate
Private and public school education (excluding higher education) and related goods and services provided by education institution	0%
Higher education provided by institution owned by government or 50% funded by government, and related goods and services	0%
Education provided by private higher educational institutions, and related goods and services	5%
Nursery education and pre-school education	0%
School uniforms	5%
Stationery	5%
Electronic equipment (tablets, laptops, etc.)	5%
Renting of school grounds for events	5%
After school activities for extra fee	5%
After school activities supplied by teachers and not for extra charge	0%
School trips where purpose is educational and within curriculum	0%
School trips for recreation or not within curriculum	5%

Article 40 of Executive Regulation on VAT: Zero-rating Education Services

- The supply of educational services shall be subject to the zero rate if the following conditions are met:
 - The supply of educational services is provided in accordance with the curriculum recognised by the federal or local competent government entity regulating the education sector where the course is delivered.
 - The supplier of the educational services is an educational institution which is recognised by the federal or local competent government entity regulating the education sector where the course is delivered.
 - Where the Supplier of educational services is a higher education institution, the institution is either owned by the federal or local government or receives more than 50% of its annual funding directly from the federal or local government.
- A supply of Goods or Services made by educational institutions identified in Clause (1) of this Article shall be zero-rated where the supply is directly related to the provision of a zero-rated educational service.
- Printed and digital reading material provided by educational institutions identified in Clause (1) of this Article and which are related to the curriculum of an education shall be zero-rated.
- As an exception to Clause (2) of this Article, the following supplies shall not be zero-rated:

- a. Goods and Services supplied by the educational institution referred to in Clause (1) that are made available to Persons who are not enrolled in the educational institution.
- b. Any Goods other than educational materials provided by the educational institution referred to in Clause (1) that are consumed or transformed by the students undertaking the educational service for the purposes of education.
- c. Uniforms or any other clothing which are required to be worn by the educational institution referred to in Clause (1), irrespective of whether or not supplied by the educational institutions as part of the supply of educational services.
- d. Electronic devices in relation to educational services, irrespective of whether or not supplied by the educational institution referred to in Clause (1) as part of the supply of educational services.
- e. Food and beverages supplied at the educational institution referred to in Clause (1), including supplies from vending machines or vouchers in respect of food and beverages.
- f. Field trips, unless these are directly related to the curriculum of an education service and are not predominantly recreational.
- g. Extracurricular activities provided by or through the educational institution referred to in Clause (1) for a fee additional to the fee for the education service.
- h. A supply of membership in a student organisation.

xiv) Healthcare services

The last one on this list is, in accordance with the Executive Regulation of this Decree-Law, the supply of preventive and basic health care services and related goods and services. Under this clause, both supply of healthcare services and supply of pharmaceutical products or medical equipments are zero-rated.

a) Healthcare Services

“Healthcare services” means any Service supplied that is necessary for **the treatment of the Recipient of the supply** including preventive treatment. Healthcare services must be provided by healthcare body or institution, doctor, nurse, technician, dentist, or pharmacy, licensed by the Ministry of Health or by any other competent authority.

Let's analyze what services are included and what are not in the definition of healthcare services provided by any healthcare body or institution and VAT impact on such services.

Nature of Services	VAT Rate applicable
Consultation Fees of Doctors	Zero-rated
Diagnostic Test Services for Patients	Zero-rated
Room rent charged to Indoor Patients	Zero-rated
Supplying food to the Indoor Patients	Zero-rated
Supplying Mortuary Services	Standard-rated
Providing medical reports for the purpose of providing certificate of fitness or occupational health services	Standard-rated
Leasing of Operation theatre, medical equipment, floor space for office, clinics, retail shop or florist	Standard-rated
Cosmetic surgery other than prescribed by a doctor or medical professional for treating or prevention of a medical condition	Standard-rated
Canteen, parking, laundry services provided to patients	Standard-rated
Providing physiotherapy services to patients	Zero-rated
Providing Gymnasium, spa, sauna, slimming or massage services	Standard-rated

b) Pharmaceutical products and

Any **pharmaceutical products or medical equipments** identified in a decision issued by the Cabinet shall be zero rated. As per **Cabinet Decision No. (56) of 2017 on Medications and Medical Equipment Subject to Tax at Zero Rate**, the supply of Medications and Medical Equipment registered with the Ministry of Health and Prevention, or imported with its permission or approval, shall be subject to tax at zero-rate.

The terms Medications and Medical Equipment has been defined by the Cabinet Decision as:

Medications:	Every product containing a substance(s) which achieves the intended objective in or on the human body via biological effect, which is produced, sold or offered for use in cases relating to diagnosing, treating, healing, relieving or preventing diseases, or renewing, correcting or rehabilitating the function of body organs.
Medical equipment:	A medical product containing a substance, device, instrument, motor, implant, detector or system, including its accessories and operating software, which achieves the intended objective in or on the human body without medicinal, immunological or metabolic effect, which is produced, sold or offered for use in cases relating to diagnosing, treating, relieving, controlling or preventing diseases, injury or disability.

4. A supply of Goods is zero-rated if it is a supply of:
 - a. Any pharmaceutical products identified in a decision issued by the Cabinet.
 - b. Any medical equipment identified in a decision issued by the Cabinet.
 - c. Any other Goods not covered by paragraphs (a) and (b) of this Clause which are supplied in the course of supplying a Person with zero-rated healthcare services that are necessary for the supply of such healthcare services.

6.3 SUPPLY EXEMPT FROM TAX

Goods and Services Exempted from VAT

There are only four items that are listed as exempted from VAT as per Article 46 of the Federal Decree-Law Number 8 of 2017:

i). Financial services that are specified in the Executive Regulation of this Decree-Law

As per the definition of financial services provided in Article 42 of Executive Regulation, financial services are services connected to dealings in **money or its equivalent and the provision of credit**.

Article 41 of Executive Regulation on VAT: Zero-rating Healthcare Services

1. The phrase "healthcare services" means any Service supplied that is generally accepted in the medical profession as being necessary for the treatment of the Recipient of the supply including preventive treatment.
2. A supply of healthcare services shall be zero rated on the condition that the supply shall:
 - a. Be made by a healthcare body or institution, doctor, nurse, technician, dentist, or pharmacy, licensed by the Ministry of Health or by any other competent authority.
 - b. Relate to the wellbeing of a human being.
3. "Healthcare services" do not include any of the following:
 - a. Any part of a supply that relates to staying in or attending an establishment the principal purpose of which is to provide holiday accommodation or entertainment such that any healthcare service is incidental to the provision of the accommodation or entertainment.
 - b. Elective treatment for cosmetic reasons other than prescribed by a doctor or medical professional for treating or prevention of a medical condition.

For the purpose of VAT, banking and financial services can be categorized into 3 types of supplies namely

1. Exempt Supply: In accordance with Clause 3 of Article 42 of Executive Regulation, a supply is an exempt supply if **the consideration is not in the form of explicit fee, discount, commission, and rebate or similar nature.** In other words, if financial services are provided against margin-based fee and are not explicit are exempted from VAT.

This is based on the logic that inclusion of a bank's gross interest income within in purview of VAT or VAT base, would tax more than value added and would therefore discourage consumption of such financial services.

An example of this could be the loan product where consideration is in the form of interest as a percentage of loan amount. Other services as exempted by the law include the following;

- a. The issue, allotment, or transfer of ownership of an equity security or a debt security;
- b. The provision or transfer of ownership of a life insurance contract or the provision of re-insurance in respect of any such contract.

Islamic Finance:

Islamic finance products are the financial products under contract which are certified as Islamic Sharia compliant is treated in a similar manner as the equivalent non-Sharia financial product for the purpose of applying exemption from Tax. In simple words, Islamic Finance is a written contract which relates to a supply of finance in accordance with the principles of Shari'ah.

Generally, VAT will be applied in the same way to an Islamic financial arrangement as a non-Islamic financial product. Fees made in accordance with Shariah law are considered to be the equivalent of non-Islamic products and thus, are exempted from VAT.

A typical example of this is **Murabahah Contract.** It is the most widely used Islamic trade finance product. Under this product, the bank imports goods at the request of the client and sells the same to the client on a Murabahah basis. The selling price includes a mark-up or profit and the repayment terms are agreed upon on the date of the Murabahah transaction. The bank utilizes its own funds to open the letter of credit.

Murabahah contract entered into for lending purposes will be treated as a **loan** for VAT purposes. The Regulations ignore the underlying commodity trade and treat it as a direct sale to the borrower from the vendor.

2. Standard-rated Supply: A supply is a standard rated supply if there is a basic charge or a fixed fee being imposed on the supply. Fee based services are standard rated supplies. It can be said that exemption will not apply to any financial services for which an explicit fee is charged.

Hence, financial services will be subject to **5% VAT** where they are supplied for:

- An explicit fee;
- discount;
- commission;
- rebate; or a
- similar type of charge.

Examples of standard rated services / Types of financial service	Examples of fees liable to standard rate VAT
Operation of a bank account	Subscription fee Transaction services fee Account opening or closing fee Withdrawal fee Deposit fee Replacement card fee Cheque book fee Bank statement fee Maintenance fee

Examples of standard rated services / Types of financial service	Examples of fees liable to standard rate VAT
Money transfers	Transfer fee Swift transfer fee
Cash	Cash handling fee Cheque cashing fee Fee for provision of change
Mortgages	Application fee Valuation fee Early repayment fee Administration fee Refinancing fee Mortgage statement fee Processing fee
Investment banking	Sales commission Participation fee Advisory fee Agency fee Administration fee
Card-related services	Card fee Cash withdrawal fee ATM transaction fee Statement fee Lost card fee Overdraft fee Balance transfer fee
Currency exchange	Exchange fee Handling fee
Provision of safe custody facilities	Safety deposit box fee
Loans, advances or credit	Application fee Documentation fee Renewal fee

3. Zero-Rated Supply

Financial services rendered for customers abroad will be zero-rated if the recipient is established outside the GCC. This is considered as an export of service. Similarly, any financial services rendered in connection with land and goods situated outside Implementing State are also zero-rated.

Article (42) of Executive Regulation on VAT: Tax Treatment of Financial Services

1. For the purposes of this Article:
 - a. The phrase “debt security” means any interest in or right to be paid money that is, or is to be, owing by any Person, or any option to acquire any such interest or right;
 - b. The phrase “equity security” means any interest in or right to a share in the capital of a legal person, or any option to acquire any such interest or right;
 - c. The phrase “life insurance contract” means a contract lawfully entered into to the extent that it places a sum or sums at risk upon the contingency of the termination or continuance of human life, marriage, similar relationships permitted under applicable law, or the birth of a child.
 - d. The phrase “Islamic financial arrangement” means a written contract which relates to a supply of financing in accordance with the principles of Sharia.

2. Financial services are services connected to dealings in money (or its equivalent) and the provision of credit and include for instance the following:
 - a. The exchange of currency, whether effected by the exchange of bank notes or coin, by crediting or debiting accounts, or otherwise.
 - b. The issue, payment, collection, or transfer of ownership of a cheque or letter of credit.
 - c. The issue, allotment, drawing, acceptance, endorsement, or transfer of ownership of a debt security.
 - d. The provision of any loan, advance or credit.
 - e. The renewal or variation of a debt security, equity security, or credit contract.
 - f. The provision, taking, variation, or release of a guarantee, indemnity, security, or bond in respect of the performance of obligations under a cheque, credit, equity security, debt security, or in respect of the activities specified in paragraphs (b) to (e) of this Article.
 - g. The operation of any current, deposit or savings account.
 - h. The provision or transfer of ownership of financial instruments such as derivatives, options, swaps, credit default swaps, and futures.
 - i. The payment or collection of any amount of interest, principal, dividend, or other amount whatever in respect of any debt security, equity security, credit, and contract of life insurance.
 - j. Agreeing to do, or arranging, any of the activities specified in paragraphs (a) to (i) of this Clause, other than advising thereon.
3. The following financial services shall be exempted:
 - a. Activities under Clause (2) of this Article where they are not conducted in return for an explicit fee, discount, commission, and rebate or similar.
 - b. The issue, allotment, or transfer of ownership of an equity security or a debt security;
 - c. The provision or transfer of ownership of a life insurance contract or the provision of re-insurance in respect of any such contract.
4. Activities under Clause (2) of this Article shall be subject to tax where the consideration payable in respect of a supply of Services is an explicit fee, commission, discount, and rebate or similar.
5. Islamic finance products, being financial products under contract which are certified as Islamic Shariah compliant, which simulate the intention and achieve effectively the same result as a Non-Shariah compliant financial product, will be treated in a similar manner as the equivalent Non-Shariah financial product for the purpose of applying exemption from Tax.
6. Any supply made under an Islamic financial arrangement shall be treated in such a way as to give an outcome for the purposes of the Decree-Law and the decisions issued by the Authority, comparable to that which would be the case for their non-Islamic counterparts.
7. Where Article (31) of this Decision applies in respect of a supply of financial services, this supply should be treated as zero-rated.

ii). Supply of residential buildings through sale or lease, other than that which is zero-rated according to Clauses (9) and (11) of Article (45) of this Decree-Law

In accordance with Article 43 of Executive Regulation on VAT, the supply of residential accommodation will only be exempt from VAT where:

- The duration of lease period exceeds 6 months; or
- The tenant of the property holds an Emirates ID

Article 43 of Executive Regulation on VAT: Exemption of Residential Buildings

1. The supply of residential buildings is exempt, unless it is zero-rated, where the lease is more than (6) six months or the tenant of the property is a holder of an ID card issued by Federal Authority for Identity and Citizenship.
2. The period of tenancy referred to in Clause (1) of this Article shall be identified with reference to the contractual period of tenancy and shall not take into account any period arising from a right or option to extend the period of tenancy or renew the tenancy.
3. For the purposes of Clause (1) of this Article, a right of any party to terminate the lease early shall be ignored.

iii). Supply of bare land

As per Article 44 of Executive Regulation, “bare land” means land that is not covered by completed, partially completed buildings or civil engineering works.

iv) Supply of local passenger transport services

Local passenger transportation under this clause is the service of carrying passengers by qualifying means from a place in UAE to another place in UAE as stated below. Both the point of origin and the point of destination are places in UAE.

Where such services have been availed with the principal objective of pleasure trip, sight-seeing or other forms of pleasure or entertainment, it shall not be treated as local passenger transportation and hence, the same will not be exempt from VAT. Let's look at different type of local passenger transportation services and tax impact on the same below.

i) Transportation by bus

a. Express bus	exempt
b. Feeder or shuttle bus	exempt
c. State bus operated by RTA	exempt
d. Employees bus	exempt
e. School bus	exempt
f. Charter or tour bus	standard rate

ii) Transportation by taxis

a. Taxi operated by RTA	exempt
b. Airport taxi	exempt
c. Limousine taxi	standard rate as the principle objective is pleasure trip

iii) Transportation by rail

Public transport by rail (Dubai Metro, Monorail, Hyperloop, Tram)	Exempt
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iv) Transportation by water

boats, ferries, abra and ships used as public transport	Exempt
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iv) Transportation by air

Air passenger transport including helicopter services	Exempt
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It is to be noted that where the transport is by aircraft and constitutes “international carriage” as defined in the Warsaw Convention, the same shall not be exempt as per clause 3 of Article 45.

Article 45 of Executive Regulation on VAT: Exemption of Local Passenger Transport Services

1. The supply of local passenger transport Services in a qualifying means of transport by land, water or air from a place in the State to another place in the State shall be exempt.
2. The phrase “qualifying means of transport” means:
 - a. A motor vehicle, including a taxi, bus, railway train, tram, mono-rail or similar means of transport, designed or adapted for transport of passengers.
 - b. A ferry boat, abra or other similar vessel designed or adapted for transport of passengers.
 - c. A helicopter or airplane designed or adapted for transport of passengers and approved for transport of passengers in accordance with Federal Law No. (20) of 1991 on Civil Aviation.
3. As an exception to Clause (1) of this Article, the Service of transporting of passengers from a place in the State to another place in the State shall not be considered a local passenger transport Service where the transport is by aircraft and constitutes “international carriage” as defined in the Warsaw International Convention for the Unification of Certain Rules Relating to International Carriage by Air 1929.
4. As an exception to Clause (1) of this Article, the transport of passengers shall not constitute a supply of local passenger transport Services where it is undertaken in the context of a pleasure trip where the manner in which the trip is held out indicates that its principal objective may reasonably be said to be sightseeing, or the enjoyment of catering services, or other forms of pleasure or entertainment.

6.4 SUPPLY OF MORE THAN ONE COMPONENT

The Executive Regulation of this Decree-Law will specify the controls to determine the tax treatment of any supply composed of more than one component for a single price, where each component is subject to a different tax treatment.

Composite Supply

Composite supply is the supply of goods and services composed of more than one component for a single price.

Where a supply is a single composite supply and components of the composite supply includes both exempted / zero-rated and standard-rated goods and services, tax treatment of the composite supply shall follow the tax treatment of the principal component of the supply. So, it means if the principal component of the supply is subjected to tax at the standard rate i.e. 5 %, then the composite supply will also be taxable at the standard rate.

Similarly, if the principal component of the supply is zero-rated, then the composite supply will also be taxable at zero rate. Take for instance, an Airline Company supplies zero- rated international flights for a single price. This includes the provision of in-flight catering services as well for which the airline doesn't charge separately and its price is included in the total airfare. In this case, transportation service is the principal component against which airline charges the passenger. Since, international transportation services are zero rated, total airfare shall be taxable at zero-rate.

Mixed Supply

As we learnt in the previous module on Supply, a mixed supply is the supply of goods and services composed of more than one component for a single price and it is not a single composite supply. In other sense, where a supply consisting of multiple components is not a single composite supply, the supply of each component is to be treated as a separate supply and different components are subjected to tax accordingly.

Taking the same example as above, if an Airline Company charges separately for the catering services i.e. food served to passenger onboard of an international flight, charges against the food supplied will be subjected to standard rate of tax i.e. 5 %

whereas international transportation service provided will be subject to zero rate. In this case, the components of the supply i.e. transportation and food catering are independent and thus it cannot be treated as a single composite supply.

6.5 CONCLUDING SUMMARY

The below table outlines all supplies that will be subject to the 5% Value Added Tax, as well as zero-rated supplies and exempt supplies.

Education	VAT Rate
Private and Public School Education (excluding higher education) and related goods and services provided by Education Institution	0%
Higher Education provided by institution owned by government or 50% funded by government, and related goods and services	0%
Education provided by private higher educational institutional, and related goods and services	5%
Nursery education and pre-school education	0%
School Uniforms	5%
Stationery	5%
Electronic equipments (tablets, laptops, etc.)	5%
Renting of school grounds for events	5%
After school activities for extra fee.	5%
After school activities supplied by teachers and not for extra charge	0%
School trips where purpose is educational and within curriculum	0%
School trips for recreation or not within curriculum	5%

Healthcare	VAT Rate
Preventive healthcare services including vaccinations	0%
Healthcare services aimed at treatment of humans including medical services and dental services	0%
Other healthcare services that are not for treatment and not preventive (e.g. Elective, cosmetic, etc.)	5%
Medicines and medical equipment as listed in Cabinet Decision	0%
Medicines and Medical equipment not listed in Cabinet Decision	5%
Other Medical Supplies	5%

Oil and Gas	VAT Rate
Crude Oil and Natural Gas	0%
Other oil and gas products including petrol at the pump	5%

Transportation	VAT Rate
Domestic passenger transportation (including flights within UAE)	Exempt
International transportation of passengers and goods (including intra – GCC)	0%
Supply of a means of transport (air, sea and land) for the commercial transportation of goods and passengers (over 10 people)	0%
Supply of goods and services relating to these means of transport and to the transportation of goods and passengers	0%

Real Estate	VAT Rate
Sale and rent of commercial buildings (not residential buildings)	5%
First sale/rent of residential building after completion of construction or conversion	0%
First sale of charitable building	0%
Sale/rent of residential building subsequent to first supply	Exempt
Hotels, motels and serviced accommodation	5%
Bare land	Exempt
Land (not bare land)	5%
UAE citizen building own home	5% (recoverable)

Financial Services	VAT Rate
Margin based products (products not having an explicit fee, commission, rebate, discount or similar)	Exempt
Products with an explicit fee, commission, rebate, discount or similar	5%
Interest on forms of lending (including loans, credit loans, finance leasing)	Exempt
Issue, allotment or transfer of an equity or debt security	Exempt

Investment Gold, Silver and Platinum Jewellery	VAT Rate
> 99% pure and tradable in global markets	0%
< 99% Pure	5%
Jewellery	5%

Insurance and Reinsurance	VAT Rate
Insurance and Reinsurance (including health, motor, property, etc.)	5%
Life Insurance and Life Reinsurance	Exempt

Food & Beverages	VAT Rate
Food & Beverages	5%

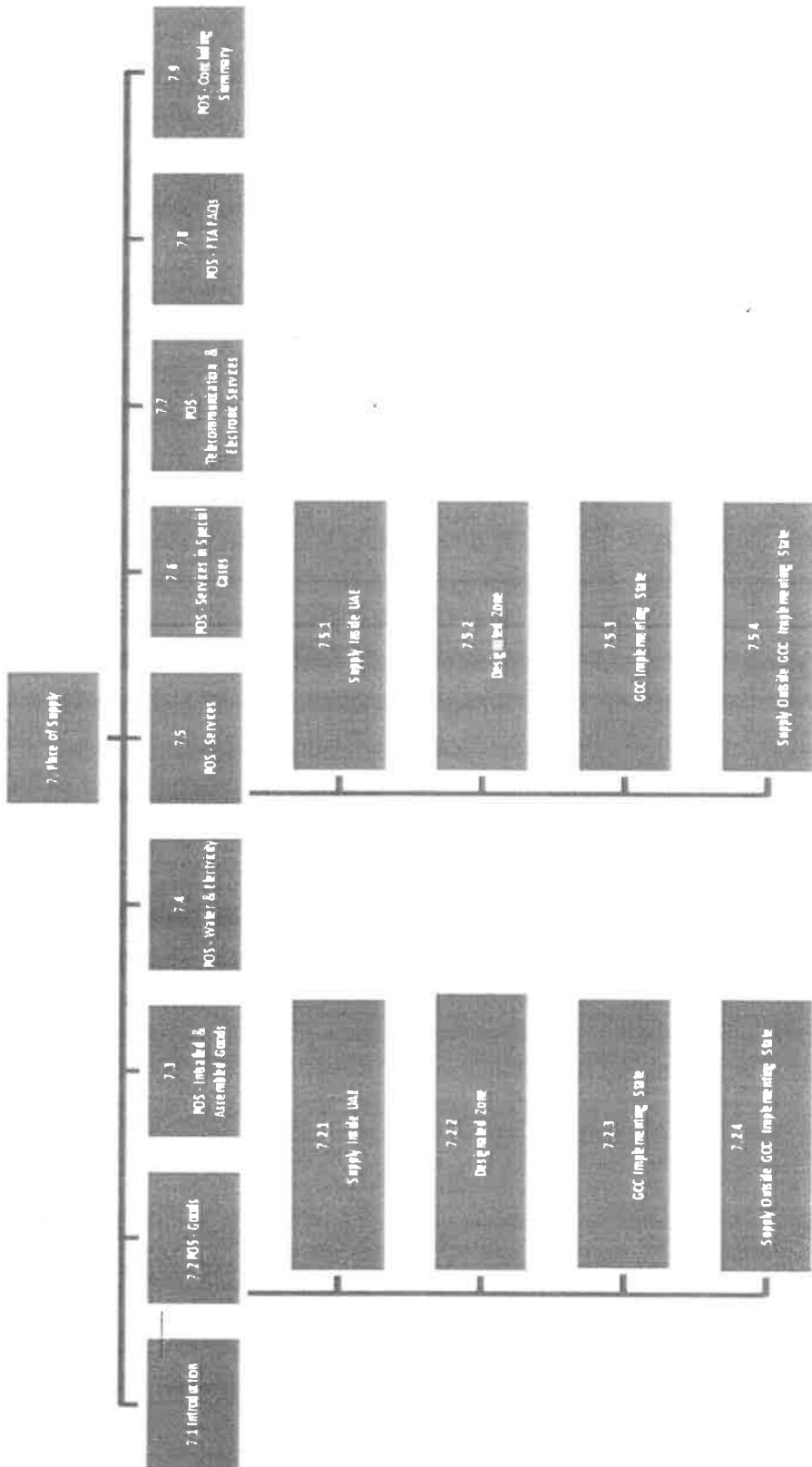
Telecommunications and Electronic Services	VAT Rate
Wired and Wireless Telecommunications and Electronic services	5%

Other	VAT Rate
Export of goods and services to outside the GCC implementing states	0%
Activities undertaken by employees in the course of their employment, including salaries	Considered outside VAT system
Supplies between members of a single tax group	Considered outside VAT system
Any supplies of services or goods not mentioned above (includes any items sold in the UAE or service provided)	5%
Second hand goods (e.g. Used cars sold by retainers), antiques and collector's items	5% of the profit margin

MODULE 7

PLACE OF SUPPLY

CONTENT OVERVIEW



PLACE OF SUPPLY

ARTICLES OF DECREE LAW ON VAT RELEVANT TO THIS MODULE

Article (27)	Place of Supply of Goods
Article (28)	Place of Supply of Water and Energy
Article (29)	Place of Supply of Services
Article (30)	Place of Supply in Special Cases
Article (31)	Place of Supply of Telecommunication and Electronic Services
Article (32)	Place of Residence of Supplier or Recipient of Services
Article (33)	Place of Residence of Agent

ARTICLES OF EXECUTIVE REGULATION ON VAT RELEVANT TO THIS MODULE

Article (20)	Place of Supply of Goods Delivered within the State
Article (21)	Place of Supply of Services Related to Real Estate
Article (22)	Place of Supply of Certain Transport Services
Article (23)	Telecommunication and electronic services
Article (51)	Place of Supply - Designated Zones

7.1 INTRODUCTION

Value Added Tax (VAT) is a type of general **destination-based tax consumption tax** that is collected incrementally, based on the value added, at each stage of production or distribution/sales. VAT is charged at each stage of the 'supply chain'.

The destination based principle is that tax on supply of goods and services should be charged at the point of consumption. So, the place of supply provisions in the decree law determines the place of consumption and the tax jurisdiction.

The Place of Supply of goods or services is where the supply is made or treated to be made. A supply of goods or services will be within the scope of VAT only if the place of supply is in UAE. Supplies made outside UAE are considered to be out of the scope of VAT.

In simple words, VAT is to be charged based on the destination principle on the local supply and importation of goods and services (i.e. VAT applies where the goods and services are consumed in the UAE), with exports subject to VAT at zero rate.

This is to be noted that there are separate rules for determining the place of supply for goods and the place of supply for services.

The module provides answers to below questions pertaining to Place of Supply.

- What shall be point of taxation in case of domestic supply?
- What shall be the point of taxation in case of import?

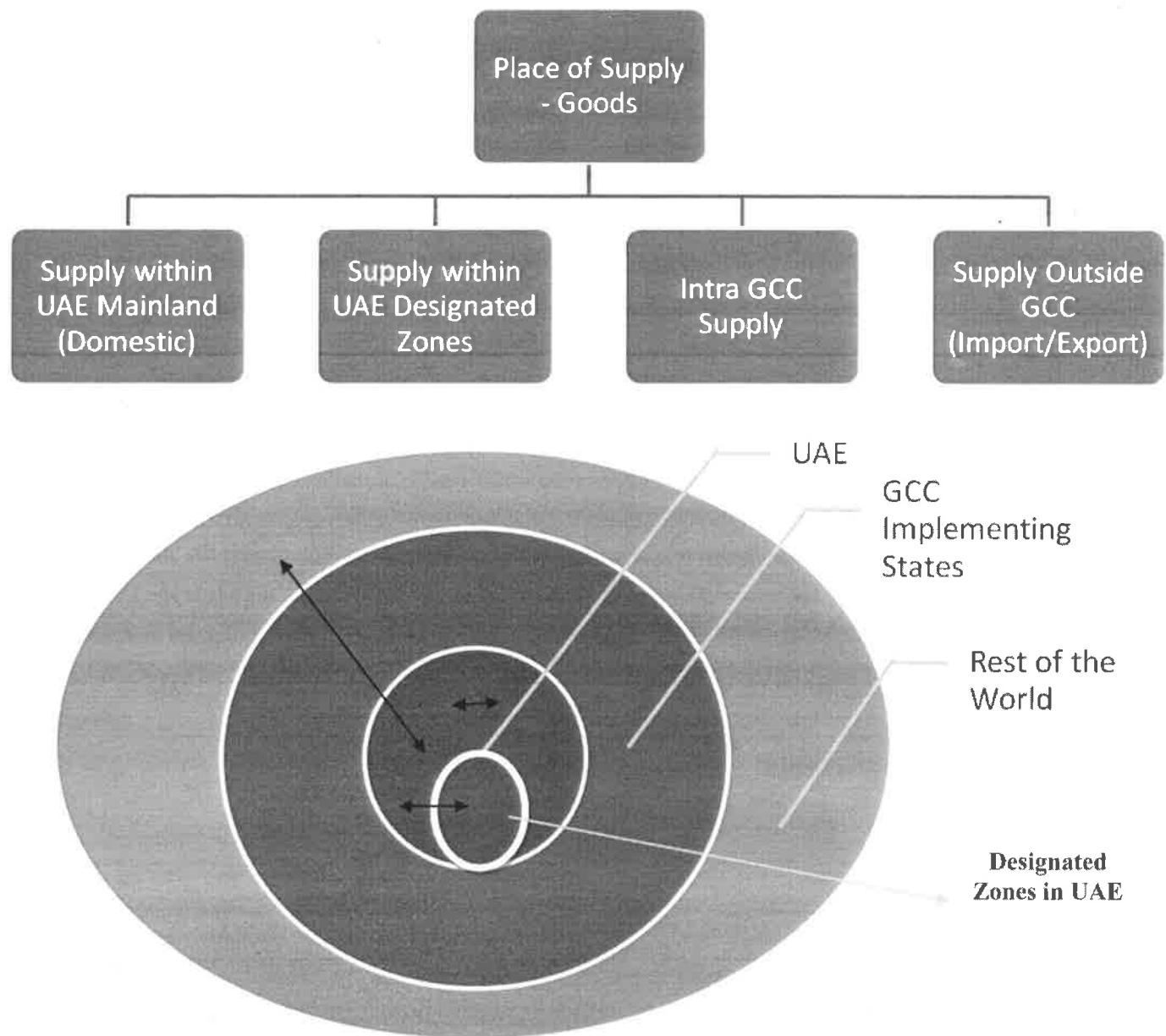
- What is the point of taxation in case of exports?
- What shall be the point of taxation in case of international supply of services?
- What shall be the point of taxation in case of domestic supply of services?

7.2 PLACE OF SUPPLY OF GOODS

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 purpose of simplicity, our study can be broadly grouped into following categories.



In the above diagram, Black arrows indicate that 'place of supply' is UAE in case destination in within UAE or outside GCC.

7.2.1 SUPPLY OF GOODS INSIDE UAE

As per Article 27 of Federal law No. 8 of 2017 on VAT, **the place of supply of Goods shall be in the State if the supply was made in the State**, and does not include Export from or Import into the State.

So, in the case of domestic supply, what we have to check is the physical location of goods when supply i.e. transfer of ownership or right to use goods takes place. In layman language, the supply is said to take place in UAE if the goods are sold and delivered in UAE.

- Such domestic supply is subject to the applicable VAT rate in the UAE. These are either taxable at zero rate or standard rate of 5 %.

An example is illustrated as follows:

Example 1:

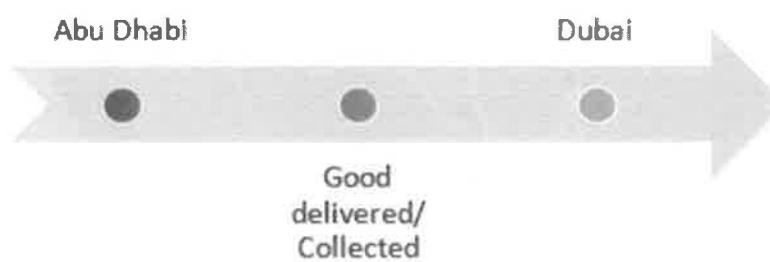
ABC LLC which is located in Abu Dhabi sends some electronic items to a buyer who is in Dubai. The goods are transported by a cargo plane that travelled from Dubai to another city in a neighbouring country before arriving at Abu Dhabi. The place of supply is in UAE.

In relation to supply of goods, the destination of the journey of the goods is relevant. This is in line with destination based consumption principle. Also, provisions of Article 20 of Executive Regulation on VAT should be considered in this regard which states as tabulated below.

Article 20 of Executive Regulation on VAT: Place of Supply of Goods Delivered within the State

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

- a. Where the exit from and re-entry into the State takes place in the course of a journey between two points in the State.
- b. Where there is no significant break in transportation whilst outside of the State, and any break is limited to what is reasonably expected in the course of physically transporting Goods.
- c. Where the Goods are not unloaded from the relevant means of transport whilst outside the State.
- d. Where the Goods are not consumed, supplied, or subjected to any process whilst outside of the State;
- e. Where the nature, quantity or quality of the Goods does not change as a result of exiting and re-entering the State.

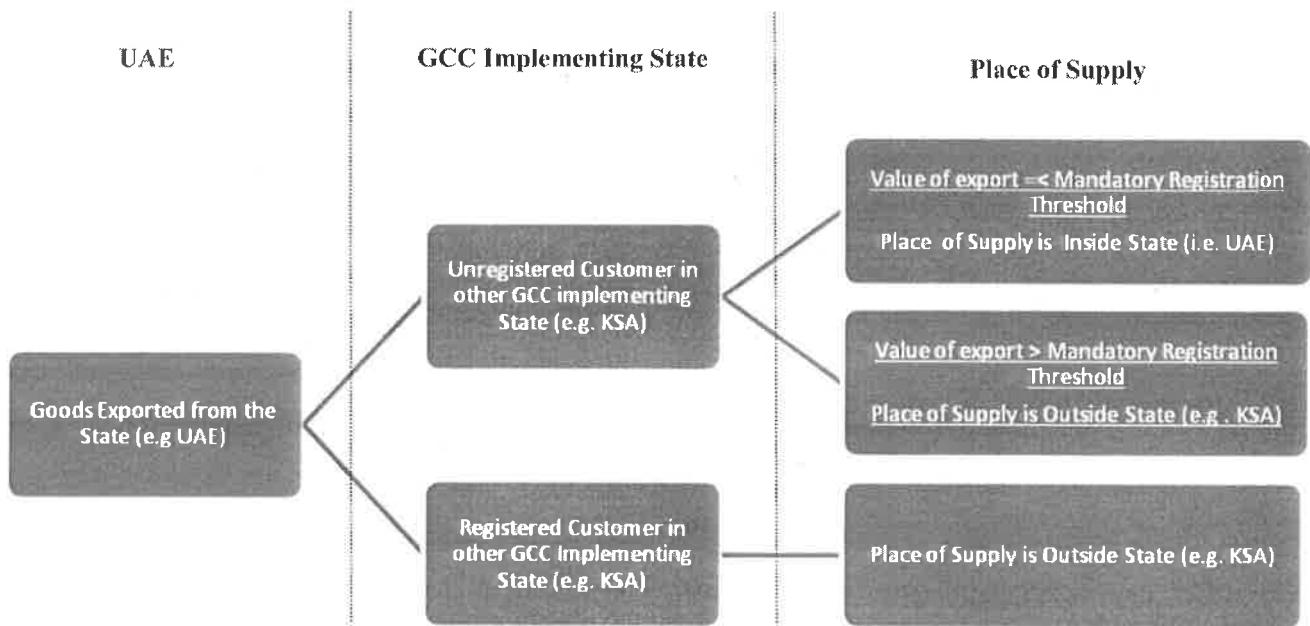


Moreover, in UAE there is a requirement that VAT will need to be reported by each Emirate which means that the Place of Supply rules not only need to identify the country for the purpose of VAT but the Emirates also.

So, if goods are supplied from Sharjah to Dubai then the VAT would be reported under the Sharjah Emirates.

7.2.2 Supply of Goods Involving GCC Implementing States

A. EXPORTS FROM UAE TO ANOTHER VAT IMPLEMENTING STATE



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

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

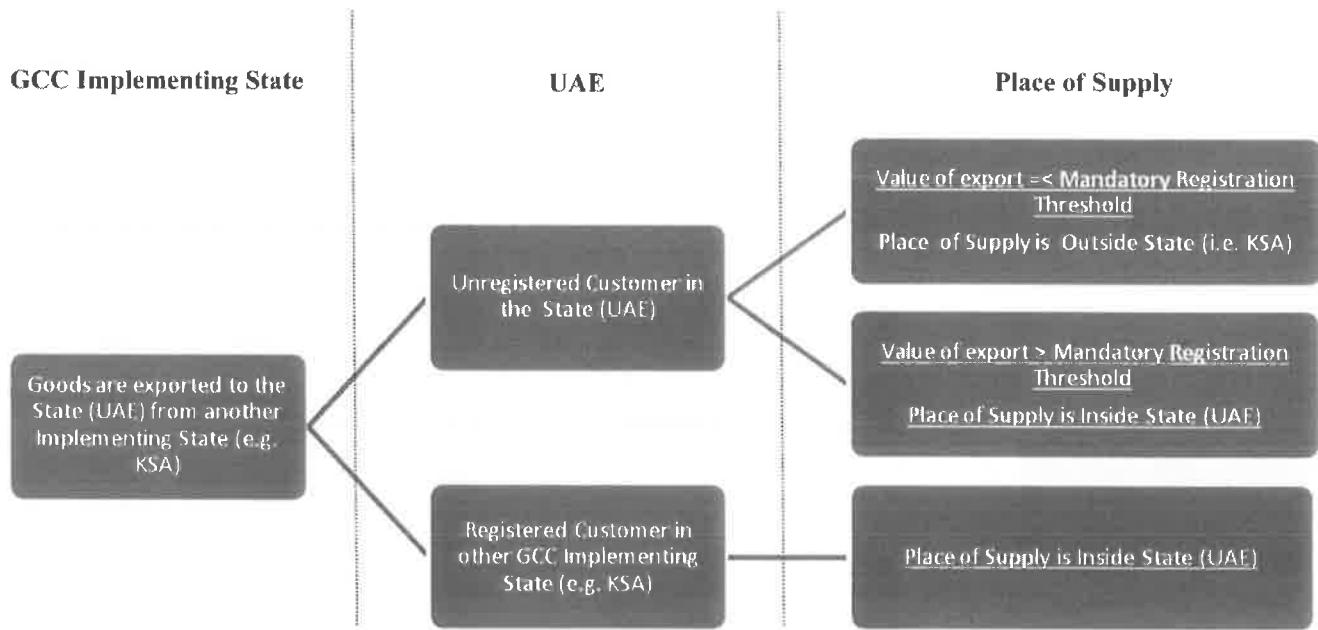
- i) The customer is unregistered in such another implementing state and the value of export to that another implementing state exceeds mandatory registration threshold.
- ii) The customer is registered in that another implementing state where the goods are exported from the state i.e. UAE.

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

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

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

B. IMPORTS INTO UAE FROM ANOTHER VAT IMPLEMENTING STATE



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

Where Goods are imported by a Taxable Person through another Implementing State and the intended final destination of those Goods was the State at the time of Import, then the Taxable Person shall be entitled to treat the Tax paid in respect of Import of Goods into the Implementing State as Recoverable Tax in accordance with Article 54 (2) of Federal Decree Law on VAT.

Moreover, Where Goods were acquired by a Taxable Person in another Implementing State and then moved into the State, the Taxable Person shall be entitled to treat the Tax paid in respect of the Goods in the Implementing State as Recoverable Tax in accordance with Article 54 (3) of Federal Decree Law on VAT.

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

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

Explanation 1: A dealer in KSA exported goods to an unregistered customer in UAE. The total value of supplies (exports) made by such dealer to UAE customer is above mandatory registration threshold in UAE i.e. he is required to get himself registered in UAE, then in such a case, POS will be inside State i.e. UAE. Such import will be subjected to UAE VAT.

Explanation 2: A dealer in KSA exported goods to an unregistered customer in UAE. The total value of supplies (exports) made by such dealer to UAE customer is below mandatory registration threshold in UAE i.e. he is not required to get himself registered in UAE, then in such a case, POS will be Outside State i.e. UAE. Such import will not be subjected to UAE VAT.

Explanation 3: A dealer in KSA exported goods to a registered customer in UAE. The total value of supplies (exports) made by such dealer to UAE customer is above mandatory registration threshold in UAE. In this case, POS will be Inside State i.e. UAE. Such supplies will be subjected to UAE VAT.

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

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

7.2.3 Place of Supply of Goods Imported from and Exported to Outside GCC

A. IMPORTS INTO UAE FROM OUTSIDE GCC IMPLEMENTING STATES

I. Import into UAE from outside of GCC in case Recipient in UAE is registered

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

If the Taxable Person imports Concerned Goods or Concerned Services for the purposes of his Business, then he shall be treated as making a Taxable Supply to himself, and shall be responsible for all applicable Tax obligations and accounting for Due Tax in respect of these supplies.

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

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

The importer has to disclose the amount of VAT under both Input VAT as well as Output VAT categories of the VAT return of relevant tax period. .

Reverse Charge Mechanism eliminates the obligation for the overseas seller to register for VAT in the UAE.

UAE VAT Reverse Charge Mechanism



Example 2:

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

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

II. Import into UAE from outside of GCC in case Recipient in UAE is not registered

As we have seen above, place of supply in case of imports from outside GCC Implementing countries into UAE shall be UAE only.

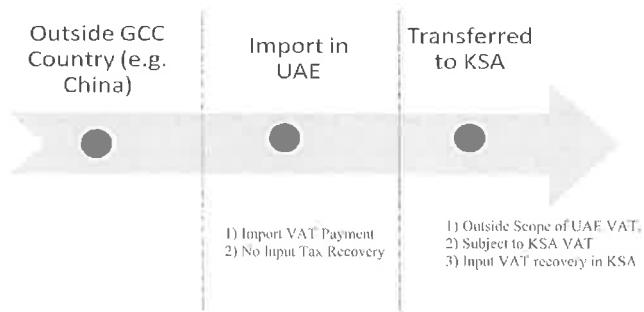
In case the recipient in the State is a non-registered person for VAT purposes, VAT would be paid on import of goods from a place outside the GCC. Such VAT will typically be required to be paid before the goods are released to the person. Article 50 of Executive Regulation on VAT provides that Where Concerned Goods are imported by a Person not registered for Tax, Tax shall be paid to the Authority by or on behalf of the Person before the Goods may be released.

B. IMPORTS INTO UAE FROM OUTSIDE GCC IMPLEMENTING STATES FOLLOWED BY MOVEMENT OF GOODS WITHIN GCC

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

The importer in such a case pay import VAT without using reverse charge. Article 48 (2) clearly provides that in case the final destination of the Goods when entering the State is another Implementing State, the Taxable Person shall pay the Due Tax on Import of Concerned Goods

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



C. EXPORTS FROM UAE TO OUTSIDE GCC IMPLEMENTING STATES

As regards exports from UAE to Outside GCC countries, Place of Supply rules are provided under Clause 3 of Article 27 of Federal Decree Law on VAT which inter alia provides that the **place of supply shall be Inside State i.e. UAE** if the supply includes exporting to a place outside the Implementing State. However, export of goods and service are zero rated i.e. these are subjected to zero rate of VAT. For details, refer Module 6: Zero Rated & Exempted Supply.

Example 3:

A local UAE company sold its products to an overseas buyer in United Kingdom through a buying agent in UAE. Therefore, the goods moved from a place in UAE to a place outside UAE with the agent acting on behalf of the overseas principal (buyer). This is the case of export and accordingly place of supply is UAE and the same will be subjected to VAT at zero rate.

7.2.4 PLACE OF SUPPLY OF GOODS - DESIGNATED ZONES

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

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

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

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

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

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

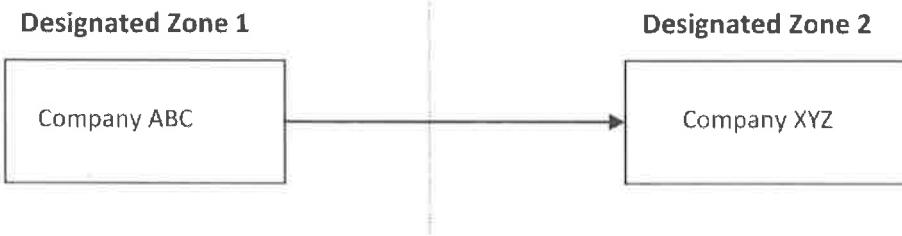
Let's now discuss the VAT aspect in case supply of goods is supplied involving designated zones. Our discussion relating to place of supply involving designated zones can be broadly grouped into the following.

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

I) GOODS SUPPLIED WITHIN OR BETWEEN DESIGNATED ZONES

As per Article 50 of the Federal Decree Law on VAT read with Article 51 (1) of Executive Regulation, any Designated Zone specified by a decision of the Cabinet shall be treated as being outside the State and outside the Implementing States, subject to the following conditions:

- a. The Designated Zone is a **specific fenced geographic area** and has security measures and Customs controls in place to monitor entry and exit of individuals and movement of goods to and from the area.
- b. The Designated Zone shall have internal procedures regarding the method of keeping, storing and processing of Goods therein.
- c. The operator of the Designated Zone complies with the procedures set by the Authority.



Place of Supply – Outside UAE

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

Clause 3 of Article 51 further states that **The transfer of Goods between Designated Zones shall not be subject to Tax if the following two conditions are met:**

- Where the Goods, or part thereof, are not released, and are not in any way used or altered during the transfer between the Designated Zones.
- Where the transfer is undertaken in accordance with the rules for customs suspension according to GCC Common Customs Law.

Example 4:

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

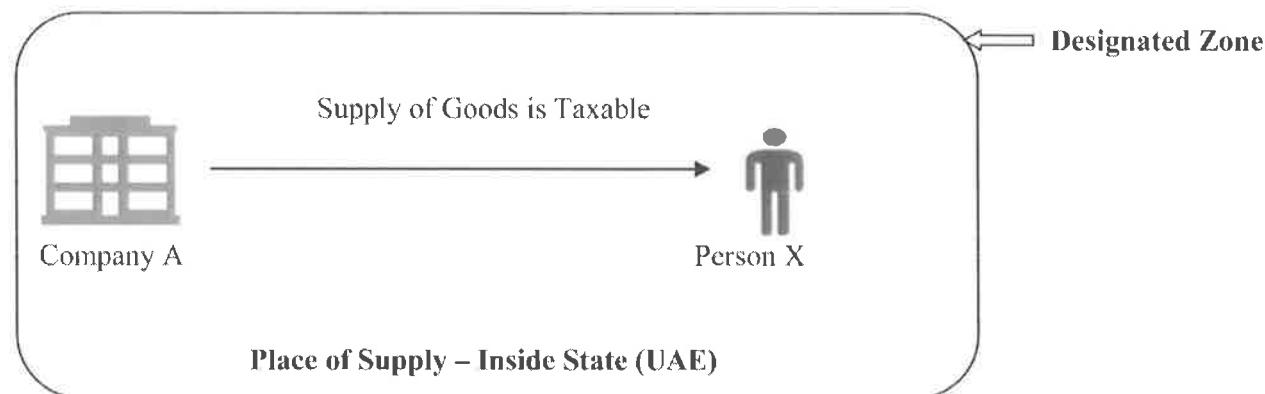
Example 5:

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

Consumption of Goods in Designated Zone

Clause 5 of Article 51 of Executive Regulation provides that where a supply of Goods is made within a Designated Zone to a Person to be used by him or a third person, **then the place of supply shall be the State** unless the Goods are to be incorporated into, attached to or otherwise form part of or are used in the production or sale of another Good located in the same Designated Zone which itself is not consumed.

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



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

- a. The Goods are consumed by the owner unless the Goods are incorporated into, attached to or otherwise form part of or are used in the production of another Good located in a Designated Zone which itself is not consumed.
- b. The Goods are unaccounted for.

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

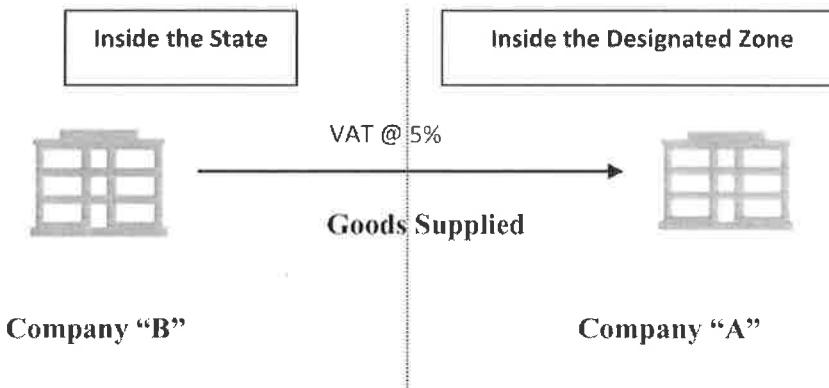
Goods Supplied from the State to Designated Zone

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

Let's consider an example.

Example 6:

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



Goods Supplied from Designated Zone to the State (UAE)

Let's consider 2 scenarios here.

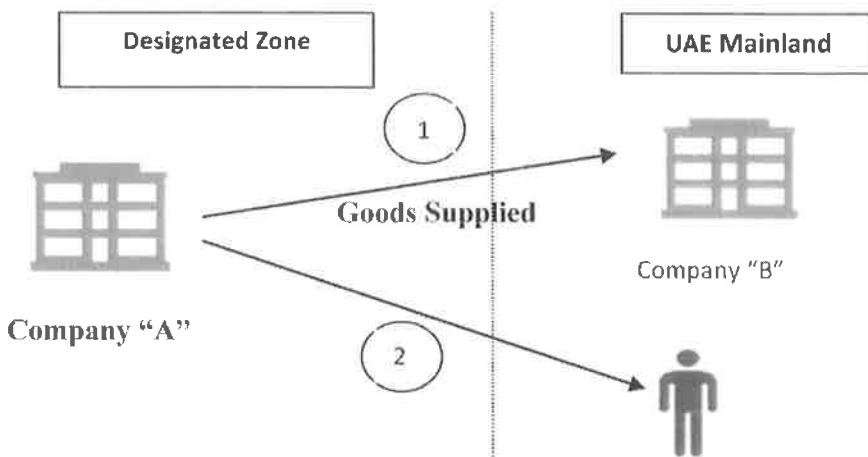
Scenario 1: Company "A" makes supplies of goods to company "B", then the importer of record into the State from the designated zone to the State accounts for the VAT as the same will be treated as import and place of supply shall be the State i.e. UAE.

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

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

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

In this context it should be noted that any Person established, registered or which has a Place of Residence in a Designated Zone shall be deemed to have a Place of Residence in the State [Article 51 (9) of Executive Regulation]



III) SUPPLY OF GOODS BETWEEN DESIGNATED ZONE AND OUTSIDE STATE

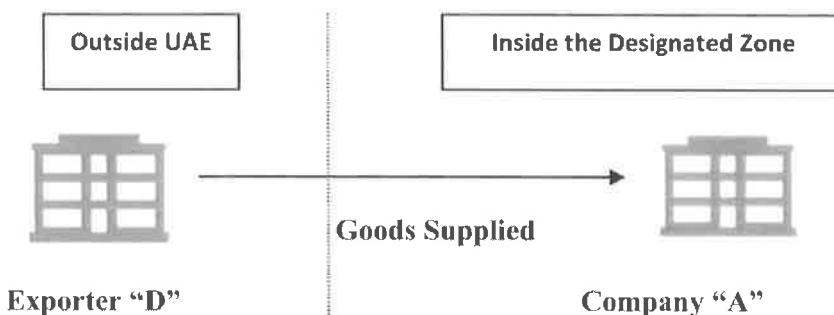
Supply of Goods from Outside State (GCC & Outside GCC Countries) to Designated Zone

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

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

Example 7:

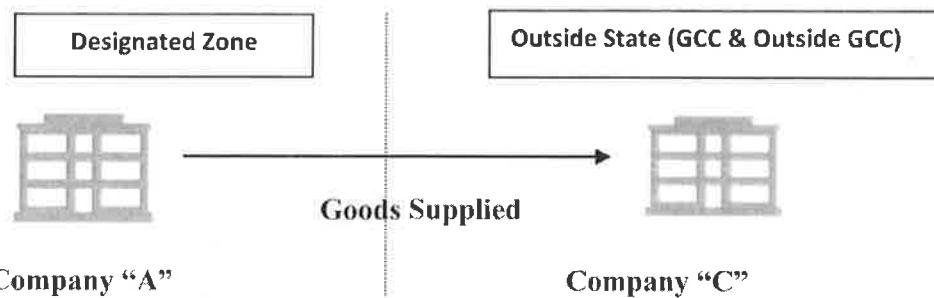
Exporter "D" from outside the State shall make supplies of goods to company "A" located in the designated zone without charging for VAT. Transaction is deemed performed outside the State and cannot be treated as import.



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

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

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



7.3 PLACE OF SUPPLY OF INSTALLED OR ASSEMBLED GOODS

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

The place of supply of installed or assembled Goods if exported from or imported into the State shall be:

- a. **In the State if assembly or installation of the Goods was done in the State.**
- b. **Outside the State if assembly or installation of the Goods was done outside the State.**

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

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

Similarly, if a company "ABC" in UAE supplies goods which need to be assembled at site of another company "XYZ" in KSA. Company "XYZ" is an unregistered in KSA and its total turnover of last 12 months less than 100,000 USD in KSA. Now in this case, place of supply shall be KSA as the installation takes places in KSA only and accordingly UAE VAT cannot be paid against such supply.

In cases where goods are installed or assembled in UAE by a foreign supplier, place of supply shall be UAE and accordingly such supply shall be subjected to UAE VAT.

7.4 PLACE OF SUPPLY OF WATER AND ENERGY

Supply of water and all forms of energy does not follow the general principles of place of supply. There is a separate article in the Federal Decree Law on VAT which deals with place of supply of water and energy.

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

1. The supply of water and all forms of energy specified in the Executive Regulation of this Decree-Law through a distribution system, shall be considered as done in the Place of Residence of the Taxable Trader in case the distribution was conducted by a Taxable Person having a Place of Residence in the State to a Taxable Trader having a Place of Residence in an Implementing State.
2. The supply of water and all forms of energy specified in the Executive Regulation of this Decree-Law through a distribution system shall be considered to have occurred at the place of actual consumption, if distribution was conducted by a Taxable Person to a Non-Taxable Person.

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

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

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

It has been further clarified under Clause 7 of Article 51 of Executive Regulation that the Place of supply of water or any form of energy shall be considered to be inside the State if the place of supply is in a Designated Zone. Hence, supply of water and energy to any designated zone in UAE will be subject to VAT.

7.5 PLACE OF SUPPLY OF SERVICES

The place of supply of Services shall be the Place of Residence of the Supplier with the exception of special rules for certain categories of supplies (e.g. cross border supplies between businesses).

Article 29: Place of Supply of Services

The place of supply of Services shall be the Place of Residence of the Supplier

As per Article 29, the place of supply of services is treated as made in the country where the supplier belongs. Therefore, the place of supply of services shall be UAE if the supplier has a place of residence in UAE. A supply of services is treated as made outside UAE if the supplier has a place of residence in a country other than UAE. It is important to identify from where the services are supplied. For example, a business consultant having his office in Dubai may travel to various locations while discharging his responsibilities towards his customer. Every such site that he visits while discharging his responsibilities does not become the place of residence of his business. They are merely the site of discharge of responsibilities and not the place of residence. Hence, the place of supply of services of this business consultant will continue to remain Dubai for all contracts.

“Place of Residence” has been defined under Article 1 of the Federal Law on VAT as “*The place where a Person has a Place of Establishment or Fixed Establishment, in accordance with the provisions of this Decree-Law*”. Determination of place of establishment or fixed establishment becomes very relevant for the purpose of determining taxability of any supply of services.

Further, Article 32 of the Federal Decree Law on VAT stipulates as below.

Article 32: The Place of Residence of the supplier or Recipient of Services shall be as follows:

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

3. The state in which the usual Place of Residence of the Person is located if he does not have a Place of Establishment or a Fixed Establishment in any state.

Article 1: Definitions

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

Fixed Establishment: Any fixed place of business, other than the Place of Establishment, in which the Person conducts his business regularly or permanently and where sufficient human and technology resources exist to enable the Person to supply or acquire Goods or Services, including the Person's branches.

Place of residence of supplier and recipient of services are, therefore very important for the purpose of determining the taxability of any service.

Let's discuss the various possibilities here in terms of place of residence of supplier and recipient of services. We will then examine place of supply and tax impact in respect of such cases. There can arise 4 different situations where;

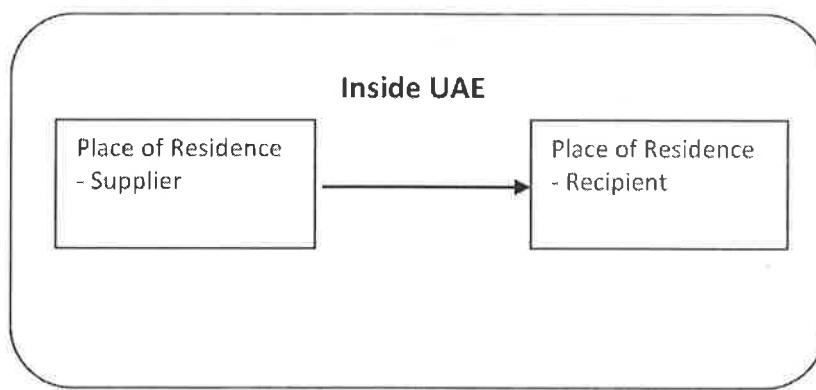
- i) Both Supplier and Recipient has Place of Residence in the State i.e. UAE.
- ii) Supplier has Place of Residence in UAE and the Recipient has Place of Residence outside UAE.
- iii) Supplier has Place of Residence in UAE and the Recipient has Place of Residence outside UAE.
- iv) Both Supplier and Recipient has Place of Residence outside the State i.e. UAE.

Now, let's analyse above scenarios one by one and find out the place of supply.

i) Both Supplier and Recipient has Place of Residence in the State i.e. UAE

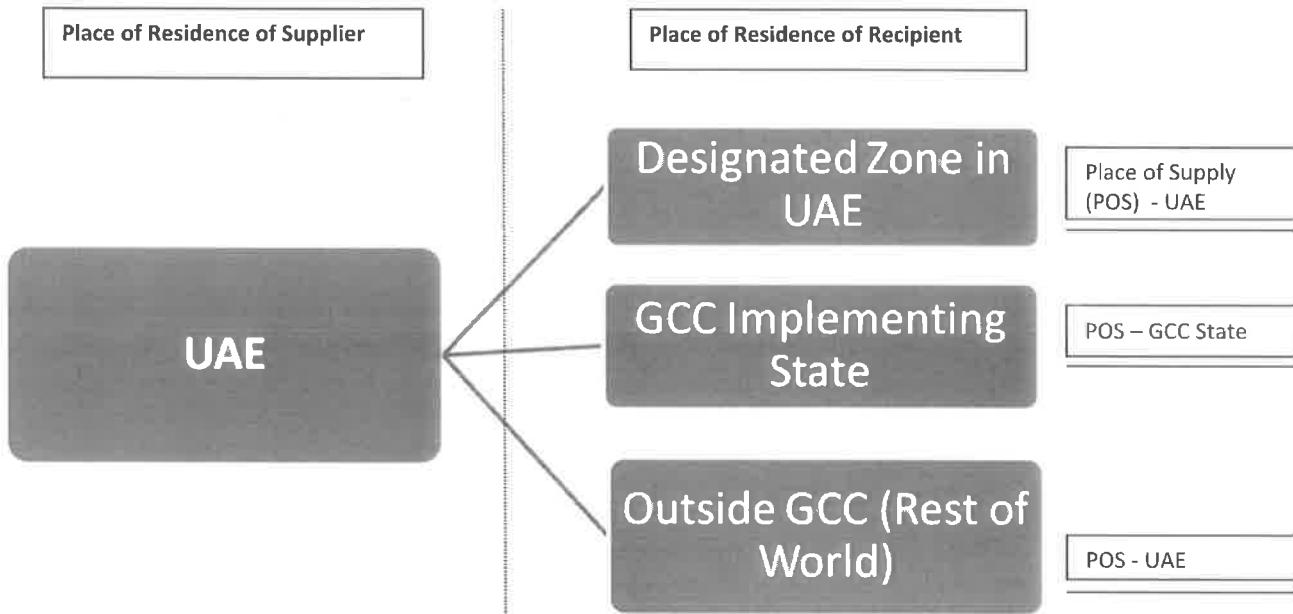
In cases where both Supplier and Recipient have Place of Residence in UAE, there will be no complexity in determining the place of supply. It is quite obvious that the place of supply of in all these cases will be the State (UAE) only, as the place of residence of the supplier is in UAE. Situations may become complex when either supplier or the recipient of service has place of residence in designated zone and the law considers designated zone to be outside of state without any exception.

However, the good thing is that the law provides that any **person established, registered or which has a Place of Residence in a Designated Zone shall be deemed to have a Place of Residence in the State** for the purposes of the Decree-Law. This clause 9 of Article 51 of Executive Regulation removes complexity while determining the tax impact on transactions related to designated zones. So, the treatment of designated zone will be similar to that of UAE mainland for the purpose of determination of VAT impact. If services are supplied to a designated zone company from outside state, it shall be considered as import as the place of supply is the State i.e. UAE. Similarly, if services are supplied from designated zone business to outside UAE, it shall be considered as export and hence, the supply will be zero-rated.



Example: Upon receiving an order from a customer in UAE, Supplier Co.'s head office in UK instructs its regional office "ABC LLC" in UAE to supply professional services to the customer in UAE. The supplier of the services belongs to UAE since the establishment which is most directly concerned with the supply is in UAE. Place of Supply in this case will be UAE and the same will be subjected to UAE VAT.

ii) Supplier has Place of Residence in UAE and the Recipient has Place of Residence outside UAE.



The above chart depicts 3 possibilities in context of place of residence of supplier which are being discussed below.

- Where the supplier having place of residence inside UAE makes supply of services to Recipient registered in any Designated Zone in UAE, place of supply shall be the UAE in accordance with Article 29 of Decree Law on VAT. Moreover, Article 51 (6) of Executive Regulation on VAT may be noted in this regard which provides inter alia that the Place of supply of Services is considered to be inside the State if the place of supply is in the Designated Zone. For more details, refer module on Designated Zone.

Example: Company "A" located in UAE mainland makes supplies of services to company "B" located in the designated zone (e.g.: insurance). Company "A" shall charge 5% of VAT to company "B".

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

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

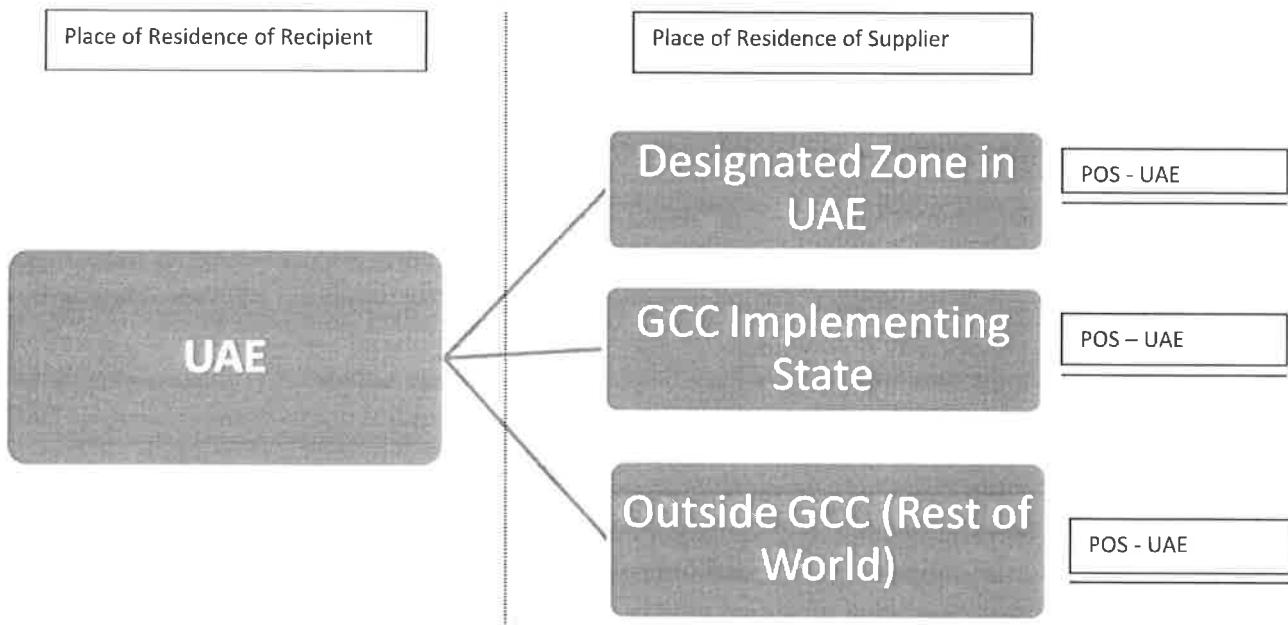
- Where the supplier having place of residence in UAE makes supply of services to Recipient having place of residence outside GCC Implementing State, place of supply shall be the UAE and accordingly such supply will be subjected

to UAE VAT as the place of residence of supplier is UAE. However, the same shall be treated as export of service and will be subjected to zero VAT rate.

Example 8:

A Company based in Dubai provides engineering services in relation to a highway construction project in Mumbai to a company located in India. The place of supply of services shall be UAE because the place of residence of supplier is UAE. Since such supply is made from UAE to a company which belongs in India, it is treated as an export of services and subject to VAT at zero-rate.

iii) The Recipient has Place of Residence in UAE and the Supplier has Place of Residence outside UAE.



The above chart depicts 3 possibilities in context of place of residence of supplier which are being discussed below.

- Where the supplier located in any Designated Zone in UAE makes supply of services to Recipient of mainland in UAE, **place of supply shall be the UAE** and accordingly such supply will be subjected to UAE VAT. Article 29 of Federal Decree Law provides that place of supply of services is the place of residence of supplier. So, in this case place of supply shall be the place of residence of supplier which is a designated zone. Moreover, Article 51 (6) of Executive Regulation on VAT provides that the Place of supply of Services is considered to be inside the State if the place of supply is in the Designated Zone. Thus, combined reading of both articles 29 and article 51 gives the understanding that the place of supply of services shall be the UAE if the service provider is located in designated zone. For more details, please refer module on Designated Zone.

Example 9:

Company "A" located in UAE designated zone makes supplies of services to company "B" based in Dubai mainland (e.g.: insurance). Company "A" shall charge 5% of VAT to company "B" as the same is subject to UAE VAT.

- Where the supplier having place of residence in any other GCC Implementing State makes supply of services to Recipient having place of residence UAE, **place of supply shall be the State i.e. UAE**. Such supply shall be subjected to UAE VAT as per Clause 2 of Article 30 of Federal Decree Law on VAT. The said clause provides that where the Recipient of Services is in Business and has a Place of Residence in the State, and the Supplier does not have a Place of Residence in the State, the place of supply shall be in the State

Example 10:

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

- Similarly, in the case of import of services where the supplier has place of residence outside GCC Implementing State and the Recipient has a place of residence in UAE, **place of supply shall be the UAE**. Clause 2 of Article 30 of Federal Decree Law on VAT shall be applicable which inter alia provides that where the Recipient of Services is in Business and has a Place of Residence in the State, and the Supplier does not have a Place of Residence in the State, the place of supply shall be in the State. The supply shall be treated as import of service and accordingly the recipient has to account for tax through reverse charge mechanism.

Example 11:

A UK firm provides legal consultancy services UAE registered business and charges AED 10,000. The place of supply of services in this case shall be UAE. It shall be treated as an import of service. The recipient has to account through reverse charge. The recipient should declare AED 500 (5 % of AED 10,000) as input tax and AED 500 as output tax.

iv) Both Supplier and Recipient has Place of Residence outside the State i.e. UAE.

Here for the purpose of this paragraph, “Outside the State” refers to the place both outside UAE and GCC Implementing State. In this paragraph, we are also not going to discuss supply in relation to designated zones as practically it has tax treatment similar to that of UAE mainland (Inside State). Supply of services in relation to implementing state is also not covered here as the same was discussed in previous sections separately.

This paragraph covers all the cases where supply has either been made between outside GCC Implementing State (e.g. countries excluding UAE & other GCC Countries) In all these situations, supply is treated to have been made outside UAE and hence, place of supply is considered outside UAE. It can be concluded that supplies of services among outside GCC countries will be out of scope of UAE VAT.

7.6 PLACE OF SUPPLY – SPECIAL CASES

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

Installation Services

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

For example, place of supply of installation services provided by a Dubai based company to its client based in South Africa shall be outside UAE. It will not be treated as a zero-rated export of services as place of supply in this case is outside UAE.

Lease of Means of Transport

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

Restaurant Services

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

Example 12:

“ABC Restaurant LLC” operates food outlets in Dubai. Although the owner of the restaurant is an Indian citizen, the place of supply is UAE because the services are performed in UAE. Therefore, supply from such food outlets are subject to UAE VAT.

Cultural, Artistic, Educational Service

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

For example, when an Indian artist stages a performance in Dubai, the place of supply of services is in UAE only. Similarly, when a UAE artist performs overseas, the place of supply is outside UAE which again cannot be considered as zero-rated export and thus, not subjected to UAE VAT.

Real Estate Services

2. For the Supply of Services related to real estate as specified in the Executive Regulation of this Decree-Law, the place of supply shall be where the real estate is located.

Example 13:

ABC LLC a USA based company enters into contract for providing architectural services to a UAE company in respect of a building project located in Abu Dhabi. The Architect plans and designs the project in his office in USA. Since, the building is located in UAE, all related services including architecture services provided by real estate experts or agents shall be subject to UAE VAT. Place of supply of services related to real estate shall be the place where real estate is located as per Article 30.

Article 21 of Federal Decree Law on VAT: Place of Supply of Services Related to Real Estate

1. For the purposes of the Decree-Law and this Decision, “real estate” includes as an example:
 - a. Any area of land over which rights or interests or services can be created.
 - b. Any building, structure or engineering work permanently attached to the land.
 - c. Any fixture or equipment which makes up a permanent part of the land or is permanently attached to the building, structure or engineering work.
2. A supply of Services is deemed to relate to a real estate where the supply of Services is directly connected with the real estate, or where it is the grant of a right to use the real estate.
3. A supply of Services directly connected with real estate includes:
 - a. The grant, assignment or surrender of any interest in or right over real estate.
 - b. The grant, assignment or surrender of a personal right to be granted any interest in or right over real estate.
 - c. The grant, assignment or surrender of a licence to occupy land or any other contractual right exercisable over or in relation to real estate, including the provision, lease and rental of sleeping accommodation in a hotel or similar establishment.
 - d. A supply of Services by real estate experts or estate agents.
 - e. A supply of Services involving the preparation, coordination and performance of construction, destruction, maintenance, conversion and similar work.

Transportation Services

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

Article 22 of Executive Regulation on VAT: Place of Supply of Certain Transport Services

1. The place of the supply of each transportation service is the place where the supply of that transportation service commences, where a trip includes more than one stop and consists of multiple supplies in accordance with Clause (5) of Article (4) of this Decision.
2. The place of supply of Transport-Related Services shall be the same as the place of supply of the transportation service to which they relate.

Example 14:

Fly Dubai provides transportation services to passengers on board a flight from DXB Airport to Bangkok International Airport, Thailand. Since the place of departure is UAE i.e. transportation commences from Dubai, UAE, the place of supply of international transportation service is in UAE. However, the same is treated as zero-rated services.

7.7 PLACE OF SUPPLY OF TELECOMMUNICATION AND ELECTRONIC SERVICES

Telecommunication Services

Article 31 of the decree law on VAT provides as follows;

1. For telecommunications and electronic Services specified in the Executive Regulation of the Decree-Law, the place of supply shall be:
 - a. In the State, to the extent of the use and enjoyment of the supply in the State.
 - b. Outside the State, to the extent of the use and enjoyment of the supply outside the State.
2. The actual use and enjoyment of all telecommunications and electronic Services shall be where these Services were used regardless of the place of contract or payment.

In simple words, Place of supply of telecommunications and electronic services is where the services are actually **used and employed by the recipient**.

Some examples of telecommunication services by telecom operations including **DU and Etisalat** in UAE are as follows.

- i) Fixed network domestic long distance and local telephone service
- ii) Mobile telecommunication services (including mobile data services, internet and other digital transmission services, toll free numbers)
- iii) Online Data base storage and retrieval services

Telecommunication services provided in UAE shall be subject to VAT provided these are used in UAE. Accordingly, sale of SIM cards, recharge card (prepaid services), prepaid services shall chargeable to VAT at standard rate (5%). However, those telecom services which are not used or consumed in UAE will not be chargeable to VAT since, the article 31 provides that place of supply shall be In the State to the extent these services are used and enjoyed in the State. Going by the said provision of law, VAT can be charged on international roaming services provided by the telecom service providers.

Electronic Services

Article 23 of Executive Regulation defines electronic as “Electronic services” means Services which are automatically delivered over the internet, or an electronic network, or an electronic marketplace. The definition given under the law is inclusive one and encompasses all kinds of transactions pertaining to the buying, selling and transfer of digital products (image, audio, text and software) using the internet. For the purpose of UAE VAT, supply of digital products is nothing but the electronic services.

The principal rule for determining place of supply of electronic services as per Article 31 is that place of supply shall be UAE prove the same is consumed or enjoyed in UAE. The same can be understood with the help of below example.

Example 15:

Virus protection software is purchased from a website. After payment the files are downloaded to the recipient company's server. The company is registered under UAE VAT. The website is owned and operated by a US controlled and owned corporation. In this case, place of supply shall be UAE and the same will be subject to VAT since this electronic services are used in UAE.

Article 23 of Executive Regulation on VAT: Telecommunication and electronic services

1. "Telecommunication services" means delivering, broadcasting, converting or receiving any of the services specified below by using any communications equipment or devices that transmit, broadcast, convert, or receive such service by electrical, magnetic, electromagnetic, electrochemical or electromechanical means or other means of communication, including:
 - a. Wired and wireless communications.
 - b. Voice, music and other audio material.
 - c. Viewable images.
 - d. Signals used for transmission with the exception of public broadcasts.
 - e. Signals used to operate and control any machinery or equipment;
 - f. Services of an equivalent type which have a similar purpose and function.
2. "Electronic services" means Services which are automatically delivered over the internet, or an electronic network, or an electronic marketplace, including:
 - a. Supply of domain names, web-hosting and remote maintenance of programs and equipment;
 - b. The supply and updating of software;
 - c. The supply of images, text, and information provided electronically such as photos, screensavers, electronic books and other digitized documents and files;
 - d. The supply of music, films and games on demand;
 - e. The supply of online magazines;
 - f. The supply of advertising space on a website and any rights associated with such advertising;
 - g. The supply of political, cultural, artistic, sporting, scientific, educational or entertainment broadcasts, including broadcasts of events;
 - h. Live streaming via the internet;
 - i. The supply of distance learning;
 - j. Services of an equivalent type which have a similar purpose and function.
3. "Electronic marketplace" means a distribution service which is operated by electronic means, including by a website, internet portal, gateway, store, or distribution platform, and meets the following conditions:
 - a. Which allows suppliers to make supplies of electronic services to customers.
 - b. The supplies made by the marketplace must be made by electronic means.

7.8 CONCLUDING SUMMARY

Determination of place of supply of goods and services is essential to determine the nature of supply so that person can discharge its tax liability to the appropriate government. Any error in determining the place of supply may result into non-payment of taxes or payment of tax to the wrong jurisdiction. The entire discussion on the place of supply goods and services has been summarised in the table below for the purpose of ease of understanding and providing more clarity to the readers.

MODULE 8

TIME OF SUPPLY

ARTICLES OF DECREE LAW ON VAT RELEVANT TO THIS MODULE	
Article (25)	Date of Supply
Article (26)	Date of Supply in Special Cases
ARTICLES OF EXECUTIVE REGULATION ON VAT RELEVANT TO THIS MODULE	
Article (19)	Due Tax at Date of Supply

8.1 INTRODUCTION

Every fiscal statute provides for the taxable event or the tax point. In case of VAT, supply of goods and services is the taxable event. So, the time of supply is the time when a supply of goods or services is treated as being made. It is important to determine the time of supply as a taxable person should charge VAT at the time when the supply treated to have been made. Consequently, VAT must be accounted for in the taxable period in which the time of supply occurs. However, it should be noted that taxable event i.e. time of supply can be different from the liability to pay tax. Determination of time of supply becomes important both for the taxable person and the government because of the following reasons.

- 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.
- Also, this is important because it will have cash flow implications both for the government as well as for taxpayer.

8.2 TIME OF SUPPLY

Our study on time of supply can be systematically categorized as below.

- I. Basic Tax Point for Supply of Goods
- II. Basic Tax Point for Provision of Services
- III. Overriding the Basic Tax Point

A tax point fix the time at which supply is treated to have been taken place for the purpose of VAT. Basic Tax point rules are the rules for determining the time of supply in general cases. However, in certain cases these basic tax point rules are overridden by specific set of rules. Let's now discuss these below one by one.

I. Basic Tax Point for Supply Of Goods:

The basic rule for determination of date of supply is the date of transfer of goods if such transfer was under the supervision of the supplier. However, if the transfer of goods is not made under the supervision of supplier, the date of supply shall be the date on which the Recipient of Goods took possession of the Goods.

1. If the goods are transferred under the supervision of the supplier, the date of such transfer will be considered as the time of supply.

For example, ABC Electronics LLC registered in Dubai, supplies electronic components to XYZ Mobile LLC, a mobile phone manufacturing company located in Sharjah, UAE. ABC LLC delivers the goods to the factory gate of XYZ LLC. As per the contract, all the risk and reward passes to the buyer only after the goods reach the factory gate of XYZ. Here, the goods are transferred under the supervision of the supplier i.e. ABC LLC . Accordingly, the date of supply shall be the date of transfer i.e. the date on which goods are received at factory gate of XYZ LLC.

2. If the transfer of goods is not under the supervision of the supplier, the date on which the recipient took possession of the goods will be considered as the time of supply.

In the same example above, if ABC Electronics LLC, supplies electronic components to XYZ Mobile LLC on ex-works basis, then it shall be the case of transfer of goods without supervision of supplier. In other words, the XYZ Mobile LLC took the delivery of goods from the warehouse of ABC LLC. In such a case, date of supply shall be the date on which the buyer took lawful possession of goods.

3. Goods supplied with Assembly and Installation

In case the supply involves an installation of the goods, the date of supply will be the date when the assembly or installation is completed. It is to be noted here that the date of transportation of the goods by the supplier to the site where such assembly installation is required to be carried out is not the date of supply. Rather, it is the date when the services of assembly and installation of goods are completed.

4. Import of Goods

In the case of imports, the date of supply will be the date of import of the goods. Reference should be made to customs legislation so as to determine the date of import. It is pertinent to note that date of entry or arrival of the vessel into UAE cannot be considered to be the date of import. Similarly, bill of lading date or airway bill date cannot be directly assumed to be date of import by default.

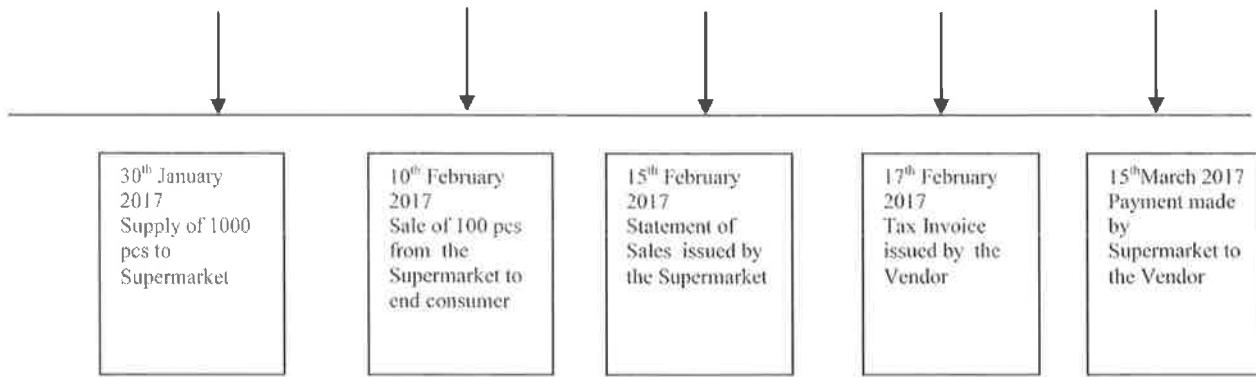
5. Goods supplied under “Sale on Approval” or Returnable basis

If a supply of goods is on a sale on approval or similar terms, the date of supply will be **the date on which the Recipient of Goods accepted the supply or the date not later than twelve months from the date the goods were sent to the consignee**, whichever is the earlier.

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

A mobile phone vendor supplied 1,000 units of phones to a Supermarket on 30th January 2017. The contract between the mobile phone vendor and the Supermarket is that of Sale on Approval basis. As per the contract, the Supermarket will make payment to the vendor only after the sale of such goods to end consumer from the super market is effected. As per the practice, the Supermarket issues Statement of sales on 15th and 30th of every month to all its vendors. On the basis of such statement of sales, tax invoice is issued by the vendor. Payment is then made within 30 days from the date of receipt of such Tax Invoice.

The Supermarket accordingly issued Tax Invoice on 15th February in respect of sales made on February 10 indicating a sale of 100 units. After 12 months from 30th January 2017, the remaining balance of 900 units had not been sold or the consignor did not receive any statement of sales from the consignee.,



In the given example, the date of actual sale from supermarket can be considered as the date of acceptance of goods by the Supermarket. Hence, date of supply shall be 10th of February in respect of 100 units. Against, the remaining unsold stock of 900 units, the consignor needs to issue a tax invoice within 14 days after the 12 months period has lapsed.

II. Basic Tax Point for Services:

In case of services, the date of supply shall be the date of completion of the services. Here, for the purpose of taxability of services, it is imperative that the services are completely performed. Parties cannot artificially manipulate or redesign the completion of the service for the purpose of tax avoidance. A proper system to record the date of completion of the service may be developed and maintained in order to justify the date of completion of the service.

Example: ABC Chartered Accountant is an audit firm. The firm conducts audit of its client and submit an audit report in respect of previous financial year. The audit accordingly started on 5th February 2017. By 1st March 2017, the firm completes the report and sent it to one of its client. In this case, the basic tax point is 1st March 2017 which is the end date of an audit i.e. when services are performed. Accordingly, VAT has to be accounted for during the tax period ending March 2017 if it is monthly.

III. Overriding the Basic Tax Point

In the previous sections, we have discussed the rules for determining the basic tax point i.e. the date of supply of goods and services. A summary of the same has been tabulated below for quick reference.

Nature of Supply	Date of Supply
Transfer supervised by supplier	Date of Transfer
Transfer without supervision of supplier	Date of Possession of goods by Recipient
Goods Supplied with Assembly and Installation	Date of Assembly or Installation
Import under custom legislation	Date of Import as per Custom Legislation
Supply under "Sale on Approval" basis	Date of acceptance of goods by the recipient or 12 months from the date of delivery
Provision of Services	Date of completion of services

Now, in this section we are going to discuss the provisions which override these basic rules. The overriding rule provides that **if a supplier issues a tax invoice or receives any payment before the time of supply mentioned in cases above, the time of supply for the amount invoiced or payment received will be the date of the invoice issued or the date of the payment received, whichever is the earlier.**

Article 19 of Executive Regulation on VAT: Due Tax at Date of Supply

For the purposes of Articles (25), (26) and (80) of the Decree-Law, where Tax is due because a payment is made or a Tax Invoice is issued in respect of a supply of Goods or Services, the Tax shall be due to the extent of the payment made or stated in the Tax Invoice, and the remainder of Due Tax on that supply shall be payable according to the provisions of the Decree-Law.

It is pertinent to note that, only in those cases where receipt of payment/Issuance of tax invoice occurs before the actual transfer of goods/completion of service, this overriding clause come into effect. Thus, where supply of goods and services takes place before receipt of consideration or issuance of invoice, no overriding rule will apply and date of supply will be determined as per basic point of tax rules.

Example 1: Invoice before basic tax point

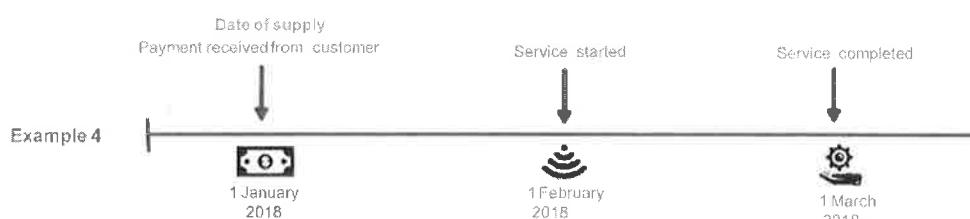
Company A sells and delivers a goods to Company B on 10th February 2018. The value of the goods is AED 10,000 excluding VAT. Company A however, issues a tax invoice for AED10,500 to Company B on 2nd January 2018 when Company B places the order. Company B also pays a deposit of AED 1,050 on the same day. Company B pays the remaining balance of AED 9,450 on 10th February 2018.

The time of supply in this case shall be 2nd January 2018 as the invoice is issued before actual delivery of goods.

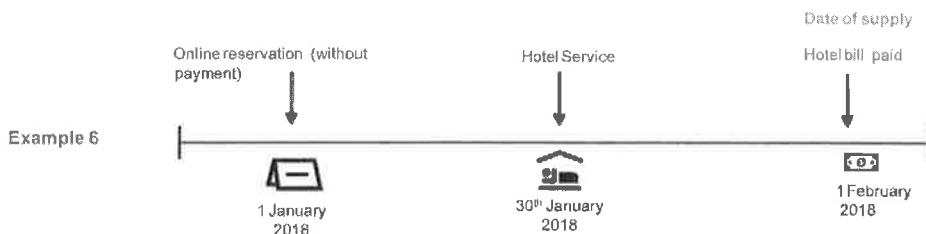
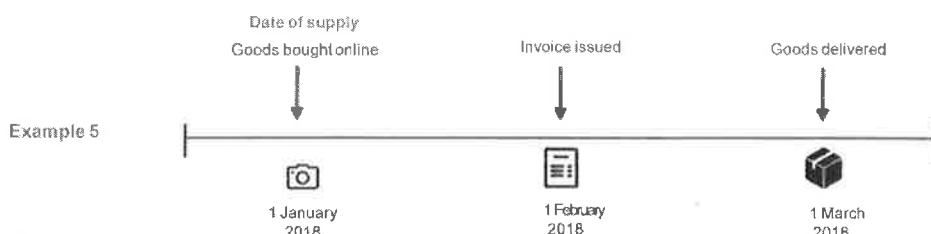
Example 2: Part payment before basic tax point

Company A sells and delivers laptops to Company B on 20th January 2018. When Company B places the order on 10th January 2018, it pays a part payment of AED 5,000. The value of the laptops is AED 10,000 and the VAT chargeable is AED 500. Company A issues a tax invoice for the whole amount of AED 10,500 on 6th February 2018. Company B later pays the balance amount of AED 5500 to Company A on 5th February 2013.

The time of supply for VAT due on advance payment of AED 5000 10th January 2013 and the time of supply for VAT due on balance amount of AED 5,500 is 6th February 2013.



Specific examples in Consumer Business Industry



Article (25) of Federal Decree on VAT: Date of Supply

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

1. The date on which Goods were transferred, if such transfer was under the supervision of the supplier.
2. The date on which the Recipient of Goods took possession of the Goods, if the transfer was not supervised by the supplier.
3. Where goods are supplied with assembly and installation, the date on which the assembly or installation of the Goods was completed.
4. The date on which the Goods are Imported under the Customs Legislation.
5. The date on which the Recipient of Goods accepted the supply, or a date no later than (12) months after the date on which the Goods were transferred or placed under the Recipient of Goods disposal, if the supply was made on a returnable basis.
6. The date on which the Services were completed.
7. The date of receipt of payment or the date on which the Tax Invoice was issued.

8.3 DATE OF SUPPLY - SPECIAL CASES

There are general rules for determining the time of supply. However, in certain cases and in particular situations, there is specific time of supply rules to be applied. It is essential to note that where a specific time of supply rule applies, it will override the general rule.

I. DATE OF SUPPLY IN CASE OF CONTINUOUS SUPPLY OF GOODS AND SERVICES

This clause shall be applicable only when the following conditions are met.

- o Goods and/or services are supplied under the contract on an ongoing basis.
- o Payment are made periodically and/or consecutive invoices are issued against such supplies.

Clearly, this clause covers the cases of continuous supply and recurrent supply. The term “recurrent” means regularly or frequently. In the case of continuous supply, the process of provision of supply remains uninterrupted. A contract by a transporter with a petrol pump for supply of fuel for its trucks on regular basis or a contract by an office with a drinking water supplying firm for supply of water bottles are examples of recurrent supply. A contract for providing security on 24 X 7 basis is continuous supply of service. Telecom and internet services provided by telecom companies are other examples of continuous supply of services.

In all such cases of continuous or recurrent supply of goods and services which involves periodic payment, the date of supply shall be the earliest of following subject to the condition that it does not exceed one year from the date of the provision of such Goods and Services

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

II. SUPPLY THROUGH MACHINES OR DEVICES OPERATED BY COINS

The time of supply for supplies made through machines or devices operated by coins and the like, such as vending and amusement machines, is the **date on which funds are collected from the machine**.

Nowadays, it is not very uncommon to find supply of consumer goods through vending machines. These machines itself dispense the goods once the consumer select the items and make payment by inserting cash in the machine.

There are 3 major steps involved in the supply of goods through machines.

- i) Delivery of the goods by the supplier to store such goods into the machine
- ii) Dispensing of the goods by the machine to the customer and making payment via the machine.
- iii) Collection of money from the machine by the supplier.

Delivery of the goods by the supplier to store such goods into the machine, due to this provision, is not to be considered a supply. The dispensing of the goods by the machine to the customer is also not to be considered a supply. But when the supplier visits the place where such machines are located and unload the payment that has been deposited into the machine by the customer, it will be treated as the date of supply of the goods so dispensed to the customer.

III. DATE OF DEEMED SUPPLY

Article 11 of Federal Decree Law on VAT considers deemed supply in 4 cases. These are

- i) A supply of Goods or Services, which constituted the whole assets of a Taxable Person or a part thereof, but are no longer considered to be as such, provided that the supply was made without Consideration – In this case **the date of supply or disposal of such goods or services** shall be treated as the date of supply.
- ii) The transfer by a Taxable Person of Goods that constituted a part of his business assets from the State to another Implementing State, or from the Taxable Person's business in an Implementing State to his Business in the State – **The date of transfer or disposal of business asset** shall be considered as date of supply for the purpose of this clause.
- iii) A supply of Goods or Services for which Input Tax may be recovered but the Goods or Services were used, in part or whole, for purposes other than Business, and such supply shall be considered as deemed only to the extent of the use for non-business purposes – In such cases, the date of deemed supply shall be **the date of change of usage of the goods or services**. In simple words, the date when such goods or services are used for non business purpose.
- iv) Goods and Services that a Taxable Person owns at the date of Tax Deregistration – In this case **date of deemed supply shall be the date of tax deregistration**.

Clause 3 of Article 11 clearly stipulates that the date of Deemed Supply of Goods or Services is the date of their supply, disposal, change of usage or the date of Deregistration, as the case may be.

IV. DATE OF SUPPLY OF VOUCHERS

As we have discussed in the previous module on supply of goods & services, issuance of vouchers cannot be treated as a taxable supply itself as these are neither goods nor deemed as supply of goods.

As per Clause 1 of Article 7 of Federal Decree Law on VAT, the sale or issuance of any Voucher shall be considered as supply only when **the received Consideration at the time of supply or sale of voucher exceeds its advertised monetary value**. In such a case, it shall be considered as supply and taxable accordingly. The point of tax of supply of vouchers when received consideration exceeds its advertised monetary value shall be the **date of issuance of such vouchers**.

Article (26) of Federal Decree Law on VAT: Date of Supply in Special Cases

1. The date of supply of Goods or Services for any contract that includes periodic payments or consecutive invoices is the earliest of any of the following dates, provided that it does not exceed one year from the date of the provision of such Goods and Services:
 - a. The date of issuance of any Tax Invoice.
 - b. The date payment is due as shown on the Tax Invoice.
 - c. The date of receipt of payment.

2. The date of supply, in cases where payment is made through vending machines, shall be the date on which funds are collected from the machine.
3. The date of Deemed Supply of Goods or Services is the date of their supply, disposal, change of usage or the date of Deregistration, as the case may be.
4. The date of a supply of a voucher is the date of issuance or supply thereafter.

8.4 CONCLUDING SUMMARY

Our entire discussion on time of supply goods and services has been summarised and tabulated below for quick reference.

Date of supply: When to account for output VAT on supplies			
S. No.	Nature of Supply	Date of Supply	Reference
1	Goods	<p>The date of supply shall be earliest of the following dates</p> <ul style="list-style-type: none"> ▪ Date of removal of goods (in case of supply of goods with transportation) ▪ Date on which goods made available to customer (where no transportation) ▪ Date of assembly/installation ▪ Date of receipt of payment ▪ The date of a VAT Invoice 	Article 25 of Federal Decree Law No. 8 of 2017 on VAT
2	Supply of goods made on Returnable basis	<p>The date of supply shall be earliest of the following dates</p> <ul style="list-style-type: none"> ▪ Date of acceptance of supply by recipient (in case of supply) ▪ Date no later than (12) months after the date of delivery to recipient ▪ Date of receipt of payment ▪ The date of a VAT Invoice 	
3	Import of Goods	Date of Importation under Customs Legislation	
4	Services	<p>The date of supply shall be earliest of the following dates</p> <ul style="list-style-type: none"> ▪ Date on which performance of service is complete ▪ Date of receipt of payment ▪ The date of a VAT Invoice 	
5	Continuous or recurrent supply of goods and services	<p>The date of supply shall be earliest of the following dates</p> <ul style="list-style-type: none"> ▪ The date of issuance of any Tax Invoice. ▪ The date payment is due as shown on the Tax Invoice. ▪ The date of receipt of payment. 	Article 26 of Federal Decree Law No. 8 of 2017 on VAT
6	Supply of goods through vending machines	The date on which funds are collected from the machine.	
7	Supply of a voucher	The date of issuance of voucher or supply thereafter	
8	Case of Deemed Supply	The date of their supply, disposal, change of usage or the date of Deregistration, as the case may be	

MODULE 9

RECOVERABLE INPUT TAX

ARTICLES OF DECREE LAW ON VAT RELEVANT TO THIS MODULE	
Article (53)	Calculation of Due Tax
Article (54)	Recoverable Input Tax
Article (55)	Recovery of Recoverable Input Tax in the Tax Period
Article (56)	Input Tax Paid before Tax Registration
Article (57)	Recovery of Tax by Government Entities and Charities
Article (58)	Calculating the Input Tax that may be Recovered
Article (59)	Conditions and Mechanism of Input Tax Adjustment
Article (60)	Capital Assets Scheme
Article (74)	Excess Recoverable Tax
ARTICLES OF EXECUTIVE REGULATION ON VAT RELEVANT TO THIS MODULE	
Article (52)	Input Tax Recovery in Respect of Exempt Supplies
Article (53)	Non-recoverable Input Tax
Article (54)	Special cases of Input tax
Article (55)	Apportionment of Input Tax
Article (56)	Adjustment of Input Tax Post-Recovery

9.1 INTRODUCTION

The whole essence of the VAT system is in the recovery or credit of Input Tax. As per the Federal Decree Law, 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 taxable period. **In other words, Input tax can be claimed or recovered by offsetting against the output tax.**

Such a system of credit or recovery of input tax ensures that there is no cascading effect of taxes, only the value added at each stage is taxed and thus double taxation is avoided.

This ability for a taxable person to get back the tax that has been paid to its supplier on purchase of goods and services is called Recovery of Input Tax or Input Tax Credit.

Article 53 of the Federal Decree Law No. 8 of 2017 on VAT in this regard provides that, “*The Payable Tax for any Tax Period shall be calculated as being equal to the total Output Tax payable pursuant to this Decree-Law and which has been done in the Tax Period less the total Recoverable Tax by said Taxable Person over the same Tax Period.*”

- Net VAT payable or credit recoverable will be calculated as the following



Let's understand the accounting aspect of Recoverable Input Tax with the help of an example given below.

Example 1: ABC Manufacturing LLC, a manufacturer of Furniture items got itself registered under UAE VAT during the month of March 2018. The manufacturer sells those items to different wholesalers across UAE. The manufacturer is required to file monthly tax return. The total value of sale during the tax period of March 2018 amounts to AED 1,000,000. The manufacturer acquired raw materials amounting to AED 735,000 locally (inclusive of VAT) during the period. In the VAT return for March 2018, the manufacturer has to account and pay VAT on the following:

$$\text{Output Tax: AED } 1,000,000 \times 5\% = \text{AED } 50,000$$

$$\text{Input Tax: AED } 735,000 \times 5/105 = \text{AED } 35,000$$

$$\text{Amount payable to FTA during the tax period of March 2018} = \text{AED } 50,000 - \text{AED } 35,000 = \text{AED } 15,000 \text{ (Output Tax - Input Tax)}$$

The following accounting entries should be passed in respect of the above transaction for the month of March 2018.

i) At the time of purchase of Input Goods and Services

Purchase Account	Dr. (Value of Purchases)	AED 700,000
Input Tax/VAT Account	Cr. (Input VAT on Purchases)	AED 35,000
Cash or Bank or Customer Account	Cr. (Value of Purchase + Input VAT)	AED 735,000

Input VAT amount paid to the supplier is not a cost to the recipient as the same is recoverable. Hence, the same is treated as an asset in books of account. For details, refer module "Books of Account and Record Keeping"

ii) At the time of purchase of Input Goods and Services

Cash or Bank or Customer Account	Dr. (Value of Sales + VAT output)	AED 1,050,000
Sales Account	Cr. (Value of Sales)	AED 1,000,000
Output Tax/VAT Account	Cr. (VAT on Sales)	AED 50,000

Output VAT amount collected from the recipient cannot be treated as income rather it should be treated as liability as the same is payable to the government. For details, refer module "Books of Account and Record Keeping"

iii) At the time of offsetting Recoverable Input Tax against Output Tax.

If the Output Tax for the tax period exceeds the Input Tax during the tax period, the difference will be transferred to VAT/Tax payable account. However, if the Input Tax exceeds the Output Tax, the same is transferred to VAT receivable account (asset) at the end of tax period. For details, refer module "Books of Account and Record Keeping"

Output Tax	Dr. (VAT on Sales)	AED 50,000
Input Tax	Cr. (VAT on Purchases)	AED 35,000
Output Tax/VAT Payable Account	Cr. (Difference)	AED 15,000

iv) At the time of payment of Tax liability.

On or before the due date of filing return, the liability as appearing in the VAT payable account shall be discharged by making payment to the government. In case there is receivable, the taxable person has the option to apply for refund of Input Tax else the same is carried forward for subsequent tax period. For details, refer module “Books of Account and Record Keeping”

Output Tax/VAT Payable Account	Dr. (Output Tax minus Input Tax)	AED 15,000
Bank Account	Cr.	AED 15,000

9.2 RECOVERABLE INPUT TAX

1. As per Article 54 of the Federal Decree Law on VAT, any VAT registered business will be able to recover VAT on purchases of goods and services to the extent those purchases are used for business purposes, and subject to certain conditions.
 - a. **The goods or services acquired are used or intended to be used for making taxable supplies inside UAE.**

Local Taxable Supplies

Input tax can be fully recovered if it relates to a taxable supply made. Taxable supplies include both standard-rated and zero-rated supplies. For more details, refer to previous module “Supply”

Example 2:

A VAT registered Super Market in UAE can claim VAT paid on its trading stocks at the time of purchase which are supplies subject to standard rate of tax i.e. 5% such as biscuits, chocolates, soft drinks, fruits vegetables, household appliances etc .

Similarly, if the goods are exported outside Implementing State, the same will be considered as zero-rated supply and accordingly, VAT incurred on purchase of such goods exported outside Implementing State will be eligible for recovery.

Exports

As exports of goods and services are zero rated supplies, input tax incurred in respect of goods or services thus acquired to be used or intended to be used for making zero-rated supplies are also eligible for Input Tax recovery.

Imports (Input Tax Recovery in case of Reverse Charge Supplies)

As per Article 48 (1) of Federal Decree Law No. 8 of 2017 on VAT, If the Taxable Person imports Concerned Goods or Concerned Services for the purposes of his Business, then he shall be treated as making a Taxable Supply to himself, and shall be responsible for all applicable Tax obligations and accounting for Due Tax in respect of these supplies.

Since, imports are treated as a taxable supply under the aforesaid article, importer shall be eligible to recover or claim input tax in respect of import VAT accounted for under reverse charge mechanism.

Exempt Supplies

Certain supplies are exempt under UAE VAT Laws, such as supply of local passenger transport, supply of bare land, financial services etc. For details, refer previous Module “Zero-rated and Exempted Supply”. A registered taxable person cannot recover Input Tax paid on purchase of inputs used to make these exempt supplies.

Example 3: ABC Transport Services LLC a VAT registered company in Dubai purchases computers amounting to AED 10,000. VAT paid on the purchase @ 5% is AED 500. Since, the company provides only passenger transportation services which are exempted under law, it will not be eligible to recover AED 500 paid on purchase of computers.

- b. **Inputs used for making taxable supplies outside UAE which would be taxable supplies had they been made in UAE.**

Input tax incurred can be claimed in respect of the supplies made outside UAE which would be taxable supplies if made in UAE.

Article 54 (1) (b) of the Federal Decree Law on VAT allows the credit of Inputs if the **inputs are used for making supplies outside UAE**, which could be classified as taxable in UAE, even though tax was not paid on such outward supplies.

Here, reference should be taken from Article (27) of Federal Law No (8) of 2017 on VAT which specifies situations where place of supply is considered Outside State i.e. UAE.

The place of supply of Goods that includes Export or Import shall be Outside State in following instances.

1. *The supply includes an Export to a customer registered for Tax purposes in one of the Implementing States.*
2. *The Recipient of Goods is not registered for Tax in the Implementing State to which export is made, and the total exports from the same supplier to this Implementing State exceeds the mandatory registration threshold for said state.*

Thus, where goods are exported either to **registered recipient in any of the implementing state or to a unregistered recipient in the implementing state subject to the condition that** total exports from the same supplier to this Implementing State exceeds the mandatory registration threshold for said state, no UAE VAT shall be applicable on such supply as the same is treated as supply outside UAE. In all these cases, credit of Input Tax can be availed by the supplier in UAE for the supplies made in any of the Implementing States.

In respect of services, Article 30 of Federal Decree Law on VAT can be referred to which inter alia provides that **Where the Recipient of Services has a Place of Residence in another Implementing State and is registered for Tax therein, the place of supply shall be the Place of Residence of the Recipient of Services.** So, if any taxable service has been provided by a UAE VAT registered entity to VAT registered in any Implementing State, such entity shall be entitled to claim or recover Input VAT paid in UAE although the services are provided outside UAE.

- c. **Inputs are used for making supplies outside UAE even if such supplies are treated as exempt in UAE when they are made inside UAE**

Article 51 (1) (c) of Federal Decree Law on VAT allows the credit of Inputs if the inputs are used for making supplies outside UAE, even if such supplies are treated as exempt in UAE when they are made inside UAE.

As per Article 52 of the Executive Regulations, supplies referred to under the aforesaid Article 51 (1) (c) are **the supplies of financial services, where the place of supply of these services is treated as outside the State and the Recipient of Services is outside the State** at the time when the Services are performed. A typical example of this can be the supply of exempted financial services i.e. a margin based loan product by a VAT registered person in UAE to any of the registered person in Implementing State. Accordingly, the supplier of exempted financial services in UAE will be eligible to avail credit of Input VAT paid in respect of such services despite the fact that these are provided outside UAE.

For the purpose of this clause a Person is “outside the state” even if they are present in the state, provided that it is only a short-term presence in the state of less than a month or that his presence is not effectively connected with the supply.

1. In case Goods are imported through another Implementing State

Where Goods are imported by a Taxable Person through another Implementing State and the intended final destination of those Goods was the State, **the Taxable Person shall be entitled to treat the Tax paid in respect of Import of Goods into the Implementing State as Recoverable Tax** subject to the following conditions specified under Clause 3 of Article 52 of Executive Regulation on VAT.

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

2. In case Goods are acquired in another Implementing State and then moved into the State (UAE)

Where Goods were acquired by a Taxable Person in another Implementing State and then moved into the State, the **Taxable Person shall be entitled to treat the Tax paid in respect of the Goods in the Implementing State as Recoverable Tax** subject to the following conditions specified under Clause 3 of Article 52 of Executive Regulation on VAT.

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

Article 54 of Federal Decree Law on VAT

1. The Input Tax that is recoverable by a Taxable Person for any Tax Period is the total of Input Tax paid for Goods and Services which are used or intended to be used for making any of the following:
 - a. Taxable Supplies.
 - b. Supplies that are made outside the State which would have been Taxable Supplies had they been made in the State.
 - c. Supplies specified in the Executive Regulation of this Decree-Law that are made outside the State, which would have been treated as exempt had they been made inside the State.
2. Where Goods are imported by a Taxable Person through another Implementing State and the intended final destination of those Goods was the State at the time of Import, then the Taxable Person shall be entitled to treat the Tax paid in respect of Import of Goods into the Implementing State as Recoverable Tax subject to conditions specified the Executive Regulation of this Decree-Law.
3. Where Goods were acquired by a Taxable Person in another Implementing State and then moved into the State, the Taxable Person shall be entitled to treat the Tax paid in respect of the Goods in the Implementing State as Recoverable Tax subject to the conditions specified in the Executive Regulation of this Decree-Law.
4. A Taxable Person shall not be entitled to recover any Input Tax in respect of Tax paid in accordance with Clause (2) of Article (48) of this Decree-Law.
5. The Executive Regulation of this Decree-Law shall specify the instances where Input Tax is excepted from being recovered.

9.3 CONDITIONS FOR RECOVERY OF INPUT TAX

As we have discussed in the previous section that Input tax paid by any taxable person will be 100% recoverable in respect of taxable supply but there are certain expense items, such as business entertainment, Motor vehicles used for personal use, Goods and Services purchased for use by employees are not recoverable at all. Business entertainment is 0% recoverable for VAT because service is enjoyed by the employees and hence qualifies as end users. The recovery of Input Tax shall be subject to following conditions as stipulated under Article 55 of Federal Decree Law on VAT.

i) Documents Needed for Claiming Input Tax

- Input tax incurred can be claimed if the recipient is a registered person. The recipient must hold a **valid tax invoice** in respect of a taxable supply of goods or services used for business purposes. There are certain instances specified under the law where Tax Invoice is not required to be issued. In all such instances, **credit of Input Tax paid can be availed on the basis of any other document specified by law** in relation to the supply. The VAT amount must be shown on the tax invoice; otherwise the registered recipient is not allowed to claim input tax using the tax invoice.
- There are two types of tax invoices specified under the VAT laws i.e. simplified tax invoice and full tax invoice. Generally, a Tax Invoice needs to be issued in all cases by the registered supplier. However, there are certain

exceptions where a tax invoice is not required to be issued. A simplified tax invoice may be issued by the supplier where the Recipient of Goods or Recipient of Services is not a Registrant or where the Recipient of Goods or Recipient of Services is a Registrant and the Consideration for the supply does not exceed AED 10,000. **Credit of input tax can be claimed on the basis of tax amount stated in the simplified tax invoice.**

- In respect of importation of goods, the importer must hold a valid Customs importation document to account for tax under reverse charge mechanism and accordingly claim credit of Input VAT. For importation of services, the recipient is required to hold a document such as the foreign supplier's invoice to show that he is entitled to claim input tax.
- The **Tax invoice must be issued under the name of the registered person** to be eligible for input tax credit. A tax invoice issued under the name of any person other than the registered person will not be eligible for input tax credit.
- The Recoverable Input Tax may be deducted through the Tax Return relating to the **first Tax Period in which the taxable person holds the tax invoice or simplified tax invoice or any other document required** under law in relation to the Supply or Import on which Input Tax was paid.

ii) Payment of Consideration for the Supply

For deducting recoverable input tax, another condition which needs to be satisfied is that **the payment of the consideration against the supply or part thereof must be made**. In case payment is not made against a supply then the credit of input tax on such supply received could not be taken. According to Clause 2 of Article 54 of the Executive Regulations read with paragraph (b) of Clause (1) of Article 55 of the Decree Law, **a Taxable Person shall be treated as having made a payment of consideration for a supply to the extent that the Taxable Person intends to make the payment before expiration of six months after the agreed date for the payment of the supply.**

Hence consideration paid includes both physical payment as well as intention to pay. Even if the consideration is not paid in the relevant tax period, input tax credit can still be taken against the tax invoice provided there must be intention of the recipient to pay the supplier.

According to Clause 2 of Article 64 of the Federal Decree Law on VAT, **where the Consideration has not been paid and all of the following conditions are met, the registered Recipient of Goods or Recipient of Services shall reduce the Recoverable Input Tax for the current Tax Period** related to a supply received during any previous Tax Period.

- a. The registered supplier reduced the Output Tax as an adjustment for bad debt and the Recipient of Goods and Services has received a notification from the supplier of the Consideration being written off.
- b. The Recipient of Goods and Recipient of Services received the Goods and Services and the relevant Input Tax was deducted.
- c. The Consideration was not paid in full or in part for the supply for over (6) six months.

Recovery of Input Tax in Subsequent Tax period

According to Clause 2 of Article 55 of Federal Decree Law on VAT, if any of the following 2 conditions are not satisfied and credit of Input Tax is not taken by the recipient during a tax period then the same may be taken in the subsequent tax period when both the conditions are met.

- a. The tax invoice or other specified document (custom importation documents in case of imports, simplified tax invoice etc.) has been received and kept in the records by the recipient;
- b. Consideration for the supply has been paid.

Thus, if any supply of goods and/or services has been made but tax invoice couldn't be issued during the tax period, input tax credit can still be taken in the subsequent tax period when invoice is actually received by the recipient.

However, if such input tax could not be deducted in the subsequent tax periods then it cannot be deducted at all subsequently in a later tax periods. The law clearly specifies that credit is available in the subsequent tax "period" and not "periods". Thus it is available only in the next period but not later than that.

We can draw the conclusion from above provisions is that **failure to file tax return rescind the right of the recipient to claim Input Tax** though the liability to pay Output Tax on the taxable supply continues until it is discharged. Thus if the recipient fails to file any tax return for any tax period or subsequent tax period, he cannot claim input tax pertaining the relevant tax period.

9.4 RECOVERABLE INPUT TAX IN RELATION TO REGISTRATION

I. Pre-Registration

Input VAT paid on goods and services acquired before registration (both voluntary and mandatory registration including late registration) by the taxable person is eligible for input tax credit.

Such Input Tax can be claimed in the first return submitted after registration. The claim can be made on:

- a. Taxable Supply of goods and services made to him prior to the date of Tax Registration
- b. Import of goods by him prior to the date of Tax Registration

It is thus imperative here that for recovery of such input tax paid earlier than registration of the taxable person, one must ensure to file return for the first tax period after registration carefully. After, filing of return of first tax period after registration, recovery or claim of Input Tax is not possible.

As an exception to above, **input credit cannot be claimed in relation to goods/services acquired prior to the date of Tax Registration in following cases:**

- a. Receipt of goods and services **used for making non-taxable supplies**. It should be noted here that zero-rated supplies are taxable supplies. Non taxable supplies here refers to exempt supplies and out of scope supplies of goods and services.
- b. **Input Tax credit related to part of capital assets that depreciated before date of tax registration.** If part of the asset is depreciated then Input tax cannot be recovered on such assets to the extent such assets are depreciated. If the same is fully depreciated, no input tax credit can be claimed.
- c. **Service received more than 5 years prior to the date of tax registration.**
- d. **Goods which were moved to another GCC Implementing Country before the date of Tax Registration.**

Article 54 of Federal Decree Law No. 8 of 2017 on VAT may be referred below in this regard for reference.

Article 56 of Federal Decree Law on VAT: Input Tax Paid before Tax Registration

1. A Registrant may recover Recoverable Tax incurred before Tax Registration on the Tax Return submitted for the first Tax Period following Tax Registration, which has been paid for any of the following:
 - a. Supply of Goods and Services made to him prior to the date of Tax Registration.
 - b. Import of Goods by him prior to the date of Tax Registration.
 Provided that these Goods and Services were used to make supplies that give the right to Input Tax recovery upon Tax Registration.
2. As an exception to the provisions of Clause (1) of this Article, Input Tax may not be recovered in any of the following instances:
 - a. The receipt of Goods and Services for purposes other than making Taxable Supplies.
 - b. Input Tax related to the part of the Capital Assets that depreciated before the date of Tax Registration.
 - c. If the Services were received more than five years prior to the date of Tax Registration.
 - d. Where a Person has moved the Goods to another Implementing State prior to the Tax Registration in the State.

9.5 RECOVERY OF RECOVERABLE INPUT TAX PAID BY GOVERNMENT ENTITIES

Article 57 of Federal Decree Law on VAT reads as follows in this regard.

A Cabinet Decision shall be issued at the suggestion of the Minister determining the Government Entities and Charities entitled to recover the full amount of Input Tax paid by them, except for:

1. Tax excluded from recovery as specified in the Executive Regulation of this Decree-Law.
2. Tax paid for Goods and Services used to perform exempt supplies.

As on date, no Cabinet Decision has been issued determining the Government Entities and Charities entitled to recover the full amount of Input Tax paid by them. In absence of this specific rule, normal rules for recovery of Input Tax shall apply to government entities and charitable institution as well.

9.6 NON-RECOVERABLE INPUT TAX

Under UAE VAT, taxable persons are eligible to recover the VAT paid on purchase of goods and services used for business purposes. However, there are certain supplies on which credit of input tax is not allowed to be taken. Let's discuss all these cases here as under.

1. Entertainment Services

As per Article 53 of Federal Decree Law No. 8 of 2017 on VAT, any taxable person cannot claim input tax recovery on entertainment services provided to any person other than its employees. Thus, Input VAT paid in respect of entertainment services provided to customers, potential customers, officials, shareholders, owners or investors will not be eligible for recovery. This should be noted that this provision is not applicable to government entities.

The entertainment services has been defined under the same article to include hospitality of any kind, including providing accommodation, food and drinks which are not provided in the normal course of a meeting and access to shows or events or trips provided for the purpose of pleasure or entertainment. This definition makes it clear that any if food and drinks are offered to customers, potential customers, government officials, shareholders or owners during the normal course of meeting, credit of Input VAT paid in respect of such purchase can be taken.

Hence, Input VAT paid in respect of water bottles, soft drinks provided to its clients, shareholders, investors or owners during the normal course of meeting shall be eligible for its recovery.

Example 4: ABC Construction LLC provides 3 days hotel accommodation to its client including prospective clients during their visit to its business premises. The hotel tariff for 3 days accommodation was AED 2000, on which VAT @ 5%, amounting to AED 100 was paid by the company. ABC Construction LLC shall not be eligible to claim recovery of Input VAT, as it amounts to entertainment services provided to non-employees.

Further, Clause 3 of Article 53 of Federal Decree Law on VAT clarifies that provision of catering and accommodation services shall not be treated as entertainment services where it is provided by a transportation service operator, such as an airline, to passengers who have been delayed. In other words, Input VAT paid by a transportation service operator in respect of provision of catering and accommodation services provided to its customers will be eligible for recovery of tax. i.e. input tax credit can be taken by the operator against such expense.

2. Motor vehicles used for personal use

If a taxable person has purchased, rented or leased motor vehicles for use in the business but the same was used for personal use by a person in the business, then the Input VAT paid on purchase, rent or lease of the motor vehicle cannot be recovered by such taxable person.

Motor vehicle has been defined under the same article and it means a **road vehicle designed or adapted for the conveyance of not more than 10 people, including the driver.** Trucks, forklifts, hoists or similar vehicles are not included.

A motor vehicle used in the business will not be treated as being available for personal use in the following cases:

- a. It is a taxi licensed by a competent authority within UAE
- b. It is registered and used for the purpose of an emergency vehicle, including by police, fire, ambulance or similar emergency service.
- c. It is used in a vehicle renting business, where it is rented to a customer

Example 5: ABC Transport LLC a registered company under UAE VAT purchases 10 cars from the manufacturer for AED 1,000,000 in Dubai for its transport business. Total Input VAT paid on purchase of these 10 cars will be AED 50,000. Out of the 10 cars purchased, 1 car was used by the owner for his personal use. In this case, ABC Transport LLC cannot take Input tax credit amounting to AED 5,000 on paid on purchase of the 1 car used for personal use. In other words, it can adjust only 45,000 against its output tax liability during the tax period.

3. Goods or services purchased for use by employees

Registered businesses cannot claim input tax recovery paid on goods and services purchased for use by employees, for which no charge is paid by the employees and the same is for personal benefit of employees.

However, credit of Input VAT can be claimed and taken on such goods and services in the following cases:

- a. Where it is a legal obligation to provide the goods or services under an applicable labour law in UAE or the Designated Zone.
- b. Where it is a contractual obligation or documented policy to provide the goods or services for the employees to perform their role and it can be proven to be a normal business practice in the course of employment.
- c. Where the provision of goods or services is a deemed supply

Example 6: ABC Consultants LLC a VAT registered entity in Dubai purchases gym equipments amounting to AED 100,000 (excluding VAT) for use by its employees. The equipment is made available to employees as part of their employee benefits and is free of charge. VAT paid on purchase of the gym equipment will be AED 5,000 (5% of AED 100,000). In such a case, ABC Consultants LLC will not be eligible to claim input tax recovery on this purchase of the gym equipments.

Article (53) of Executive Regulation on VAT: Non-recoverable Input Tax

1. Input Tax shall be non-recoverable if it is incurred by a Person in respect of the following Taxable Supplies:
 - a. Where the Person is not a Government Entity as specified in a Cabinet Decision in accordance with Article (10) and (57) of the Decree-Law, and there is provision of entertainment services to anyone not employed by the Person, including customers, potential customers, officials, or shareholder or other owners or investors.
 - b. Where a motor vehicle was purchased, rented or leased for use in the Business and is available for personal use by any Person.
 - c. Where Goods or Services were purchased to be used by employees for no charge to them and for their personal benefit including the provision of entertainment services, except in the following cases:
 - 1) Where it is a legal obligation to provide those Services or Goods to those employees under any applicable labour law in the State or Designated Zone.

- 2) It is a contractual obligation or documented policy to provide those services or goods to those employees in order that they may perform their role and it can be proven to be normal business practice in the course of employing those people;
 - 3) Where the provision of goods or services is a deemed supply under the provisions of the Decree-Law.
2. For the purposes of this Article:
- a. The phrase “entertainment services” shall mean hospitality of any kind, including the provision of accommodation, food and drinks which are not provided in a normal course of a meeting, access to shows or events, or trips provided for the purposes of pleasure or entertainment.
 - b. The phrase “motor vehicle” shall mean a road vehicle which is designed or adapted for the conveyance of no more than 10 people including the driver. A motor vehicle shall exclude a truck, forklift, hoist or other similar vehicle.
3. Provision of catering and accommodation services shall not be treated as entertainment services where it is provided by a transportation service operator, such as an airline, to passengers who have been delayed.
 4. A motor vehicle shall not be treated as being available for private use if it is within any of the following categories:
 - a. a taxi licensed by the competent authority within the State;
 - b. a motor vehicle registered as, and used for purposes of an emergency vehicle, including by police, fire, ambulance, or similar emergency service;
 - c. a vehicle which is used in a vehicle rental business where it is rented to a customer.

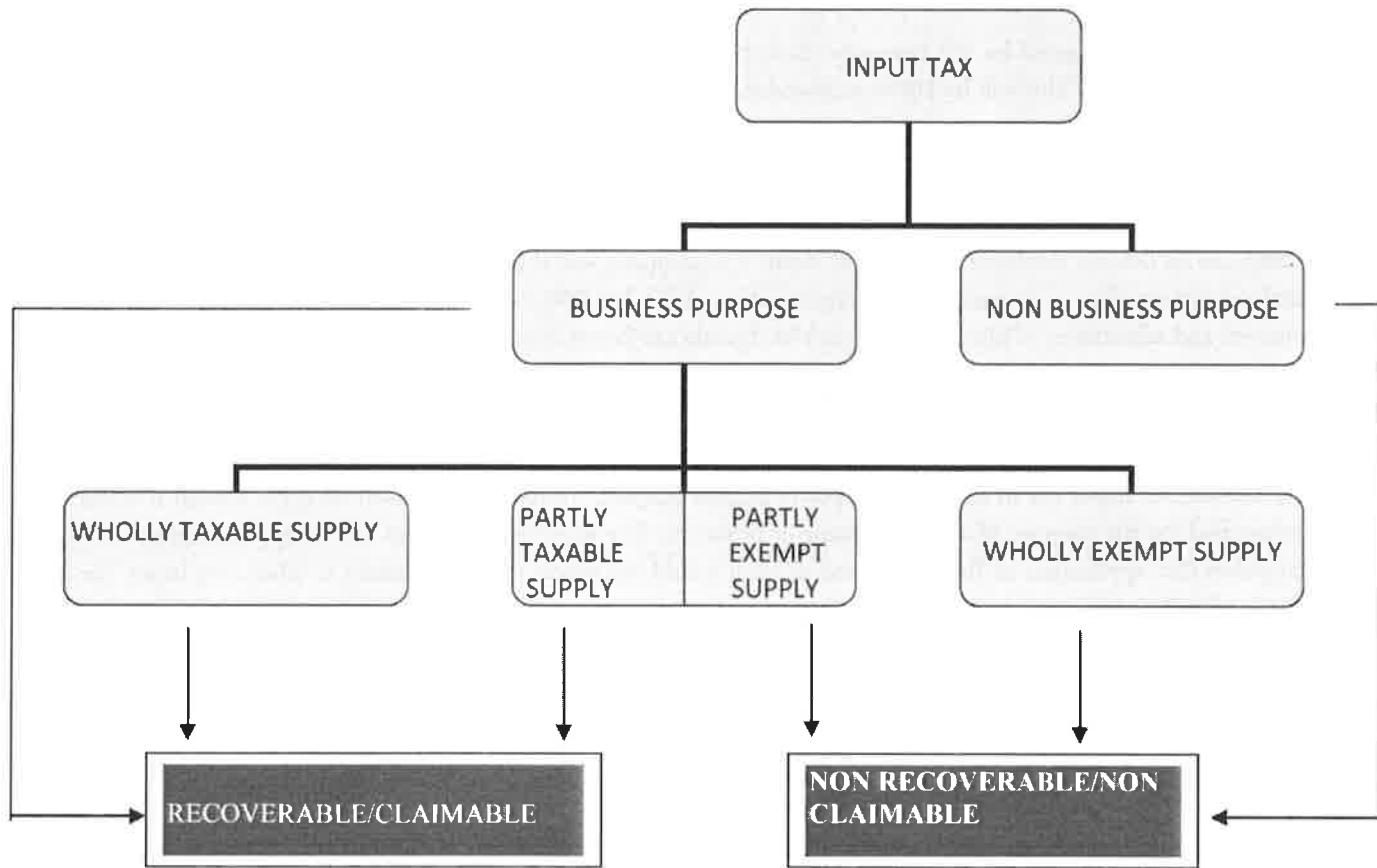
9.7 APPORTIONMENT AND ADJUSTMENT OF INPUT TAX

Input tax used exclusively to make taxable supplies is 100% recoverable. 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 and the same is for business purpose. In contrast, where the expense relates to a non-taxable supply (e.g. exempt supplies), the registered person shall not be able to 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 financial services). In these circumstances, the registered person would need to identify input tax which is used **exclusively** to make taxable supplies and input tax which is used **exclusively** to make exempt supplies. This is known as **direct attribution**. However, in most of the cases it is practically not possible to calculate input tax directly attributable to taxable supplies. In all such cases, apportionment of input tax is carried out in accordance with the provisions of UAE VAT laws. This is to reiterate that the question of apportionment will arise only in case of partially exempt businesses which make both taxable and exempt supplies.

Article 58 of Federal Decree Law on VAT may be referred to in this regard which provides that *The Executive Regulation of this Decree-Law shall specify the method in which the Input Tax that may be recovered is calculated, if Input Tax is paid for Goods or Services during a specific Tax Period to make supplies that allow recovery under Article (54) and others that do not allow recovery, or for activities conducted that are not in the course of doing the Business.*

General overhead costs (e.g. office rental, utilities or stationery) are directly attributable to all of a business's supplies as they are cost components of the business as a whole. VAT incurred on such costs is known as **Residual Input Tax**. In case a business makes both exempt and taxable supplies, general overhead costs incurred will form cost components of both exempt and taxable supplies as they are not directly attributable to taxable or exempt supply.



In real case scenario, there could be a VAT registered entity which is engaged in the business of providing both exempted services (i.e. financial services, bare land, local passenger transport services, supply or lease of residential buildings to ID holder residents and citizens of UAE) and taxable goods and services. In all such cases, for the purpose of calculating the amount of recoverable input tax, the registered person shall need either to identify input tax which is used **exclusively** to make taxable supplies and input tax which is used **exclusively** to make exempt supplies. Input tax used exclusively to make taxable supplies is recoverable. Where it is not possible to do so, apportionment of the total input tax incurred by the person shall be carried out in accordance with the rules provided in the Executive Regulation on VAT.

Clause 5 of Article 55 of Executive Regulation on VAT in this regard provides as follows

To determine the Input Tax that could be recoverable, the Taxable Person shall apportion Input Tax as follows:

- a. Input Tax on supplies that wholly relate to supplies as specified in Clause (1) of Article (54) of the Decree-Law made by the Taxable Person shall be recoverable in full.
- b. Input Tax that does not relate to supplies as specified in Clause (1) of Article (54) of the Decree-Law made by the Taxable Person shall not be recoverable unless provisions allow otherwise.
- c. Input Tax that partly relates to supplies as specified in Clause (1) of Article (54) of the Decree-Law and partly not, shall be apportioned in accordance with Clause (6) of this Article and only that part that relates to supplies as specified in Clause (1) of Article (54) of the Decree-Law shall be recoverable.

Now, let's understand this with the help of example given below.

Example 7: ABC LLC is a builder registered under UAE VAT. The builder is engaged in the business of developing, buying, selling and leasing both commercial and residential buildings. The builder is under obligation to file monthly VAT. During the March 2018 tax period, some of the company's turnover is standard-rated and some is exempt. The details are given below.

Taxable Turnover (including zero-rated) = AED 10,000,000

Exempt Turnover = AED 2,500,000

The total input tax incurred by the company exclusively in relation to taxable supply during the tax period of March amounted to AED 300,000. This will be 100% recoverable.

The total input tax incurred by the company exclusively in relation to exempt supply during the tax period of March amounted to AED 100,000. This input tax amount of AED 100,000 can't be recovered i.e. set off against the output tax.

The company also incurs an input tax amounting to AED 250,000 which relates to both the taxable and exempt business and the same can be directly attributed to either of them. The company will thus need to apportion this input tax between the taxable and exempt supplies to determine recoverability of the AED 250,000. In the later section, we will study the method of apportionment and adjustment of input tax that can't be directly attributed to taxable or exempt supplies.

9.7.1 Method of Apportionment of Input Tax Credit

As per the provisions of the VAT laws, a taxable person can either adopt **Turnover based** method or **Use Based** method to apportion Recoverable Input Tax in respect of its partly exempt supplies. Turnover based Method is the default method which should be applied for the purpose of apportionment of input tax. Use based method shall not be applied unless the Taxable Person considers that application of Turnover based method would not reflect the actual extent to which the Input Tax relates to making Taxable Supplies.

It is however, important to note here that the Federal Tax Authority can authorise any taxable person to use any alternative basis of calculation based on the list of accepted mechanisms issued by the Authority.

Let's now discuss in detail these methods of apportionment of Input Tax.

A. Turnover Based Method of Apportionment of Input Tax

Clause 6 of Article 55 of the Executive Regulation on VAT provides the formula to compute the amount of Recoverable Input Tax in cases where the goods and services are partially used for both taxable supplies, exempt supplies and for non-business purpose. The following steps should be taken while computing the amount of recoverable input tax.

1. First of all, **Input VAT recoverable percentage** needs to be determined. The said percentage can be obtained by **dividing the value of Taxable Supplies by the total Value of Supplies** during the tax period (Both Exempt supplies + Taxable supplies).
2. The percentage thus calculated as above shall be **rounded to the nearest whole number**. For example, if it comes to 65.1%, it would round up to 66%.
3. The percentage as arrived under step 2 is then **multiplied by the amount of Input Tax** which related partly to taxable supplies, exempt supplies and for non business purpose (not separately identifiable). The amount thus arrived under step 3 shall be the recoverable portion of Input Tax

In simple words, one can arrive at the amount recoverable input VAT by applying the below formula:

Amount of Recoverable Input Tax = Input Tax Incurred X Taxable Supplies (excluding VAT) /Total Supplies (excluding VAT)

Now, let's understand the method of apportionment of Input Tax with the help of example. Continuing with the same above example 1, the amount of recoverable Input Tax can be calculated by following above steps.

$$\begin{aligned}\text{Recoverable Input VAT (\%)} &= \text{Value of Taxable Supplies} / \text{Total Value of Supplies} \times 100 \\ &= 10,000,000 / (10,000,000 + 2,500,000) \times 100 \\ &= 80 \%\end{aligned}$$

$$\begin{aligned}\text{Recoverable Input VAT} &= 80 \% \text{ of Input VAT (not separately identifiable)} \\ &= 80 \% \text{ of } 250,000 \\ &= 200,000\end{aligned}$$

Out of the total Input VAT of AED 650,000 incurred by the company during the tax period, Input VAT which can be recovered shall be AED 500,000 (300,000 + 200,000). Rest 150,000 cannot be recovered/set off against Output VAT during the taxable period.

Let's consider few more examples.

Example 8: The following are the sales transactions of M/S ABC LLC for the tax period February – April 2018:

Type of Supplies	Value (AED)	Output VAT (AED)
Standard Rated supplies	450,000	22,500
Zero-Rated Supplies	257,500	-
Exempt Supplies	192,500	-
Total	1,000,000	22,500

During the period, the expenses incurred amounted to AED 400,000 plus VAT @ 5% amounting to AED 20,000. M/s ABC LLC has used the goods for making taxable as well exempt supplies and unable to identify separately the input VAT related to taxable supplies and exempt supplies.

Now, in order to determine the amount of recoverable Input VAT, Turnover based method shall be applied as follows

- Total Value of Taxable Supplies = AED 707,500 (Standard Rated supplies 450,000 AED + Zero-rated supplies 257,500 AED)
- Total Supplies : AED 1,000,000
- Input VAT : AED 20,000

$$\begin{aligned} \text{Recoverable Input VAT (\%)} &= \text{Value of Taxable Supplies}/\text{Total Value of Supplies} \times 100 \\ &= 705,000/1,000,000 \times 100 = 70.75 \end{aligned}$$

The same will be rounded off nearest whole number i.e. to 71%

$$\begin{aligned} \text{Input VAT Recoverable Amount} &= 71\% \text{ of Input Tax} \\ &= \text{AED } 14,200 \end{aligned}$$

Balance 6,000 shall not be recoverable.

$$\begin{aligned} \text{Net VAT payable for the tax period} &= \text{Output VAT minus Recoverable Input VAT} \\ &= \text{AED } 22,500 - \text{AED } 14,200 \\ &= \text{AED } 8,300 \end{aligned}$$

Example 9: On the basis of below information provided by XYZ LLC, a VAT registered business in Dubai; calculate the amount of recoverable Input VAT and Net VAT during the tax period of April 2018.

Standard-rated supplies (excluding VAT)	AED 3,000,000
Exempt supplies	AED 500,000
Total Input tax:	AED 140,000
Directly attributable to taxable supplies	AED 90,000
Directly attributable to exempt supplies	AED 10,000
Balance AED 40,000	

Solution:

$$\begin{aligned}\text{Total Output VAT} &= 5\% \text{ of AED } 3,000,000 \\ &= \text{AED } 150,000\end{aligned}$$

$$\begin{aligned}\text{Recoverable Input VAT (\%)} &= \text{Value of Taxable Supplies/Total Value of Supplies X 100} \\ &= \text{AED } 3,000,000/\text{AED } 3,500,000 \times 100 \\ &= 85.71\% \text{ (rounded off to nearest whole number i.e. 86\%)}\end{aligned}$$

$$\begin{aligned}\text{Input VAT Recoverable Amount} &= \text{Input VAT directly attributable to taxable supplies + Recoverable portion of Input VAT not separately identifiable} \\ &= \text{AED } 90,000 + 86\% \text{ of AED } 40,000 \\ &= \text{AED } 124,400\end{aligned}$$

$$\begin{aligned}\text{Net VAT payable for the tax period} &= \text{Output VAT minus Recoverable Input VAT} \\ &= \text{AED } 150,000 - \text{AED } 124,400 \\ &= \text{AED } 25,600\end{aligned}$$

B. Use Based Method of Apportionment of Input Tax

Any taxable person having partly exempt supplies has the option of recovering input tax apportioned on the basis of actual use of goods and services subject to conditions method below. Clause 11 to Clause 15 of Article 55 of the Executive Regulation on VAT makes a reference in this regard. It provides as follows.

- Where the Taxable Person considers that the application of the calculations mentioned in this Article (i.e. Turnover based method of apportionment of Input Tax) would give a result which would not reflect the actual extent to which the Input Tax relates to making Taxable Supplies, he may apply to the Authority to authorise the use of an alternative basis of calculation based on the list of accepted mechanisms issued by the Authority. (Clause 11 of Article 55 of ER)
- The Authority may accept that the Taxable Person may use an alternative mechanism of apportionment of input tax than that referred to in this Article from such future date and as per any further conditions as determined by the Authority. (Clause 12 of Article 55 of ER)
- The Taxable Person may only apply to change the alternative mechanism with effect from at least two Tax years after he was first approved to use it. (Clause 13 of Article 55 of ER)
- The Authority may request such information from the Taxable Person as it believes is necessary to make a decision regarding application made under Clause (11) of this Article. (Clause 14 of Article 55 of ER)
- If the Authority accepts the application made under Clause (11) of this Article, it shall issue a Notification to the Taxable Person setting out the alternative calculation method and conditions for using of such method. (Clause 15 of Article 55 of ER)

9.7.2 Annual Adjustments

The calculations referred to above in paragraph 9.7.1 regarding recovery of Input Tax shall be **undertaken in respect of each Tax Period** where Input Tax incurred relates to making Exempt Supplies or to activities that are not in the course of Business. On the basis of this calculation, Input Tax is recovered in every tax period. These calculations are however not final.

At the end of the each Tax year, the taxable person must perform an **annual** calculation. This is the same calculation again as discussed in above paragraph, but this time recovery of input tax shall be calculated using annual supplies and annual input tax figures. Thus, the below stated formula can be used for computing annual recovery rate of Input Tax.

Input Tax Recovery Rate (%) = Value of Taxable Supplies during the Tax Year/ Total Value of Supplies during the Tax Year X 100

The determination of annual recovery rate of Input Tax shall be the first step. The percentage of annual recovery rate shall need to be rounded off to nearest whole number. The next step shall be the computation of the amount of recoverable input tax for the tax year based on the recovery rate for the tax year. The formula given below can be used to arrive at the value of recoverable Input Tax for the tax year.

Actual Recoverable Input Tax for the Tax Year = Annual Input tax Recovery Rate (%) X Input Tax not separately identifiable (Residual Input Tax)

The taxable person shall then **compare the Input Tax properly recoverable for the Tax year just ended** using the annual recovery rate formula with the Input Tax amount actually recovered in all the Tax Periods making up the Tax year. The difference arising if any shall be **adjusted in the first Tax Period of its subsequent Tax year**. This is known as the “**annual adjustment**”. In simple words, the annual adjustment is accounted for on the first VAT return of the new VAT year.

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

Example 10:

A VAT registered business in Sharjah has results for the last 4 VAT quarters as follows. The taxable supplies are stated exclusive of VAT.

Particulars/Year	Feb – April 2018	May - July 2018	Aug - Oct 2018	Nov - Jan 2018	Total
Taxable Supplies	1,00,00,000	1,50,00,000	1,20,00,000	70,00,000	4,40,00,000
Exempt Supplies	25,00,000	50,00,000	80,00,000	30,00,000	1,85,00,000
Total	1,25,00,000	2,00,00,000	2,00,00,000	1,00,00,000	6,25,00,000

Input Tax					
Directly Attributable to Taxable Supply	50000	75000	60000	40000	225000
Directly Attributable to Exempt Supply	25000	50000	45000	55000	175000
Residual Input Tax	25000	25000	20000	30000	100000

Using the information above calculate the input VAT recovery for each quarter and the annual adjustment.

Solution:

S.No.	Particulars/Year	Jan - Mar 18	Apr - Jun 18	Jul - Sep 18	Oct - Dec 18	Total
1	Taxable Supplies	1,00,00,000	1,50,00,000	1,20,00,000	70,00,000	4,40,00,000
2	Exempt Supplies	25,00,000	50,00,000	80,00,000	30,00,000	1,85,00,000
3	Total	1,25,00,000	2,00,00,000	2,00,00,000	1,00,00,000	6,25,00,000
4	Taxable Supply (%)	80	75	60	70	70.40
	Total Input Tax	100000	150000	125000	125000	500000
5	Directly Attributable to Taxable Supply	50000	75000	60000	40000	225000
6	Directly Attributable to Exempt Supply	25000	50000	45000	55000	175000
7	Residual Input Tax	25000	25000	20000	30000	100000
8	Residual – Taxable	20000	18750	12000	21000	71750
9	Residual – Exempt	5000	6250	8000	9000	28250

10	Annual Recovery allowed – Residual Input Tax	16500	16500	13200	19800	66000
11	Annual Adjustment					5750

Step 1:

First of all input tax recovery rates for all the above quarterly tax periods are calculated and are shown in Row 4 of the above table. The following formula shall be used to calculate Input Tax Recovery Rate.

$$\text{Input Tax Recovery Rate} = \text{Value of Taxable Supplies (Row 1) / Value of Total Supplies (Row 3)} \times 100$$

Step 2:

Now using the recovery rate as calculated under step 1, the provisional amount of Recoverable Input Tax for the quarter shall be calculated. Below given formula should be used for this purpose.

$$\text{Actual Recoverable Input Tax for the Tax Year} = \text{Annual Input tax Recovery Rate (\%)} \times \text{Input Tax not separately identifiable (Residual Input Tax)}$$

The amount arrived as shown in Row 8 is the recoverable portion of residual input tax which can be claimed at the time of filing VAT returns for each of the above quarterly tax periods.

Step 3:

As a next step, annual recovery rate of input tax shall be calculated using the same formula given under step 1 but with annual figures. So, as per the calculation annual recovery rate comes to 70.4% which shall be rounded off to nearest whole number i.e. **70%**.

Step 4:

After this, the same calculations (as per the formula shown under step 2) will be done in order to determine actual recoverable input tax for all the quarters but using annual recovery rate instead of provisional recovery rate for the quarters.

The amount of Residual Input Tax which can be finally recovered using annual recovery rates for the quarters are as follows.

$$\text{Quarter 1: } 70\% \text{ of } 25000 = 17500$$

$$\text{Quarter 1: } 70\% \text{ of } 25000 = 17500$$

$$\text{Quarter 1: } 70\% \text{ of } 20000 = 14000$$

$$\text{Quarter 1: } 70\% \text{ of } 30000 = 21000$$

The total amount shall be AED 70,000. However, total of provisional recoverable input tax for all the quarters combined together comes to AED 71,250. This indicates an excess recovery of AED 1,250. This excess recovered amount of AED 1,250 needs to be shown as adjustment in VAT return for the first tax period of the subsequent year.

Adjustment on account of difference in Recoverable Input Tax calculated on Turnover based method and Recoverable Input Tax calculated on Use Based method

Clause 10 of Article 55 of the Executive Regulation on VAT clearly states that if the difference in any Tax year between the Recoverable Tax as calculated under this Article and the Recoverable Tax which would arise if a calculation was made which reflects the actual use of the Goods and Services to which the Input Tax relates, exceeds AED 250,000 (two hundred fifty thousand dirhams), the Taxable Person shall, in the first Tax Period of the subsequent year, make an adjustment to the Input Tax in respect of the difference.

9.8 INPUT TAX ADJUSTMENT POST RECOVERY

- Generally, input tax is recoverable when a taxable person intends to use inputs to make a taxable supply. A change of use occurs when a taxable person uses or intends to use the input goods or services in:

- (a) making exempt supplies or both taxable and exempt supplies instead of taxable supplies;
- (b) making exempt supplies, instead of both taxable and exempt supplies;

In cases where such change of use of input goods or services has taken place, the taxable person shall be required to repay such input tax on goods and services. In other words, input tax recovered earlier will need to be reversed. [Article 56 (1) of ER]

2. As we have discussed earlier, input tax is not claimable when a taxable person intends to use inputs to make an exempt supply. A change of use also occurs when a taxable person uses or intends to use the input goods or services in:
 - (a) making taxable supplies or both taxable and exempt supplies instead of exempt supplies;
 - (b) making taxable supplies, instead of both taxable and exempt supplies;

In all such cases where such change of use of input goods or services has taken place, the taxable person shall be able to recover Input Tax attributable to the use of the Goods or Services for making such supplies.

In other words, input tax will be allowed to be recovered upon such change of use of input goods or services. [Article 56 (2) of ER]

Clause 4 of Article 56 of Executive regulation on VAT provides limitation on the applicability of above provisions. It reads as follows.

The adjustments for change in use of Goods or Services under this Article shall be made only if all of the following conditions are met:

- a. **The change in use occurred within five years of the Date of Supply of the relevant Goods and Services.**
- b. **The Taxable Person is not required to adjust the same Input Tax under mechanisms provided in Articles (55) and (57) of this Executive Regulation on VAT (i.e. Capital Asset Scheme) in which case those mechanisms will apply.**

9.9 EXCESS RECOVERABLE INPUT TAX

When the amount of input tax exceeds the amount of output tax, the difference is called Excess Recoverable Input Tax.

As per Article 74 of Federal Decree Law on VAT, the **Taxable Person shall carry forward any excess of Recoverable Tax to the subsequent Tax Periods and offset such excess against the Payable Tax and Administrative Penalties until such excess is fully utilized.** It is pertinent to note here that there is no period of limitation for carry forward of such excess Recoverable Input Tax.

If there remains any excess Recoverable Input Tax after being carried forward for a period of time, the Taxable Person may apply to the Authority to reclaim the remaining excess. For this purpose, he has to make a request to the Authority for repayment in accordance with the provisions of law. For details, refer to module “Refund of Tax”.

9.10 CAPITAL ASSET SCHEME

A. Capital Asset: Definition & Scope

Capital assets are the assets which are employed for long-term use and are not intended for sale in the regular course of the business's operation. “**Capital Assets**” has been defined under Article 1 of Federal Decree Law on VAT as business assets designated for long term use. For example, if a company buys a car to be used for providing transportation facility to its employees, it will be a capital asset for the company, but if another company buys the same car to sell during its normal course of business, it will be considered a part of its inventory.

The definition is relevant for the purpose of determining the taxability of transactions related to capital asset. Under UAE VAT laws, the input VAT incurred in respect of taxable supplies is allowed to be recovered at the time of procurement only. However, in respect of capital goods, treatment is not the same. A special scheme known as ‘Capital Asset Scheme’ has been provided under Article 60 of Federal Decree Law on VAT to regulate the recovery of input VAT in respect of capital assets defined

under the law. The law defines Capital Asset scheme as a **scheme whereby the initially recovered Input Tax is adjusted based on the actual use during a specific period.**

In this section, let's understand what type of assets is covered under the Capital Asset Scheme.

Article 60 of Federal Decree Law No. 8 of 2017 on VAT read with Article 57 and 58 of Executive Regulations on VAT contains below provisions in respect of capital assets.

The aforesaid article 57 provides that

A Capital Asset is a single item of expenditure of the Business amounting to AED 5,000,000 or more excluding Tax, on which Tax is payable and which has estimated useful life equal or longer than:

- a. **10 years in case of a building or a part thereof.**
- b. **5 years for all Capital Assets other than buildings or parts thereof.**

Moreover clause 3 of the same article further clarifies that

Expenditure consisting of smaller sums which collectively amount to AED 5,000,000 or more shall be treated as a single item of expenditure of AED 5,000,000 or more for the purposes of this Article where the sums are staged payments for any of the following:

- a. For the purchase of a building.
- b. For the construction of a building.
- c. In relation to an extension, refurbishment, renewal, fitting out, or other work undertaken to a building, except that where there is a distinct break between any such works being undertaken they shall be taken to be separate items of expenditure.
- d. For the purchase, construction, assembly or installation of any goods or immovable property where components are supplied separately for assembly.

It is important to note here that **items of stock, which are for resale, shall not be treated as Capital Assets.**

A taxable person is eligible to claim input tax credit on all taxable supply of goods including capital goods acquired in the course of his business. Input tax can be recovered in full if the capital goods are used in making wholly taxable supplies. However, if the capital goods are used for making both taxable and exempt supplies or for non-business uses, the taxable person can only claim the input tax which is attributable to his taxable supplies.

In simple words, a taxable person will be allowed to recover the full input VAT on capital assets in the first year itself, if it is intended to be used for making taxable supplies throughout the period as specified (i.e. 10 years in case of buildings and 5 years in case of capital assets other than building).

B. Adjustments under the Capital Assets Scheme

As we have understood in previous paragraph, a taxable person will be allowed to recover the 100% input VAT on capital assets in the first year itself, if it is intended to be used for making taxable supplies throughout the specified period.

However, Adjustment under the Capital Assets Scheme becomes necessary when there is a change in the proportion of taxable use of the qualified capital assets during the remaining life. The adjustment must be made over such remaining life of the capital assets. The taxable person needs to reverse the proportionate input VAT to the extent of non-taxable usage. The reversed input VAT should be reported as an adjustment towards capital assets while filing VAT returns for that year.

The adjustments on a capital asset would only be made in the subsequent years, starting with the second year, whenever there is a proportional change in its taxable use in relation to the first interval. The formula for calculating the amount of adjustment on a capital asset in subsequent intervals is as follows:

Year 1: Recover input tax incurred on the purchase of the asset based on the expected taxable use of the asset e.g. 100% taxable use, therefore recover all input tax incurred in full

Year 2 – 10: Adjust input tax recovery for that year based on that year's taxable use

e.g. Adjustment = Input tax for year 2 / (10 or 5 years, as the case may be) x difference between initial recovery percentage and actual taxable use

$$\text{Additional VAT recoverable from FTA} / \text{Additional VAT payable to FTA} = \frac{\text{Total input tax on capital asset}}{\text{Adjustment Period}} \times X$$

$X = (\text{Original taxable use \%} - \text{actual taxable use \%})$

Following steps should be followed for the purpose of computation of adjustment under capital asset scheme.

1. Firstly, identify the total input VAT on said capital good.
2. Secondly, divide the total input tax with useful life of the assets. In case of a building, it is 10 years and in other cases, it is 5 years.
3. After that, multiple the resultant with the % change in usage, which is basically the difference between intended usage while recovering the Input Tax in the first year and actual usage in that year.
 - The Input VAT adjustment arrived at from point no 3. will either result in additional repayment or additional recovery from FTA .

Now, let's understand the applicability of above formula with the help of few examples.

Example 11: ABC LLC has acquired a Building for AED 7,000,000 (excluding VAT) on January 1, 2018 and the use of the building is 100% for Taxable Supplies. In the third year i.e. 2020 the use of the building has changed to 100% for Exempt supplies.

In 2018

Total Input VAT recoverable by ABC in 2018 = 5 % of AED 7,000,000

$$= \text{AED } 350,000$$

Adjustment Period = 10 years

During Year 2018 to Year 2027

$$\text{Adjustment (Additional VAT Payable to FTA)} = \text{AED } 350,000 / 10 \times (100 \% - 0\%)$$

$$= \text{AED } 35,000$$

Thus, the company must repay AED 35,000 of Input VAT each year starting from the year 2020 till 2027 on the basis that the building is used for 0% taxable supplies.

Example 12: XYZ LLC has acquired a Building for AED 8,000,000 (excluding VAT) on January 1, 2018 and the use of the building is 100% for Taxable Supplies. During the 5th year i.e. 2022 the use of the building has changed to 60% for Taxable supplies and 40% for Exempt Supplies. During the year 2018, the company also bought machinery for AED 5,000,000 to be used 70% for Taxable Supplies and 30% for Exempt Supplies. However, in 2024 the company changed the usage of machinery to 40% Taxable Supplies. Determine the amount of adjustment of Input VAT during the period under Capital Assets Scheme.

In 2018

Total Input VAT recoverable in respect of Building = 5 % of AED 8,000,000
 = AED 400,000

Total Input VAT recoverable in respect of Machinery = 5 % X AED 5,000,000 X 70 %
 = AED 175,000

Adjustment Period = 10 years

Year 2022 to Year 2027 (Building)

Adjustment (Additional VAT Payable to FTA) = AED 400,000/10 X (100 % - 60%)
 = AED 16,000

Thus, the company must repay AED 16,000 of Input VAT each year starting from the year 2023 till 2027 on the basis that the usage of the building has changed to 60% taxable supplies.

Year 2024 to Year 2027 (Machinery)

Adjustment (Additional VAT Payable to FTA) = AED 250,000/10 X (70 % - 40%)
 = AED 7,500

Thus, the company must repay AED 7,500 of Input VAT each year starting from the year 2024 till 2027 on the basis that the usage of the building has changed from 70% to 40% taxable supplies.

Fig in AED										
Particulars / Year	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Recoverable Input Tax										
Building	400000									
Machinery	175000									
Total Recovery	575000									
Adjustment to Input Tax										
Building					16000	16000	16000	16000	16000	16000
Machinery							7500	7500	7500	7500
Total Adjustment					16000	16000	23500	23500	23500	23500

Important Note:

If the Capital Asset is disposed of by the Taxable Person in any year other than the final year or the Taxable Person deregisters from Tax and is required to account for tax on the asset as a Deemed Supply. Any such adjustments that may be required in respect of any such remaining years shall be included in the Tax Return relating to the Tax Period in which the Capital Asset is disposed of.

C. Capital Assets Scheme: exclusion for new residential buildings

- Where the first supply of a residential property is a zero-rated lease, the costs incurred in relation to that property can be deducted in full – directly attributable to the first zero rated supply
- This rule applies regardless of an intention to make future exempt supplies of the property e.g. second supply of a residential property by way of lease or sale.
- As a result, there is no need to apply the capital assets scheme in such circumstances

MODULE 10

OUTPUT TAX ADJUSTMENTS

ARTICLES OF DECREE LAW ON VAT RELEVANT TO THIS MODULE

Article (61)	Instances and Conditions for Output Tax Adjustments
Article (62)	Mechanism for Output Tax Adjustment
Article (63)	Adjustment due to the Issuance of Tax Credit Notes
Article (64)	Adjustment for Bad Debts

10.1 OUTPUT TAX

VAT registered businesses needs to charge VAT on their taxable supply of goods and services in accordance with the Federal Decree law on VAT. This is known as Output VAT or Output Tax. The term “Output Tax” has been defined by Article 1 of Federal Law No. (8) of 2017 on VAT as *“Tax charged on a Taxable Supply and any supply considered as a Taxable Supply”*.

Similarly, VAT is charged on most goods and services purchased by the business. This is known as input VAT.

The output VAT is being collected from the customer by the business on behalf of the government and must be regularly paid over to them. However, the input VAT charged on the goods and services purchased can be deducted from the amount of output tax owed.

10.2 OUTPUT TAX ADJUSTMENTS

The output VAT is to be collected from the customer by the business on behalf of the government and must be regularly paid to the government. 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 any commercial reason a Debit Note or Credit Note is issued by the supplier and receiver of goods and services.

A debit note or a Credit Note can be issued in following 2 situations.

1. **When the amount payable by buyer to seller decreases:** There can be a change in the value of goods after the goods are delivered and invoice is issued by the seller. This can be due to a return of goods or due to the bad quality of the goods delivered, etc. In such cases, the value of goods decreases due to which a Debit Note is issued by the buyer to the seller thereby decreasing the liability of the buyer. The seller may even issue a Credit Note as a response or acknowledgment to the Debit Note. The Debit Note or the Credit Note thus issued provides details of the amount of money debited from the sellers' account and also states the reason for the same.
2. **When the amount payable by buyer to seller increases:** When the value of invoice increases due to extra goods being delivered or the goods already delivered have been charged at an incorrect value or due to any other reason, a Debit Note in such cases are generally issued by the seller. The buyer provides an acknowledgment to the receipt of Debit Note or may even issue a Credit Note resulting into increase of buyer's liability.

All these circumstances cited above leads to either reduction of or increase in Output Tax liability. The decrease can be given effect to only by way of issuing Tax Credit Note issued by the registered supplier. However, the increase of Output Tax Liability should be given effect to by issuance of an additional/new Tax Invoice.

It is pertinent to note in this regard that the law has cast the **responsibility to issue Tax Credit Note or additional Tax Invoice only on the registered supplier** of goods and services. Any document issued by the buyer or the recipient in order to adjust Output VAT is not recognised under the VAT Laws.

When a credit note is issued after output tax has been paid by the recipient, the registered supplier must reduce his output tax for the corresponding amount stated in the credit note in the VAT return for the taxable period in which the credit note was issued. The customer who is a registered person on the other hand, must reduce his input tax in the return for the taxable period in which he received the credit note if he has claimed the input tax.

10.2.1 INSTANCES AND CONDITIONS OF OUTPUT TAX ADJUSTMENTS

Article 61 of Federal Decree Law No. 8 of 2017 on VAT, stipulates the circumstances when Output Tax charged originally, can be adjusted by the registered supplier. These circumstances are stated as following.

1. A Registrant shall adjust Output Tax after the date of supply in any of the following instances:
 - a. **If the supply was cancelled.**
The supply will be considered as cancelled only the underlying goods supplied must be returned to the supplier. Transit loss, measurement loss, etc., cannot be regarded as cancellation of supply
 - b. If the **Tax treatment of the supply has changed** due to a change in the nature of the supply.
 - c. If the **previously agreed Consideration for the supply was altered** for any reason.
 - d. If the **Recipient of Goods or Recipient of Services returned them to the Registrant** in full or in part and the **Consideration was returned** in full or in part.
 - e. If the **Tax was charged in error.**
2. It is clarified under Clause 2 of Article 61 of Federal Decree Law on VAT that this paragraph (e) shall not be applicable in cases where at the time of sale, place of supply identified as inside State as per Article 27(1) and later during movement of material it was found that the supply would finally treated as being export to a registered recipient in Implementing State.

Example: ABC LLC a VAT registered entity in UAE supplies goods to XYZ a registered entity in KSA (Implementing State). ABC charged VAT @ 5% on such goods to XYZ and issued Invoice accordingly. Such type of cases will fall under above paragraph (e) and accordingly ABC cannot issue Tax Credit Note for the purpose of adjusting the Output Tax as charged initially.

In simple words it can be said that the registrant supplier cannot adjust Output Tax after the date of supply if tax is charged in error by considering the place of supply of underlying goods as Inside State (UAE), however later it turns out that the supply should have been treated as export to Implementing State. This provision given under the paragraph (3) above provides an exception to the general rule of adjustment of Output Tax due to error in charging Tax. This has been done with the objective of avoiding any administrative inconvenience and mitigating the risk of tax evasion.

3. In order to adjust the Output Tax any of the following conditions shall be met:
 1. If the Output Tax amount charged on the supply stated in the Tax Invoice does not match the Tax that should actually be charged on the supply as a result of any of the events mentioned in paragraph (1) above.
 2. If the Registrant submits a Tax Return for the Tax Period during which the supply occurred and an amount of Output Tax due was incorrectly calculated as the result of any of the events mentioned under Paragraph (1) above.

10.2.2 MECHANISM FOR OUTPUT TAX ADJUSTMENTS

Article 62 of Federal Decree Law No. 8 of 2017 provides the manner in which Output Tax Adjustment can be done. The same is stated here below.

1. If the **Output Tax due for the supply exceeds the Output Tax calculated by the Registrant**, the Registrant shall issue a new Tax Invoice for the additional amount of Tax and calculate the additional Tax due for the Tax Period during which such an increase was identified.
2. If the **Output Tax calculated by the Registrant exceeds the Output Tax which should have been charged on the supply**, the Registrant shall issue a Tax Credit Note. This will lead to reduction in the output tax initially charged by the supplier.

Article 63 of the Law further provides that if the Registrant issues a Tax Credit Note to correct Output Tax charged to the Recipient of Goods or Recipient of Services, the Tax stated in the Tax Credit Note shall be considered as:

1. A reduction of the Output Tax for the Registrant of this Tax Credit Note.
2. A reduction of the Input Tax by the Recipient of Goods or Recipient of Services for the Tax Period during which the Tax Credit Note was received.

10.2.3 ADJUSTMENT FOR BAD DEBTS

Article 64 of the Federal Decree Law on VAT provides the requirement and conditions for a registrant supplier to be eligible to claim a bad debt relief by allowing reduction in Output Tax liability. The same article also lays down the responsibility of the registrant recipient to reduce the amount of Recoverable Input Tax.

Adjustment by Supplier

1. A Registrant supplier may reduce the Output Tax in a current Tax Period to adjust the Output Tax paid for any previous Tax Period if all of the following conditions are met:
 - a. Goods and Services have been supplied and the **Due Tax has been charged and paid** to the government.
 - b. Consideration for the supply has been **written off in full or part as a bad debt** in the accounts of the supplier.
 - c. **More than six (6) months has passed** from the date of the supply.
 - d. The Registrant supplier has **notified the Recipient of Goods and the Recipient of Services** of the amount of Consideration for the supply that has been written off.

In other words, if the person has not received any payment in respect of the taxable supply and all of the above conditions are satisfied, he can make a deduction or claim for the whole of the tax paid. However, if he has received part of the payment he can deduct or claim an amount calculated according to the formula:

$$\text{Output Tax to be adjusted} = A/B \times C$$

where:-

- A is the payment not received in respect of the taxable supply;
- B is the consideration for the taxable supply; and
- C is the tax due and payable on the taxable supply.

Adjustment by Recipient

2. The registered Recipient of Goods or Recipient of Services shall reduce the Recoverable Input Tax for the current Tax Period related to a supply received during any previous Tax Period where the Consideration has not been paid and all of the following conditions are met:

- a. The registered supplier reduced the Output Tax as stated in Clause (1) of this Article and the Recipient of Goods and the Recipient of Services has **received a notification from the supplier** of the Consideration being written off.
 - b. The Recipient of Goods and Recipient of Services received the Goods and Services and the **relevant Input Tax was deducted**.
 - c. **The Consideration was not paid in full or in part for the supply for over (6) six months.**
3. The reduction stated in Clause (1) and (2) shall be equal to the Tax related to the Consideration which has been written off.

It should be noted that all these **adjustments shall be made in the tax return of the period during which such write-offs are made**. The amount of adjustment shall be equal to tax related to the consideration written off (Pro-rata).

MODULE 11

REGISTRATION AND DE-REGISTRATION

ARTICLES OF DECREE LAW ON VAT RELEVANT TO THIS MODULE

Article (13)	Mandatory Tax Registration
Article (14)	Tax Group
Article (15)	Registration Exceptions
Article (16)	Tax Registration of Governmental Bodies
Article (17)	Voluntary Registration
Article (18)	Tax Registration for Non Resident
Article (19)	Calculating the Tax Registration Threshold
Article (20)	Capital Assets
Article (21)	Tax Deregistration Cases
Article (22)	Application for Tax De-Registration
Article (23)	Voluntary Tax De-registration
Article (24)	Procedures, Controls and Conditions of Tax Registration & De-registration

ARTICLES OF EXECUTIVE REGULATION ON VAT APPLICABLE TO THIS MODULE

Article (6)	Application for Registration
Article (7)	Mandatory Registration
Article (8)	Voluntary Registration
Article (9)	Related Parties
Article (10)	Registration as a Tax Group
Article (11)	Amendments to a Tax Group
Article (12)	Effect of registration as a Tax Group
Article (13)	Aggregation of Related Parties
Article (14)	Tax Deregistration
Article (15)	Deregistration of a Tax Group Registration or Amendment Thereof
Article (16)	Exception from registration
Article (17)	Registration when the Decree-Law Comes into Force
Article (18)	Liabilities due before Deregistration

11.1 INTRODUCTION

In any tax system, registration is the most basic requirement for identification of taxpayers. Registration of any business entity under the tax laws implies obtaining a unique number from the concerned tax authorities for the purpose of collecting tax on the behalf of the government and to avail input tax credit for the taxes on his inward supplies.

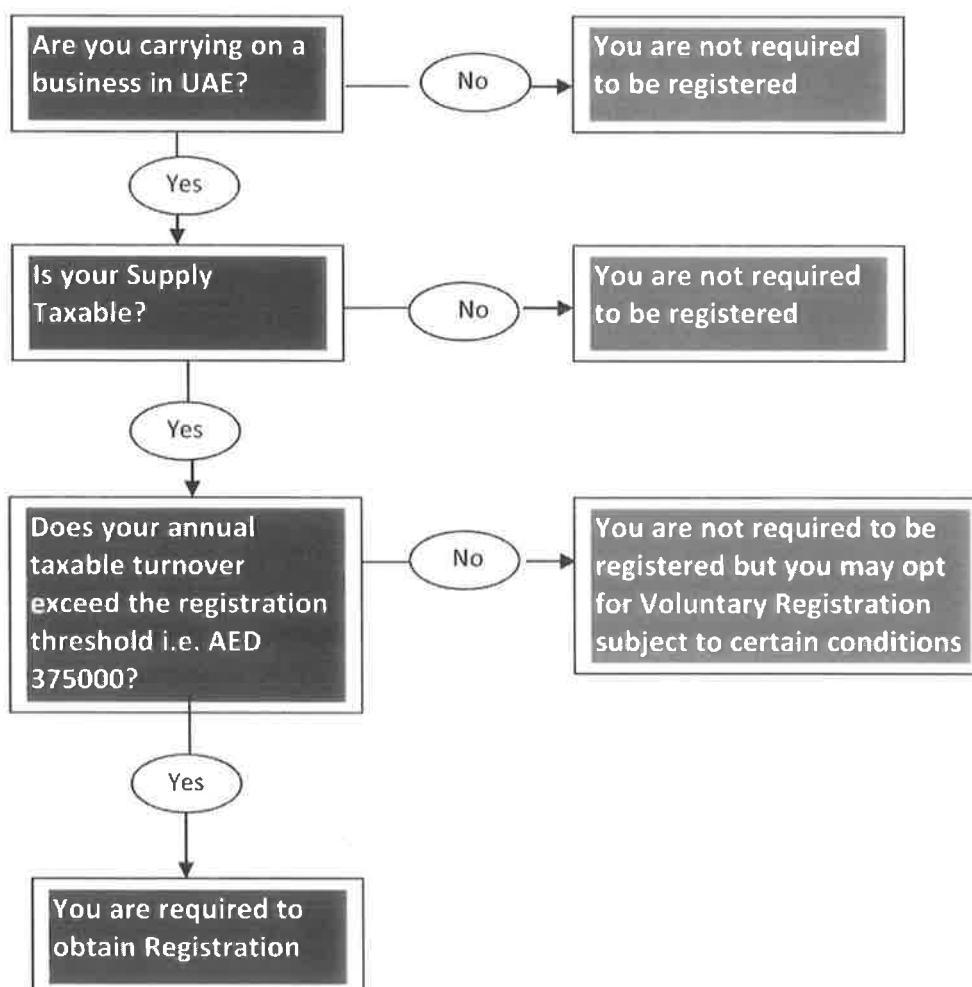
A person who is registered with FTA under VAT Laws is known as a “registered person”. A registered person is required to charge VAT (output tax) on his taxable supply of goods and services made to his customers. He is also allowed to claim input tax credit on any VAT incurred (input tax) on his purchases which are inputs to his business. Thus, this mechanism leads to avoidance of double taxation and only the value added at each stage is taxed. Thus, without registration a person can neither collect tax from his customers nor can avail any input tax credit paid by him.

Registration provides following advantages to any supplier of goods and services.

1. The person becomes legally recognised as supplier of goods and services.
2. He is legally authorised to collect tax from his customers.
3. He can legally claim input tax credit paid by him on purchase of goods and services and can utilise the same against tax on outward supplies.

11.2 MANDATORY REGISTRATION

Flowchart to determine requirement under Mandatory VAT registration



1. Who is required to get itself registered under VAT?

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

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

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

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

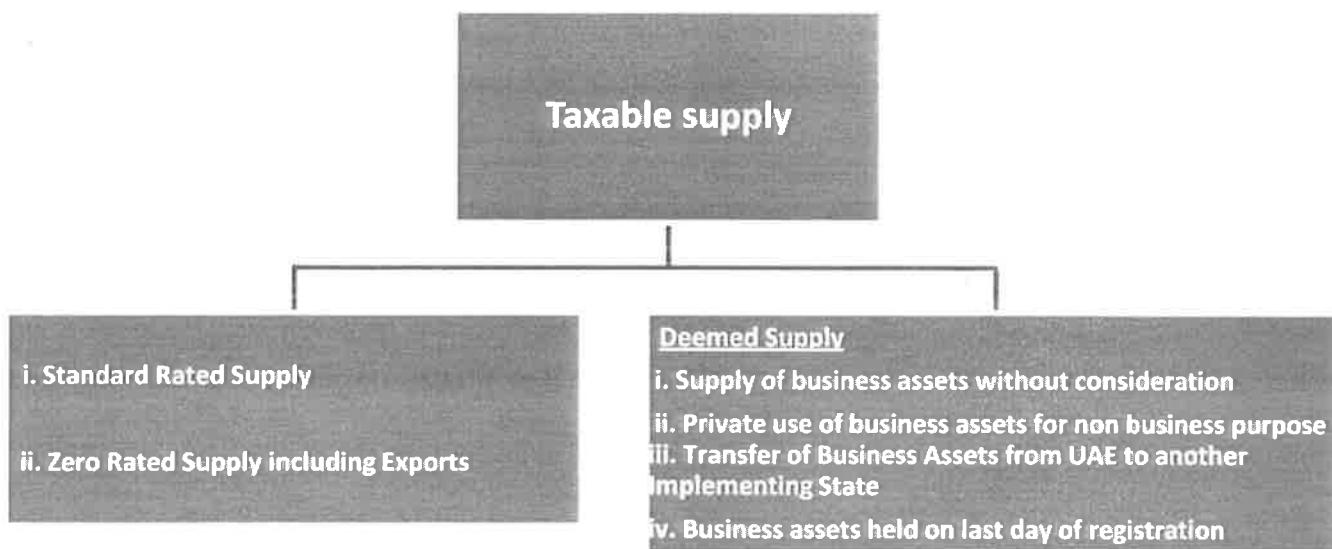
The person who does not have a place of residence in the State or in any implementing State will be required to take tax registration if such person makes taxable 'outward' supplies in the State where no other person is obligated to pay such tax. Also, the mandatory threshold limit for registration shall not apply in such cases. This could cover cases where a non-resident makes supply of goods or services to another unregistered person in the State in the course of his business. Clause 2 of Article 13 of the Decree Law explicitly states that **Every Person, who does not have a Place of Residence in the State or an Implementing State and is not already registered for Tax, shall register for Tax if he makes supplies of Goods or Services, and where no other Person is obligated to pay the Due Tax on these supplies in the State.**

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

2. What is a taxable supply? How to determine value of taxable supplies for purpose of VAT Registration?

A taxable supply is a supply with consideration and it includes standard-rated and zero-rated supply. Supply without consideration can also be deemed to be a supply. However, certain taxable supplies are not regarded as supplies for VAT purposes.

Please refer to previous Module "Supply" for further clarification on the various types of supply.



The value of taxable supplies shall **include all zero rated supplies** as there are taxable supplies on which zero rate of tax applies. Thus, it includes:

- Standard rated supplies
- Zero-rated supplies

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

However, it **doesn't include exempted supplies**.

It is further to be noted that **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.

The term "Capital Asset" has been defined under Article 1 of the Decree Law as Business Assets designated for long term use.

As per Clause 1 of Article 7 of Executive Regulation, The Mandatory Registration Threshold is AED 375,000 (three hundred and seventy-five thousand Dirhams).

Article 19 of the Decree Law further provides insight into the method of computation of value of supplies. It states as follows.

"To determine whether a Person has exceeded the Mandatory Registration Threshold and the Voluntary Registration Threshold, the following shall be calculated:

1. **The value of Taxable Goods and Services.**
2. **The value of Concerned Goods and Concerned Services received by the Person** unless covered by Clause (1) of this Article.
3. **The value of the whole or relevant part of Taxable Supplies that belong to said Person if he has, wholly or partly, acquired a Business from another Person who made the supplies.**
4. **The value of Taxable Supplies made by Related Parties** pursuant to the cases stated in the Executive Regulation of this Decree-Law."

Let's understand the calculation with the help of examples given below.

Example 1:

ABC LLC makes the following supplies during the past 12 months period:

- a) Standard rated supply: AED 100,000;
- b) Zero rated supply (exports): AED 200,000;
- c) Sale of capital goods: AED 75,000;
- d) Supply of exempted goods: AED 150,000

ABC LLC is not required to apply for VAT registration because its total value of taxable supply doesn't exceed AED 375,000 i.e. supplies covering (a) & (b).

Example 2:

A car workshop in Dubai has to include labour charges as well as sale value of parts replaced to determine its total taxable supply:

Total labour charges: AED 150,000

Total parts sold: AED 250,000

This workshop is required to apply for registration because the total taxable turnover of AED 400,000 has exceeded the Mandatory Registration Threshold.

3. How to determine the twelve-month period?

Clause 1 of Article 13 of the Federal Decree Law on VAT provides for calculation of taxable turnover using any of the 2 methods mentioned below.

1. Historical Method
2. Future Method

Historical Method:

The historical method is based on the value of the taxable supplies of **12 months immediately preceding** the date it crosses the Mandatory Registration Threshold.

Registration is compulsory once the mandatory threshold limit is crossed. It is relevant to note that the limit fixed is not with respect to financial year but to immediately preceding 12 months from the date it crosses the limit.

Therefore, those businesses whose past 12 months turnover was below the mandatory threshold limit need to regularly monitor the moving-12 month turnover to ascertain if it has reached the mandatory threshold limit of AED 375,000 so that they can immediately apply for registration, if required.

Future Method:

But, if the value of supply is 'likely' to cross the mandatory threshold limit in the next 30 days, the person is required to obtain compulsory registration.

Clause 1 of Article 13 of the Federal Decree Law on VAT:

Every Person, who has a Place of Residence in the State or an Implementing State and is not already registered for Tax, shall register in the following situations:

- a. Where the total value of all supplies referred to in Article (19) exceeded the Mandatory Registration Threshold over the previous 12-month period.
- b. Where it is anticipated that the total value of all supplies referred to in Article (19) will exceed the Mandatory Registration Threshold in the next thirty (30) days.

4. What shall be the effective Date of Registration?

- Where a Person does not file his Tax Registration application despite being required to, **the Authority shall register that Person with effect from the date on which the Person first became liable to be registered for Tax** and impose the necessary penalties in accordance with the Federal Law No. (7) of 2017 on Tax Procedures.
- Where supplies made by a Person exceed, the Mandatory Registration Threshold during the previous 12-months period, the Authority shall **register the Person with effect from the first day of the month following the month in which the Person is required to register**, whether or not he applies for Tax registration, or from such earlier date as agreed between the Authority and the Person.
- Where a Person expects that his supplies, will exceed the Mandatory Registration Threshold during the next (30) days, the Authority shall **register him with effect from the date on which there are reasonable grounds for believing the Person will be required to register** as specified in that Clause or from such earlier date as agreed between the Authority and the Person.
- Where a **Person is not a resident of the State** and is required to register in accordance with the provisions of the Decree-Law, the **Authority shall register him with effect from the date on which he started making supplies in the State**, whether or not he so notifies them of the liability to register for Tax, or from such earlier date as agreed between the Authority and the Person.

5. Registration at the time when Decree Law comes into force

- Executive Regulation requires that a person who will be a Taxable Person on the date the Decree-Law comes into force, must apply for Tax Registration prior to the Decree-Law coming into effect as per the timelines as announced by the Authority. Different dates have been notified by Authorities for different classes of persons depending upon their turnover in preceding 12 months.

- Where an application is made for registration as per above timeline, **effective date of registration would be 1st January, 2018 i.e. the date on which Decree Law comes into force.**
- Executive Regulation further provides that when a person has applied for tax registration as per above, he shall have same rights and obligations as if the Tax Registration was processed after Decree Law coming into force.

6. Other Relevant Provisions relating to Mandatory Registration

- The Person required to register for Tax must file a Tax Registration application with the Authority within (30) days of being required to register.
- A Taxable Person who has **been late in registering for Tax** is liable to account for and pay to the Authority the Due Tax on all Taxable Supplies and Imports made by him before registering.

7. Mandatory Registration - Exceptions

As per the Mandatory Registration requirement under Article 13, a person making taxable supplies shall be required to be registered under VAT. It is important to note here that zero rated supplies are included within definition of taxable supplies.

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

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

The rationale of giving such an exemption is to provide an option to such a person whether to register or not for VAT as his compliance costs may be more than the amount of input tax credit.

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

Article 15 of this decree law reads as below.

1. The Authority may exempt a Taxable Person from mandatory Tax Registration upon his request if his supplies are only subject to the zero rated.
2. Anyone exempted from Tax Registration according to Clause (1) of this Article shall inform the Authority of any changes to his Business that would make him subject to Tax under this Decree-Law pursuant to the time limits and procedures determined in the Executive Regulation of this Decree-Law.
3. The Authority shall have the right to collect any Due Tax and Administrative Penalties for the period of exception where that Taxable Person was not entitled to the exception.

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

1. A Taxable Person that wants to apply for an exception from Tax Registration on the basis that all of his supplies are zero rated, shall apply to the Authority in a manner and by means specified by the Authority.
2. The Authority shall review the exception from registration application and either accept the exception from Tax Registration or notify the Taxable Person that his application is rejected.
3. A Person excepted from Tax Registration must notify the Authority if he makes any supplies or Imports of Goods or Services that are subject to Tax at the standard rate.

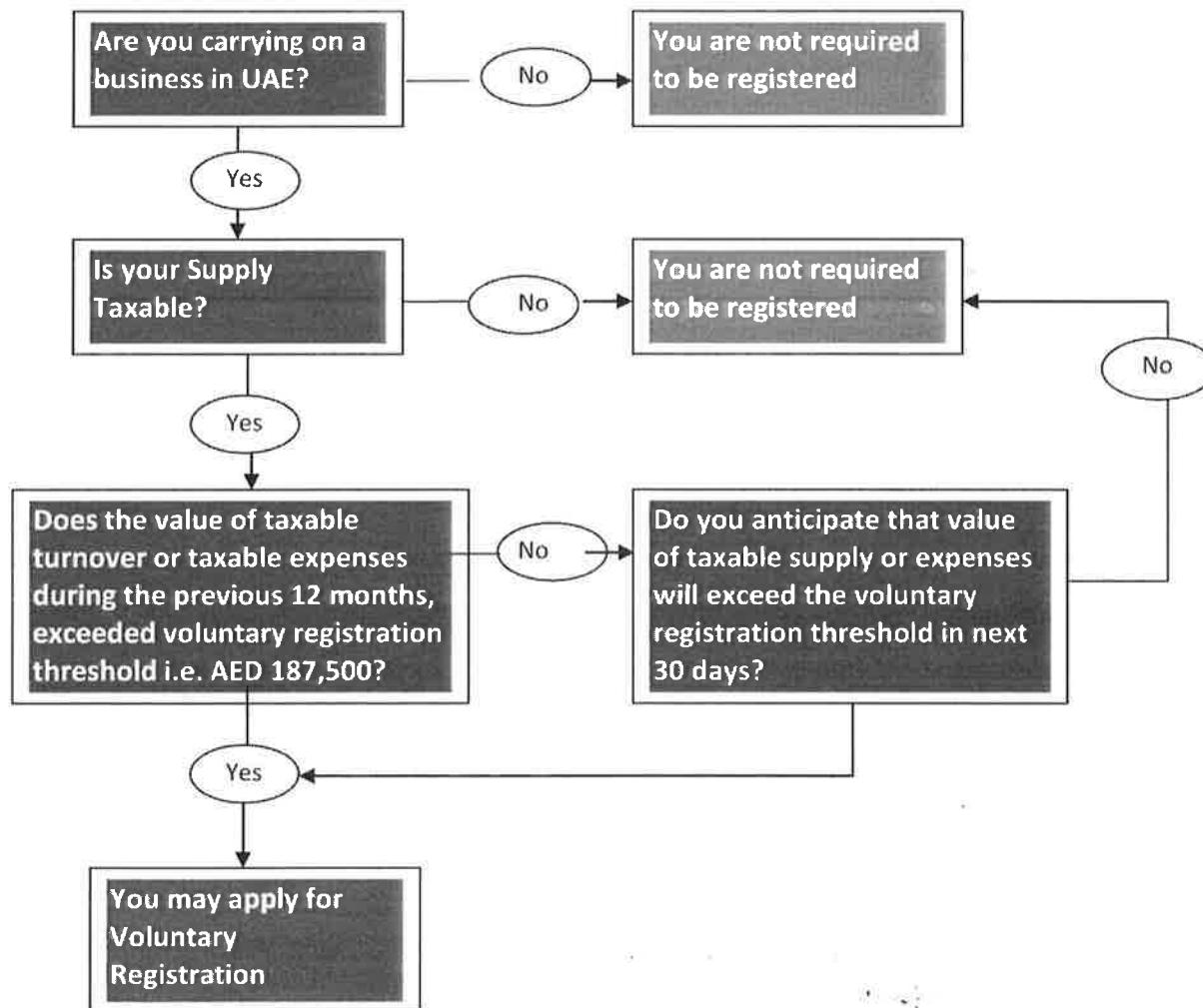
4. A Person shall give the notice referred to in Clause (3) of this Article within not more than 10 business days of making the supply or import which is taxable at the standard rate.
5. Where the Person ceases to satisfy the requirement of being excepted from Tax Registration, he shall be required to register for Tax.

11.3 VOLUNTARY REGISTRATION

There could be situations where a person, though not mandatorily required to register, may be willing to register. The purpose of voluntary registration could be to recover input tax credits so as to reduce the purchase cost particularly in cases where sales turnover is below mandatory registration threshold limit but his vendors as well as customers are registered. To ensure that the credit chain does not break, such person may also voluntarily opt for registration subject to the conditions stipulated under Article 17 of Decree Law read with Article 8 of Executive Regulation on VAT.

The below flowchart can be used by any person to determine if he can apply for voluntary registration under the provision of UAE VAT laws.

Flowchart to determine requirement under Voluntary VAT registration



As per the aforesaid provisions of law, **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.**
- Where a Person applied for voluntary registration due to his expectation that his supplies under the provisions of the Decree-Law will exceed the Voluntary Registration Threshold during the next 30 days, he should be able to provide evidence of an intention to make Taxable Supplies or incur expenses which are subject to Tax in excess of the Voluntary Registration Threshold. It should be noted that merely because expected expenditure exceeds the voluntary registration threshold does not entitle the taxable person to get registration unless he satisfies the Authority that he is carrying on a Business in the State.
- The Authority shall determine the evidence it may deem necessary to demonstrate eligibility for voluntary Tax Registration.
- For the purpose of voluntary registration, the phrase “Taxable Expenses” means expenses which are subject to the standard rate and which are incurred in the State by a Person who has a Place of Residence in the State.

Effective Date of Registration

- Where a Person has applied for voluntary registration in accordance with the provisions of the Decree-Law, the Authority shall register a Person with effect from the first day of the month following the month in which the application is made, or from such earlier date as may be requested by the Person and agreed by the Authority.

Other Relevant Provisions relating to Voluntary Registration

- Once a person has applied for voluntary registration and a certificate of registration is granted as such, the person shall be treated as a taxable person and all the provisions of this VAT Law which are applicable to a taxable person shall be applicable to such a person. This would continue even if the turnover falls below the said threshold limit.

11.4 TAX GROUP

Tax consolidation, or combined reporting, is a regime adopted in the tax or revenue legislation of a number of countries which treats a group of wholly owned or majority-owned companies and other entities as a single entity for tax purposes. This generally means that the head entity of the group is responsible for all or most of the group's tax obligations (such as paying tax and filing tax returns).

The aim of a tax consolidation regime is **to reduce administrative costs for government revenue departments and reduce compliance costs for corporate taxpayers.** For companies, consolidating can help plan tax by having losses in one Group Company reduce profits for another. Assets can be transferred between group companies without affecting VAT liability on transfer of assets.

Some of the countries which have adopted a tax consolidation regime include France, Australia and New Zealand.

The UAE VAT Law has too provided an **option** for persons conducting business to apply for registration as a tax group.

1. Who can become members of a Tax Group?

As per Article 14 of the Federal Decree Law on VAT, persons can apply for Tax registration as a Tax group if all of the following conditions are fulfilled:

- Each person should have a **place of establishment or a fixed establishment in the State** of UAE.
- Such persons should be **related parties** as per the definition mentioned in this VAT Law
- One or more persons conducting business in partnership shall **control the other.**

The definition of related person for Tax Group Registration has been given in Article 9 of Executive Regulations. It is relevant to note that only legal persons are entitled to take registration as tax group. **Natural person cannot become member of a Tax group.**

The definition of Related Parties shall relate to **any two legal persons** in below instances:

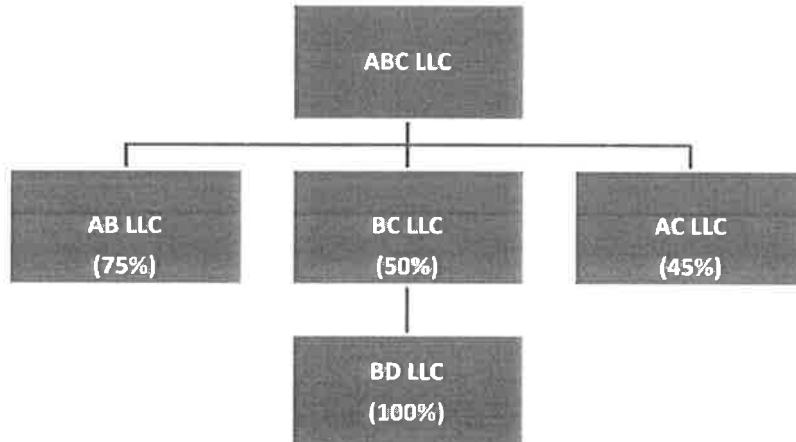
- a) One Person or more acting in a partnership and having any of the following:
 - i. **Voting interests** in each of those legal Persons of 50% or more;
 - ii. **Market value interest** in each of those legal Persons of 50% or more;
 - iii. **Control** of each of those legal Persons by any other means.
- b) Each of Persons is a **Related Party** with a third Person.

Example 3:

ABC LLC has a place of establishment in Dubai and has three more companies in the group having presence across different places in UAE although in association with different Arab shareholders/owners. Instead of having to obtain separate registrations for all such entities, they could opt for single registration for all companies in the group as “Tax Group”.

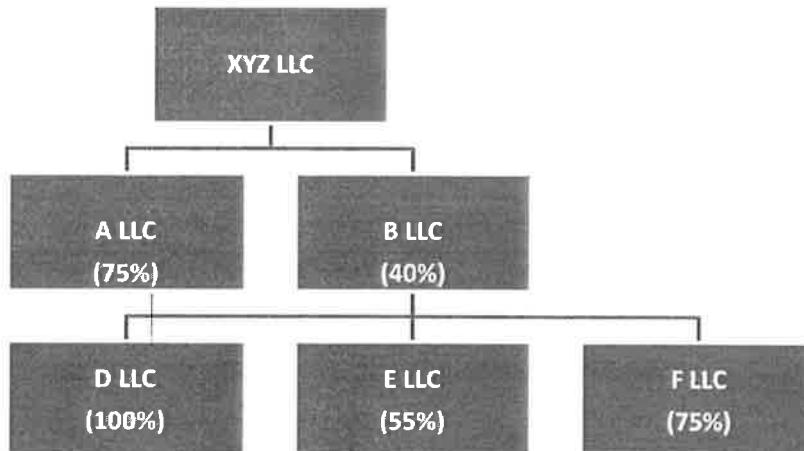
Let's understand this with the help of more examples below.

Example 4:



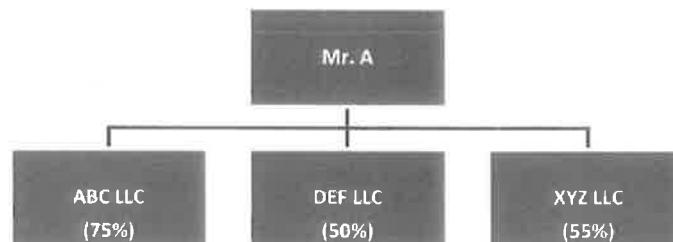
In the above case, ABC has direct control over AB and BC, and also controls BD indirectly through BC. Companies ABC LLC, AB LLC, BC LLC and BD LLC can register for VAT as a group. Since AC is not controlled by XYZ, therefore it is not eligible as a group member.

Example 5:



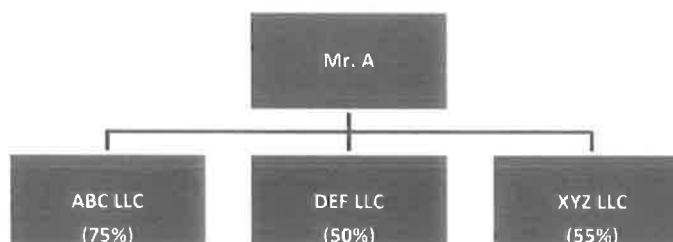
In this example, company XYZ LLC is not eligible to be a group member with B LLC because XYZ has no control over B. XYZ can form tax group with A only as they will be considered as related parties. Similarly, since B has control over D, E and F, they are eligible to form a group for VAT registration purposes.

Example 6:



In the above example, Mr. A owns three companies namely ABC, DEF and XYZ LLC. Companies ABC, DEF and XYZ are allowed to be registered as a group since they are all controlled by Mr. A. However, being an individual Mr. A is not eligible to be a member of the tax group.

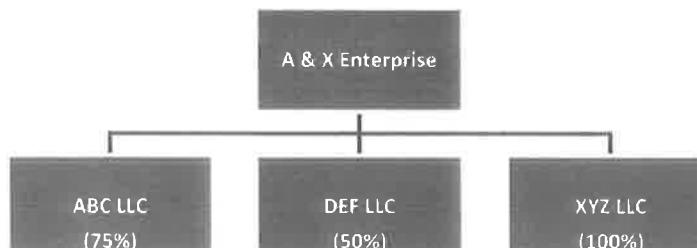
Example 7:



In the above example, A & X Enterprise is a partnership firm which holds more than 50% shares in three companies namely ABC, DEF and XYZ LLC. Companies ABC, DEF and XYZ are allowed to be registered as a group since they are under common control of a third person. Since, a partnership firm is not recognised as a legal person; A & X Enterprise is not eligible to be a member of the tax group.

Foreign companies which are not established in UAE cannot become members of a group. However, for the purpose of eligibility for group registration, their subsidiaries or registered branches in UAE can be considered as members of a group.

Example 8:



In the above example, Companies BC LLC and AC LLC can form a tax group in UAE. However, AB Pvt. Ltd. and BD LLC cannot become members of the tax group because these companies don't have any **place of establishment or a fixed establishment in the State of UAE**.

Apart from voting interest, there are other criteria mentioned under UAE VAT laws as well which can be used to determine whether persons are related for the purpose of tax group registration.

As per the law, two or more Persons shall be considered Related Parties **if they are associated in economic, financial and regulatory aspects**, taking into account the following:

a. Economic practices, which shall include at least one of the following:

- 1) Achieving a common commercial objective;
- 2) One Person's Business benefiting another Person's Business;
- 3) Supplying of Goods or Services by different Businesses to the same customers.

b. Financial practices, which shall include at least one of the following:

- 1) Financial support given by one Person's Business to another Person's Business.
- 2) One Person's Business not being financially viable without another Person's Business.
- 3) Common financial interest in the proceeds.

c. Regulatory practices, which shall include any of the following:

- 1) Common management.
- 2) Common employees whether or not jointly employed.
- 3) Common shareholders or economic ownership.
 - “Market value interest” in a legal Person shall be calculated as the percentage of the market value of shares and options a Person owns over total market value of all shares in the legal Person.
 - Any shareholding will be disregarded if there exists another agreement, which contradicts it. In that case, the shareholding will be treated as the adjusted value under that other agreement.

Let's understand this with examples.

Example 9:

XYZ LLC runs a restaurant business and sells food only whereas ABC LLC operates another business of selling sweets and chocolates in the same premise. Both businesses share the same premise, employ the same employees and serve common customers.

In this example, both businesses shall be considered Related Parties for the purpose of tax group registration **as they are associated in economic, financial and regulatory aspects**, taking into account common management and common employees. Hence, they can form a tax group and be their members for purpose of tax registration.

Aggregation of Related Parties

1. Where two or more Persons are in association as a result of their economic, financial and regulatory practices in Business in accordance with Clause (2) of Article (9) of this Decision, and these Persons are not registered as a Tax Group and have **artificially segregated their business**, then the **Taxable Supplies of each of the Persons shall be treated as aggregated for determining whether they both have exceeded the Mandatory Registration Threshold and Voluntary Registration Threshold**.
2. Where the Business was not segregated artificially but the Authority considers that there is a Tax revenue loss due to segregation, the Authority may treat Taxable Supplies of each of the Persons as aggregated to determine whether the total of their taxable supplies exceeded the Mandatory Registration Threshold and Voluntary Registration Threshold.
3. Where any of the cases mentioned in Clause (1) and (2) of this Article applies, each of the Persons shall be treated as making Taxable Supplies made by the other Person and shall apply for Tax Registration if the Mandatory Registration Threshold has been exceeded pursuant to the provisions of the Decree-Law.

2. What is the effect of registration as a Tax Group?

In the previous section, we have understood who the related parties are and who can form tax group for the purpose of registration. Now the question is why one should opt for group registration and what shall be the effect of registration as tax group.

Article 12 of the Executive Regulation on VAT provides answers to these questions. The said article 12 reads as follows.

1. Registration of Persons as a Tax Group shall result in the following:
 - a. Any Business carried on by a member of the Tax Group shall be deemed to be carried on by the representative member and not by any other member of the Tax Group.
 - b. **Any supply made by a member of the Tax Group to another member of the same Tax Group may be disregarded.**
 - c. Any supply, taxable or otherwise, by a member of the Tax Group shall be deemed to be made by the representative member.
 - d. Any Import of Concerned Goods or Concerned Services by a member of the Tax Group shall be deemed to be an import by the representative member.
 - e. Any supply of Goods or Services to a member of the Tax Group from a Person who is not a member of the Tax Group is a supply to the representative member.
 - f. **Any Output Tax charged by a member of the Tax Group shall be deemed to be charged by the representative member.**
 - g. **Any Input Tax incurred by a member of the Tax Group shall be deemed to be incurred by the representative member.**
2. For the purposes of Clause (1) of this Article 12, all members of the Tax Group shall remain personally and jointly liable for any Payable Tax of the representative member.

Thus, it can be concluded that tax group is treated as one registrant in the eyes of the Law i.e. any transactions amongst such persons shall be out of the ambit of VAT applicability. This would give members of the tax group an advantageous position where such persons could reduce their compliance and cash flow burdens.

3. What is the procedure for registration as tax group?

Article 10 of the Executive Regulation on VAT lays down the rules in relation to procedural aspect of registration as a Tax Group. The said article states as follows.

1. A Tax Group shall select one of its registered members to act as the **representative member** of this Tax Group.
2. A request to register a Tax Group shall be made by the representative member of that Tax Group.
3. The Authority should make a decision regarding any application submitted for registration of two or more Persons as a Tax Group **within the period of 20 business days** starting with the day on which it was received by the Authority.
4. Where a request to form a new Tax Group is approved, the Tax Group registration shall be in effect according to the following:
 - a. **From the first day of the Tax Period following the Tax Period in which the application is received;**
 - b. **From any date as determined by the Authority.**
5. The **Authority may refuse the application for registration as a Tax Group**, in any of the following cases:
 - a. The Persons do not meet the requirements for Tax Group registration in accordance with the provisions of the Decree-Law and Article (9) of this Decision.
 - b. Where there are serious grounds for believing that if the registration as a Tax Group is permitted, it **would enable Tax Evasion or significantly decrease Tax revenues** of the Authority or **increase the administrative burden on the Authority** significantly;

- c. Where any of the Persons included in the application is **not a legal Person**.
- d. Where **one of the Persons is a Government Entity** specified under Article (10) and (57) of the Decree-Law and the **other is not**.
- e. Where **one of the Person is a Charity** under Article (57) of the Decree-Law and **the other is not**.
- 6. The Authority may reject adding a Person to a Tax Group where that Person does not meet the requirements for Tax Group registration in accordance with the provisions of the Decree-Law or for the reasons mentioned under Clause (5) of this Article.
- 7. Where the Authority establishes that two or more Persons are in association as a result of their economic, financial and regulatory practices in Business, the Authority may register them as a Tax Group after considering the individual circumstance of each case, including the presence of the factors mentioned in Clause (2) of Article (9) of this Decision.
- 8. The Authority may only register a Person as part of a Tax Group under Clause (7) of this Article if the two following conditions are met:
 - a. The Person's Business includes making Taxable Supplies or importing Concerned Goods or Concerned Services.
 - b. If all the Taxable Supplies or imports of Concerned Goods or Concerned Services of the Business by Persons carrying on the Business would have exceeded the Mandatory Registration Threshold.
- 9. The Authority may reject the application of registration as a Tax Group if there are serious grounds for believing that registering the Related Parties would significantly decrease Tax revenue.

4. What are the applicable rules in relation to Amendments to a Tax Group?

- 1. The representative member appointed under Article (10) of this Decision may apply to the Authority to do any of the following:
 - a. **Add another Person to become a member** of the Tax Group.
 - b. **Remove one of the members** of that Tax Group.
 - c. **Nominate another member of the Tax Group to be the representative member** with the consent of the other member.
 - d. **Deregister that Tax Group**.
- 2. For the purposes of Clause (1) of this Article, the Authority may accept the request mentioned in the application from either:
 - a. The first day of the Tax Period following the Tax Period in which the application is received;
 - b. Any date as determined by the Authority.
- 3. Any Notification by the Authority, which is addressed to the representative member of any Tax Group, shall be deemed to be served on the representative member and all other members of that Tax Group.

11.5 TAX REGISTRATION OF NON RESIDENT

Non-resident businesses are mandatorily required to get registered if they make taxable supplies within UAE. Threshold rule doesn't apply to non-resident businesses. If non-resident makes taxable supplies within the UAE, they will be required to register for VAT (e.g. maintenance works on a building located within the UAE).

However, in circumstances where any other UAE resident business is responsible for accounting and payment of VAT on that supply (e.g. self-assess VAT under the reverse charge mechanism), the VAT registration shall not be required. For example, a company based in USA provides design consultancy and construction supervision services to a developer based in UAE. In the course of provision of service, the USA Company is required to depute its engineers also at site. The bill is raised from USA

to UAE. When liability to pay VAT on such importation is on the importer under reverse charge mechanism under Article 48 (1), the non-resident person (USA Company) is not required to include the value of such supply for the computation of the threshold limit.

Article 18 in this context reads as follows.

A Non-resident Person may not take the value of Goods and Services imported into the State to determine whether he is entitled to apply for Tax Registration if the calculation of Tax for such Goods or Services is the responsibility of the Importer pursuant to Clause (1) of Article (48) of this Decree-Law.

11.6 TAX REGISTRATION OF GOVERNMENTAL BODIES

Supplies made by government entities will typically be subjected to VAT. The rationale behind this provision is to provide a level playing field to both government and private businesses. This will ensure that government entities are not unfairly advantaged as compared to private businesses.

Article 10 of the Federal Decree Law on VAT clearly states as follows.

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

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. For further details, please refer previous Module "Supply".

So far as registration is concerned, Article 16 of the decree law in this regard provides that such Government Entities as determined in a Cabinet Decision issued under Clause (2) of Article 10 of this Decree-Law, **shall apply for Tax Registration and may not be Deregistered unless by a Cabinet Decision at the suggestion of the Minister.**

11.7 REGISTRATION PROCEDURE

Article 6 of the Executive Regulation on VAT confers power to the Federal Tax Authority to define means, format, content and procedure of application for registration. The said article reads as follows.

For the purposes of mandatory or voluntary registration, the application for Tax Registration must contain such information as required by the Authority, and be submitted through the means specified by the Authority.

In exercise of the power conferred under the aforesaid Article 6, has set out the means, content and procedure for application for mandatory and voluntary tax registration. **A guide on Registration procedure** has accordingly been issued by the FTA to provide guidance to the applicant. The same is reproduced here for quick reference of the reader.

Similarly, a guide on **Registration Procedure for Tax Group** has also been issued by the FTA to provide guidance to the applicant. The same is reproduced here for quick reference of the reader.



United Arab Emirates

VAT USER GUIDE
(REGISTRATION, AMENDMENT, DE-REGISTRATION)
December 2017



1. Brief overview of this user guide

This guide is prepared to help you navigate through the Federal Tax Authority (FTA) website and successfully complete your Value Added Tax (VAT) registration form. It is designed to help you:

- **create an e-Services account** with the FTA (you will need to do this before you can register for VAT);
- **provide accurate answers** to the questions on your VAT registration form by explaining what information you are required to provide; and
- **understand the icons and symbols** you might see as you complete the registration form.

You should find that setting up an e-Services account is similar to setting up other online accounts. The VAT registration form is also designed to be straight-forward and wherever possible it will auto-complete information for you.

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



2. Creating and using your e-Services account

When you arrive at the FTA website, you will notice in the top right hand corner of the screen you have the option to either *Sign up* to the e-Services account service, or *Login* to an existing e-Services account.



2.1 Create an e-Services account (new users)

2.1.1 Sign up

To create an account, simply click on the *Sign up* button on the home page.

To sign up, you must enter a working email address and a unique password of 6-20 characters that includes at least:

- one number;
- one letter; and
- one special character (i.e. @, #, \$, %, &, and *).

You must confirm that you are a genuine user by completing the alphanumeric verification test that you will see.

Finally, you will be asked to select a security question, provide an answer to it and a hint in order to recover your password in case you forget it.

Please read and agree to the Terms & Conditions of the FTA in relation to using e-Services and the FTA website before clicking the *Sign up* button.

2.1.2 Verify your e-Services account

You will receive an email at your registered email address asking you to verify your email address.

Sign up
Welcome to the Federal Tax Authority

Email address

Password must be 6-20 characters long with at least one numeric, one alphabetic and one special character such as @, #, \$, %, &, *

Password

Confirm password

Enter security code:

400905

Select security question

Answer

Hint

I agree to the FTA terms and conditions of FTA

Sign up
Already registered? [login here](#)



Do this by clicking on the *Click here to verify your email* text in the body of the email that you have received.

Please verify your email address within 24 hours of requesting to create the e-Services account, otherwise the verification link will expire and you will have to sign up again. Once you have successfully verified your email address, your e-Services account will be created and you will be invited to Login for the first time.

Dear Recipient,

Thank you for creating an account with the Federal Tax Authority.

Please click on the below link to verify your email address and login to the portal.

[Click here to verify your email](#)

Sincerely,
Federal Tax Authority



2.2 Using your e-Services account (registered users)

When you arrive at the FTA website having created an e-Services account, simply click on the *Login* button. Enter your registered e-Services username and password when prompted to do so. You will also be asked to complete an alphanumeric verification.



To change your e-Services account password or security question/answer, click on the *My Profile* tab.

To exit from your account, click the *Logout* button at the top right hand corner of the screen.

2.2.1 Services available in your e-Services account

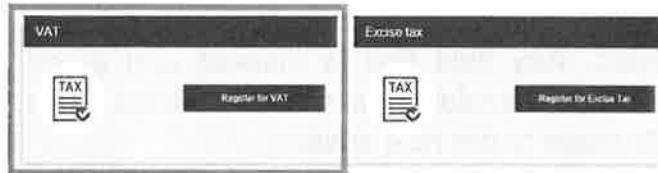
There are a number of dedicated services available to you through your e-Services account. Currently, you will be able to access the following:

- *Dashboard* which displays key information relating to your VAT registration;
- *My Profile* which contains a range of information about your e-Services account;
- *Downloads* which contains more detailed guidance which is designed to help you understand and manage your day-to-day VAT obligations.



3. Registering for VAT

On logging into your e-Services account you will see a button inviting you to *Register for VAT* (you may also see another button inviting you to register for Excise Tax).



Click on “Register for VAT” to start the VAT registration process.

IMPORTANT: If you intend to register for both VAT and Excise Tax, please complete a registration form for only one first and await the outcome of that application. Once you have received your Tax Registration Number (TRN) for the first tax type you can then proceed with the second application.

3.1 VAT Getting Started Guide

You will see the guide as soon as you click the *Register for VAT* button.

The guide is designed to help you understand certain important requirements relating to VAT registration in the UAE. It is divided into a number of short sections which deal with various aspects of the registration process.

Getting Started Guide

- Overview
- Important basics about VAT registration
- Registration criteria
- Definitions that you should be aware of at this time
- Can one person have more than one Tax Registration Number (TRN) for VAT
- Registration of a VAT group
- What if you only make zero-rated supplies
- Important information about using the online VAT application form
- What happens next
- Click here to confirm you have read the Getting Started guide

It also provides guidance on what information you should have to hand when you are completing the VAT registration form.

It is strongly recommended that you read each of the sections carefully. **Once you have done so, check the *Click here* box to confirm that you have read it in order to move forward.**

3.2 Steps for completing the VAT registration form

There are 8 sections that must be completed on the VAT registration form. Your progress will be shown each step of the way (denoted in brown) with each completed section shown in blue with a green tick mark:





In order to move from one section to the next, all mandatory elements of the current section must be completed. Any field that is marked with a red asterisk (*) is **mandatory** and must be filled out in order to move to the next section.

Legal name of entity (English)*

Please provide the required details

If you attempt to move to the next section without completing the mandatory information in the current section, you will receive a pop-up message under the relevant field indicating that additional details are required.

3.3 Saving your progress

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

Save as draft

After completing all mandatory fields, click the *Save and review* button at the bottom right hand corner of the screen to proceed to the following section.

Save and review

Your application will not be submitted at this point; you will have an opportunity to read through your answers before submission.

3.4 Submitting your VAT registration application

To submit the VAT registration form, carefully review all of the information entered on the form after clicking on *Save and review*.

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

Submit for Approval

The status of your application on the *Dashboard* will change to *Pending* and you will receive an email from us to confirm receipt of your application.

If the FTA requires any further details from you in order to assist with the verification of your application, you will receive an email notification setting out the information required from you.

3.5 Reviewing the progress of your VAT registration application

To review the status of your VAT registration application, click on the *Dashboard* tab and look next to *Status*:



- **Drafted** means the registration form has not been completed or submitted by the applicant;
- **Pending** means the registration form has been received by us and is under processing or that we are awaiting further information from you;
- **Issued** means we have provided to you a Tax Identification Number (TIN) for either your application for registration for a Tax group or confirmation of your exception from VAT. The TIN for your application for registration for a Tax group will be suffixed with the letters 'VG'. The TIN for confirmation of exception from VAT will be suffixed with the letters 'XC';
- **Suspended** means your registration form for VAT has been suspended and that your registration for a Tax group has been approved by us and you have received a TRN;
- **Rejected** means the registration form has been rejected by us; and
- **Approved** means the registration form has been approved by us and that you are successfully registered for VAT.

3.6 Application re-submission

When the applicant is asked to resubmit the application by FTA, the applicant can access the form by clicking on 'Edit' Button.

The applicant is allowed to leave application related comments and queries at the bottom of the application.

VAT

The status of your application is as below:

Status	Resubmit	 Edit
--------	----------	--

User Comments

 Previous

Submit for Approval 



4. Amending VAT Registration

Once the registration application is approved and you wish to make changes to your registration details, click '**Edit**' button which is placed within the VAT box under the Dashboard tab as per the following screenshot.

Existing details for all fields will be automatically populated. Some sections will be editable and the other are not (will be blocked).

VAT

The status of your application is as below:

Status: Approved

TRN: 100035365600003

De-register Status: N/A

Edit **View**

Download Certificate

De-Register

The fields that allow amendments:

Section "About the VAT registration":

- Business activities of the applicant section:**

- Select the primary activity of the business
- Add any other activities (or proposed activities)

6. About the VAT registration

Business activities of the applicant

Select the primary activity of the business* *

Activities of amusement parks and theme parks

Add any other activities (or proposed activities)

Accounting, bookkeeping and auditing activities; tax consultancy

- GCC activities section:**

In case you are registered for VAT in any GCC Member State, and if you import from or export to GCC Member State, you will have to enter/ can edit the following fields:

- Select the name of the GCC Member State
- Enter TRN (if available)
- Estimated value of imports (AED per year)
- Estimated value of exports (AED per year)

GCC activities

If you are registered for VAT in any GCC member states and/or if you import from or export to GCC member states, then please provide the following information

Single box with GCC activities details:

- Provide details in all fields
- Get one or more 'Add GCC Activities'
- If you wish to add more than one GCC activities, please fill the details and click 'Save and Add More' button

Select the name of the GCC Member State: Kingdom of Bahrain

Enter TRN (if available):

Estimated value of imports (AED per year):

Estimated value of exports (AED per year):

Add GCC Activities

Once you fill/ edit the above fields, click on '**Add GCC Activities**' to save the details of this section.

- Customs Registration Information section:**



In case you have a Customs Registration Number, you will have to enter/ can edit the following fields:

- Emirate in which you have a customs registration
- Customs Registration number
- Upload scanned copy(ies) of Customs number issued by Customs department

Customs registration information

If you are registered with any of the Customs departments in the UAE, please enter the details here. The information will assist the FTA and the relevant Customs department identify you accurately at the time of importing and exporting goods into or from the UAE. Failure to enter this information may result in delays at the border.

Do you have a Customs number?

• Yes • No

Show to add Customs registration details:
 Provide details in all fields
 Show or submit "New Customs Registration"
 If you wish to add more than one customs registration, please go to the next and click "New and Add New" button.

Emirate in which you have a customs registration*	Customs number*
Abu Dhabi	23456789
Upload or choose copy(ies) of Customs number issued by Customs department*	
<input type="file" value="Choose File"/> <input type="button" value="Choose File"/>	
<input type="button" value="Add Customs Registration"/>	

Once you fill/ edit the above fields, click on '**Add Customs Registration**' to save the details of this section.

All fields that are under the following sections cannot be amended:

1. About the applicant.
2. Details of the applicant (Name of the applicant and Identification of the applicant).
3. Contact details.
4. Banking details.
5. Business relationships (optional).
6. About the VAT registration section: only the following sub sections cannot be amended:
 - * Actual or estimated financial transaction values.
 - * Imports and Exports.
 - * Exception from VAT Registration.
7. Declaration.

Once amendments are made, click on '**Submit Changes**' button. If you wish to cancel, click on the '**Cancel**' button.



Once you submit changes, changes will be reflected automatically as these changes do not require approval from FTA. No message will be shown once you click on '**Submit Changes**' button.



5. De-registering from VAT

Taxable persons will be allowed to de-register from VAT from Feb 1st, 2018. The guide will be updated with the de-registration process.



Appendix A: Important on-screen tools and other tips

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



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

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

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

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

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

On what basis are you applying for registration?

Select business type

Select business type

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

Upload a scanned copy of the Certificate of incorporation*

Choose file to upload

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

August 2017

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



Appendix B: Completing your VAT registration application form

The VAT registration form captures a number of details about the applicant. The following guidance is designed to help you understand the questions that the form asks in order for you to complete the form accurately.

1. About the Applicant

On what basis are you applying for registration?

You should register the person that is operating a business, not the business itself.

A person can be an individual (i.e. operating as a sole trader), or a legal person (e.g. an incorporated business, a company) or another form of entity (e.g. an unincorporated body such as a charity or a club, a partnership or a trust).

Generally, a VAT registration covers ALL of the business activities undertaken by the registered person.

Natural person is simply an individual operating in their personal capacity (i.e. they are not incorporated as a company. The definition covers individuals, individuals operating in partnership where the partnership itself does not have a specific legal form (e.g. LLP's) and similar).

Legal person is an entity with legal personality formed under the relevant laws that is capable of entering into contracts in its own name. For VAT registration purposes, the definition can include companies and other incorporated corporate entities; partnerships with legal form (e.g. LLP's); clubs, charities or associations; Federal UAE Government entities; Emirate UAE Government entities; foreign government representations (e.g. diplomatic missions) and international organisations; and other entities with similar circumstances. In the context of tax registration,



Government Entities are those that are considered as a 'Designated Government Entity' by way of a Cabinet Decision.

A Government Entity that is not 'designated', i.e. not listed in Cabinet Decision, needs to register as 'Legal-Other'.

Please note, **branches** are not legally distinct from the wider entity to which they belong. Therefore, registration will not be made in the name of a branch but in the name of the parent where it meets the relevant criteria. Even if you are operating via branches in more than one Emirate, only one VAT registration is required.

If other, please specify

You must specify the type of the person you are registering if you select either of the option "Natural person - other" or "Legal person - other". It is not mandatory for you to provide further details in other situations.

Do you hold a Trade License in the UAE?

In the UAE, the term Trade License is often used interchangeably with business license, commercial license or similar. It refers to any such license issued by an authorized issuing body in the UAE, including those in a UAE Free Zone.

If you hold one or more Trade Licenses, you must select "Yes" for this question and complete the additional information requested. Otherwise, please select "No" (this includes instances where a non-established business is required to register in the UAE).

Are you registering mandatorily or voluntarily?

For businesses resident in the GCC and UAE Federal and Emirate Government bodies

Mandatory Registration: You will be required to register if you are a business that is resident in the GCC and you are making supplies of goods or services in the UAE and either:

1. Your turnover was more than AED 375,000 in the last 12 months; or



2. You expect your turnover to be more than AED 375,000 in the next 30 days.

Voluntary Registration: If you are not required to register, you will be eligible to apply for registration if:

1. Either your turnover or expenses (which were subject to VAT) were more than AED 187,500 in the last 12 months; or
2. You expect that either your turnover or expenses (which were subject to VAT) to be more than AED 187,500 in the next 30 days.

Turnover is calculated based on the total value of taxable supplies (this includes zero rated supplies and excludes exempt supplies). Expenses are calculated based on the total value of purchase which is subject to VAT.

For a more detailed explanation of what can be and/or should not be included when calculating the turnover/expenses, please refer to the Taxable Person Guide for VAT”

All Designated Government Bodies must register for VAT purposes

A Designated Government Body is a government entity that has been so designated by a decision of the Cabinet and is required to register for VAT purposes (irrespective of the registration threshold).

A Designated Government Body may not apply to cancel its VAT registration unless by way of a Cabinet Decision permitting it to do so.

For businesses resident outside the GCC states implementing VAT

You are **required** to register if you are making or expect to make supplies of goods or services in the UAE and there is no other person who is required to account for the VAT due in the UAE on your behalf (e.g. where your customers are private individuals).



Are you also applying to create or join a Tax group?

You can create a Tax group between two or more legal persons (each of which must be resident in the UAE) that are associated and which meet specific control criteria.

Please select this option if you intend to create or join a Tax group. For more details, please refer to the Tax Groups Guidance Note.

2. Details of the Applicant

Name of the Applicant

Existing TRN for Excise Tax

You do not need to input any information here. If you have already obtained a TRN for Excise Tax and now you are registering for VAT, your existing TRN should automatically appear here. If it is not the case, please contact us via the service request portal.

Legal name of the entity (English)

If you are a natural person, this is your full name.

If you are a legal person, this is the name under which you have been incorporated or which you are known by.

If you have a UAE Trade License, you will find your legal name listed in the license. It may alternatively be listed as your "Company Name" or "Business Name".

IMPORTANT: This information, together with your trade name (if applicable), will appear on your VAT registration certificate. It is important that you enter the details accurately.

Legal name of the entity (Arabic)

You must provide the legal name of the entity in Arabic and English. You may need to seek the assistance of a recognized translator for this.



United Arab Emirates

IMPORTANT: The Federal Tax Authority cannot assist you with the translation of any information on the application form. The Arabic name must match the Arabic name on your trade license.

Do you have a trade name that differs from the above?

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

If you have a UAE Trade License you will find your trade name (if you have one) shown on the license.

Enter trade name (English)
Enter trade name (Arabic)

IMPORTANT: This information, together with your legal name, will appear on your VAT registration certificate. It is important that you enter the details accurately.

You must provide the trade name of the entity in Arabic and English. You may need to seek the assistance of a recognized translator to assist you.

Identification of the Applicant

Trade License

Select the name of the authority that issued the Trade License

A list of UAE Trade Licensing authorities is provided as a drop-down list on the form. Select the relevant authority.

Trade License number

You will find this on your Trade License. In some cases, it is shown as the "Registered number".

Select Trade License expiry date

Enter the expiry date shown on your Trade License.

Upload scanned copy of Trade License

Accepted file types are PDF, JPG, PNG and JPEG. The individual file size limit is 2 MB.

Save Trade License

IMPORTANT: Ensure you include all Trade Licenses registered under the legal name of the entity.



Add owner details (Only shows once a Trade License is saved)

You must ensure that the information about each and every owner is included. Evidence should be provided for verification by the FTA.

If your Trade License(s) do not include information of ALL your owners, you must submit additional supporting documents by answering the next 2 questions.

Do you have a Certificate of Incorporation?

A Certificate of Incorporation is a legal document relating to the formation of an entity which has been incorporated. It is a license to form a corporation and is issued by a government or, in some jurisdictions, non-governmental entities.

Upload a copy of the Certificate of Incorporation

Accepted file types are PDF, JPG, PNG and JPEG. The individual file size limit is 2 MB.

Upload other relevant documents

In some limited situations whereby you have neither a UAE Trade License nor a Certificate of Incorporation, you should upload any other relevant supporting documents you may have.

It is not mandatory for you to upload extra information if you have already provided us with a valid UAE Trade License and/or Certificate of Incorporation.

Depending on the basis on which you are registering, other relevant documents may include:

- Articles of Association
- Partnership Agreement
- Similar documents which show ownership information of the business
- Club, charity or association registration documents and supporting evidence (applicable if you selected "Legal person – Club, Charity or Association")
- A copy of the Decree (applicable if you selected "Legal person – Federal UAE Government Entity" or "Legal person – Emirate UAE Government Entity")



- Other relevant documents such as documents providing information about your organization, including its activities and size (applicable if you selected “Legal person – Other”)
- A scanned copy of the Emirates ID of the owner or a scanned copy of the passport of the owner (applicable if you selected “Natural person – Other”)

Accepted file types are PDF, JPG, PNG and JPEG. The individual file size limit is 2 MB.

Details of the Manager of the business (CEO or equivalent)

Enter name of manager (English and Arabic)

Please include details of the manager of the business as indicated in the Trade License.

If no manager is listed in the Trade License, please include details of the CEO or equivalent person in charge of the organization.

Is the manager resident in the UAE?

Please answer “Yes” or “No”

3. Contact Details of the Applicant

Business contact details

Building name and number

Please enter the address of the business here. Do not use another person’s address (for example, your accountant). If you have multiple addresses, please provide details of the place where most of the day-to-day activities of the business are carried out.

If you are a foreign business applying to register for VAT in the UAE, you may choose to appoint a tax agent in the UAE. In such cases please provide their details here.

**Street Address
Area**

Enter the street address.
Enter the area



City	Enter the city
P.O. Box	Enter the P.O Box Number
Emirate	Select the Emirate from drop down list
Phone Country Code	Select the country code from drop down list
Phone Number	Enter your phone number excluding the 0
Mobile Country Code	Select the country code from drop down list
Mobile Number	Enter your phone number excluding the 0
E-Mail Address	Enter your email address
Preferred Language of communication	Please select English or Arabic as preferred language

4. Banking Details of the Applicant

Bank Details

Bank name	This must be an account held with a bank established in the UAE. The account name must match the legal name of the entity you are registering with the FTA. You must also ensure that you enter the relevant details accurately.
IBAN	If you are in the process of opening a bank account, you must provide copies of any relevant correspondence received from your bank.

e-Dirham is currently the only option available

IMPORTANT: You must ensure that your account details are accurate. Some accounts cannot receive payments electronically. We recommend that you check with your provider if you are unsure whether or not your bank has made this facility available to you.

5. Business relationships of the Applicant

Senior Management Relationships

Are you (or any of the directors or partners of the applicant), currently involved in (or in the

The details of any senior management relationships with businesses applying for registration should be entered here.



past 5 years been involved in) any other business resident in the UAE, either individually or as a director or partner in that business?

If you are a natural person, enter the details of those entities you were involved in on a personal basis. Otherwise, enter the details of those entities with which the directors or partners of the applicant have been involved.

Partner/ Director details

Name of the partner/director etc.

Please enter the relevant details of the individual partner/director as required.

Details of the business with which the applicant (or the partner/director of the applicant) is/was involved with and has a relationship with

Enter the legal name of the business the relationship is (or was) with

You must provide the legal name of the entity. You may need to seek the assistance of a recognized translator for this.

Is the business still trading?

If the business is still trading, select “Yes”, otherwise select “No”. We may request evidence to support your answer.

Enter TRN (if available)

Please enter the Tax Registration Number (TRN) if the entity is already registered with the Federal Tax Authority.

Upload scanned copies of Trade License(s)

Accepted file types are PDF, JPG, PNG and JPEG. The individual file size limit is 2 MB.

Save and add more relationships

Include the details of additional senior management relationships here.

6. About the VAT Registration

Business Activities of the applicant

Select the primary activity of the business (primary and secondary)

Please choose from the drop down list of items that best describes your current or intended main business activities.



Add any other activities (or proposed activities)

Please include other activities from the drop down list of activities.

Actual or estimated financial transaction values

Turnover for the past 12 months

When calculating this figure, you must include the following:

- 1) Taxable Supplies
 - Standard rated supplies
 - Zero-rated supplies
 - Deemed supplies

IMPORTANT: Do not include the value of exempt supplies.

- 2) Imported goods and services

IMPORTANT: Do not include the value of imports if you are not a resident in the UAE and your customer is responsible for accounting for VAT under the reverse charge.

- 3) If you have purchased all or part of a business, Taxable Supplies made by the acquired whole or part of the Business.

The figure must only be reported in UAE Dirhams (AED).

Upload scanned copy of documentary proof

Accepted evidence generally include:

- Audit report, audited or non-audited financial statement;
- Self-prepared calculation sheet which may include details to calculate the taxable/zero rated supplies based on financial records;
- Revenue forecast.

Accepted file types are PDF, JPG, PNG and JPEG. The individual file size limit is 2 MB

Expected turnover in the next 30 days

The figure must only be reported in UAE Dirhams (AED).



Expected expenses (subject to VAT) for the last 12 months.

Only those expenses that are subject to VAT can be included.

Include purchases of goods and services which are:

- Subject to UAE VAT at 5%; or
- Subject to VAT at the zero-rate (0%) in the UAE.

Exclude purchases of goods and services which are:

- Exempted from UAE VAT; or
- Out of scope of UAE VAT.

The figures must only be reported in UAE Dirhams (AED).

Upload scanned copy of documentary proof

Accepted evidence generally include:

- Audit report, audited or non-audited financial statement;
- Expense budget report.

Accepted file types are PDF, JPG, PNG and JPEG. The individual file size limit is 2 MB.

Expected expenses (subject to VAT) in the next 30 days

If you are registering on a mandatory basis, you are not required to provide this information.

The figures must only be reported in UAE Dirhams (AED).

Do you expect the VAT on your expenses to regularly exceed the VAT in your taxable supplies?

This information allows us to understand whether or not you will generally be in a position for VAT payment or VAT refund.

Do you also expect to make exempt supplies?

Exempt supplies include the following:

- Supplies of certain financial services;
- Supplies of residential buildings other than the first sale;
- The supply of bare land; and
- The supply of local passenger transport.



Imports and Exports

Do you intend to import goods or services?

Import goods or services from abroad includes other GCC countries.

Will any of these imports be from other GCC States?

Other GCC countries are:

- Kingdom of Bahrain
- Kingdom of Saudi Arabia
- Sultanate of Oman
- State of Qatar
- State of Kuwait

Do you intend to export goods or services?

Please select “Yes” if you intend to provide goods or services from UAE to overseas. Otherwise, please select “No” .

Will any of these exports be to other GCC States?

Other GCC countries are:

- Kingdom of Bahrain
- Kingdom of Saudi Arabia
- Sultanate of Oman
- State of Qatar
- State of Kuwait

GCC activities

If your answer is “Yes” to either of the above questions in “About GCC - imports and exports”, you are required to provide information for the below form fields.

Select the name of the GCC Member State

GCC Member States are:

- Kingdom of Bahrain
- Kingdom of Saudi Arabia
- Sultanate of Oman
- State of Qatar
- State of Kuwait

Enter TRN (if available)

Please enter the Tax Registration Number (TRN) or equivalent if the entity is already registered for VAT purposes with the respective tax authority in the different Member State.

Estimated value of imports

Please enter the value of goods you expect to import in the 12 months following the date of registration.



Do not include the value of any services unless they are directly related to moving goods (e.g. commission, and freight insurance etc.).

Estimated value of exports

Please enter the value of goods you expect to sell in the 12 months following your date of registration.

Do not include the value of any services unless they are directly related to moving goods (e.g. commission, and freight insurance etc.).

Save and add more

If you intend to import from and/or export to another GCC Member State, you must click this button to provide the relevant details.

Customs Registration Information

If you are registered with any of the Customs Departments in the UAE, please enter the details here.

The information will assist the FTA and the relevant Customs departments to identify you accurately at the time of importing and exporting goods into or from the UAE. Failure to enter this information may result in delays at the border.

Do you have a Customs number?

A Customs number is a registration number issued by the relevant Customs department.

Emirate in which you have a Customs registration

Please select from the following:

- Abu Dhabi
- Dubai
- Sharjah
- Ajman
- Umm Al-Quwain
- Ras Al-Khaimah
- Fujairah

Customs number

You are required to provide the Customs number if you choose "Yes" for the above question "Do you have a Customs code?"



If yes, upload a scanned copy of Customs number issued by Customs authority

Accepted file types are PDF, JPG, PNG and JPEG.
The individual file size limit is 2 MB.

Save and add more

If you are registered with more than one Customs Department, you must click this button to include the relevant details.

Exception from VAT Registration

IMPORTANT: You may apply for exception from VAT registration if you only make zero-rated supplies and do not import any goods or services that are subject to reverse charge. You are not eligible for exception from VAT registration if you make zero-rated supplies along with standard rated supplies.

Do you wish to apply for an Exception from VAT Registration based on the above?

The following supplies are eligible for zero-rating:

- Exports;
- Certain international transportation services;
- Certain aircraft or vessels;
- Certain investment precious metals;
- First supply of certain buildings.
- Crude oil and natural gas;
- Certain educational services; and
- Certain healthcare services.

You are still required to complete the remaining information on the VAT registration application form.

7. Declaration

Authorized Signatory

Title

Name in English
Name in Arabic

The Authorized Signatory details must be for a person who is authorized to legally bind the entity. In many cases this is a director of a company.

In the case of a natural person it is the person themselves.



Proof of Authorization

Evidence of authorization may include a Power of Attorney or similar in the case of legal persons.

Communication Preferences

Preferred channel of communication

Please specify the preferred channel of communication, i.e. either email or telephone.

Preferred language of communication

Please specify the preferred language of communication, i.e. either Arabic or English.

Checklist for Completion

Using this checklist will help you to make sure that you have completed the form correctly and included any other forms and documents we have asked you to send.



**TAX GROUP USER GUIDE
(REGISTRATION, AMENDMENT AND DE-
REGISTRATION)**

December 2017



1. Brief overview of this user guide

This guide is prepared to help you navigate through the Federal Tax Authority (FTA) website and successfully complete your Tax Group registration form and understand the amendment and de-registration processes for a Tax Group. It is designed to help you:

- **create an e-Services account** with the FTA (you will need to do this before you can register for VAT and form a Tax Group);
- **provide accurate answers** to the questions on your Tax Group registration and amendment form by explaining what information you are required to provide; and,
- **understand the icons and symbols** you might see as you complete the form.

You should find that setting up an e-Services account is similar to setting up the other online accounts that you hold. The Tax Group registration form is also designed to be straightforward and wherever possible, it will auto-complete information for you.

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



United Arab Emirates

2. Creating and using your e-Services account

When you arrive at the FTA website, you will notice in the top right hand corner of the screen you have the option to either *Sign up* to the e-Services account service, or *Login* to an existing e-Services account.

2.1 Create an e-Services account (new users)

2.1.1 Sign up

To create an account, simply click on the *Sign up* button on the home page.

To sign up, you must enter a working email address and a unique password of 6-20 characters that includes at least:

- one number;
- one letter; and
- one special character (i.e. @, #, \$, %, & and *).

You must confirm that you are a genuine applicant by completing the CAPTCHA or alphanumeric verification test that you will see.

Finally, you will be asked to select a security question and provide an answer and a hint in order to recover your password in case you forget it.

Please read and agree to the Terms & Conditions of the FTA in relation to using e-Services and the FTA website before clicking the *Sign up* button.

2.1.2 Verify your e-Services account

You will receive an email at your registered email address asking you to verify your email address.



Do this by clicking on the *Click here to verify your email* text in the body of the email that you have received.

Please verify your email address within 24 hours of requesting to create the e-Services account, otherwise the verification link will expire and you will have to sign up again.

Dear Recipient,

Thank you for creating an account with the Federal Tax Authority.
Please click on the below link to verify your email address and login to the portal.

[Click here to verify your email](#)

Sincerely,
Federal Tax Authority

600 599 994 info@fta.com Copyright © 2017, Federal Tax Authority. All Rights Reserved.

Once you have successfully verified your email address, your e-Services account will be created and you will be invited to Login for the first time.

2.2 Using your e-Services account (registered users)

When you arrive at the FTA website having created an e-Services account, simply click on the *Login* button. Enter your registered e-Services username and password when prompted to do so. You will also be asked to complete a CAPTCHA or alphanumeric verification.

To change your e-Services account password or security question/answer, click on the *My Profile* tab. To exit from your account, click the *Logout* button at the top right hand corner of the screen.



2.2.1 Services available in your e-Services account

There are a number of dedicated services available to you through your e-Services account. Currently, you will be able to access the following:

- *Dashboard* which displays key information relating to your VAT and Tax Group registration/amendments
- *My Profile* which contains a range of information about your e-Services account; and
- *Downloads* which contains more detailed guidance which is designed to help you understand and manage your day-to-day VAT obligations.



3. Registering a Tax Group

Only the representative member of a prospective Tax Group can apply to form a Tax Group. In order to do so, the representative member must already be in possession of a Tax Registration Number (TRN) for VAT, or submit a VAT registration application at the time of applying to form a Tax Group.

Each of the prospective members of the Tax Group must:

- Be a legal person
- Be resident in the UAE; and not a member of another Tax Group.

If you wish to apply to form a Tax Group as the representative member, you must either already be registered for VAT or if not already registered, you must submit an online application to register for VAT.

If a representative member has already registered for VAT, then you will have been issued with a Tax Registration Number (TRN).

3.1 Registration of the Representative Member for VAT purposes

To submit an online application to register for VAT if you are the representative member, please follow these steps:

On logging into your e-Services account, click on the *Register for VAT* button. You will arrive at the VAT registration form as shown in the following:



About the applicant

On what basis are you applying for registration? *

Do you hold a Trade License in the UAE? *

Yes No

Are you registering mandatorily or voluntarily? *

Please select

Are you also applying to create or join a VAT group? *

Yes No



Please select the “Yes” button for the field “Are you also applying to create or join a Tax Group?”

Complete the VAT registration form and submit it. Upon submission of the completed form, you will receive a Tax Identification Number (TIN). A TIN is not a valid TRN. It is a Tax Identification Number issued by the FTA for Tax Group registration purposes and will be displayed on the *Dashboard* tab.

As the representative member in possession of the TIN, you will now be able to apply to form a Tax Group on behalf of the other prospective members.

3.2 Tax Group registration by the Representative Member

As the representative member of a Tax Group, you will now see a button inviting you to apply to *Register for Tax Group* (you may also see other buttons inviting you to register for Excise Tax).



When you click on this button you will commence the Tax Group registration application.



United Arab Emirates

3.2.1. Tax Group Getting Started Guide

You will see the guide as soon as you have clicked the *Register for Tax Group* button.

The guide is designed to help you understand certain important requirements relating to Tax Group registration in the UAE.

It is divided into a number of short sections which deal with various aspects of the registration process.

It also provides guidance on what information you should have to hand when you are completing the Tax Group registration application form.

It is recommended that you read each of the sections carefully. **Once you have done so, check the *Click here* box to confirm that you have read it in order to move forward.**

3.2.2. Completing the Tax Group registration form

Please select the “Yes” button for the field “Are you intending to apply as the Representative Member of the Tax Group?” as shown.

Tax Group Registration

Representative Member

Are you intending to apply as the Representative Member of the Tax Group?

Yes No

You can apply Tax group as the Representative Member only

Your TRN/TIN and legal name in both English and Arabic will be auto-populated as shown below.



United Arab Emirates

Tax Group Registration

Representative Member

Are you intending to apply as the Representative Member of the Tax Group?

- Yes No

Please enter the VAT TRN / TIN of the Representative Member

1000000420000VG

Legal Name of the Member (English)

Lama

Legal Name of the Member (Arabic)

لما

Members of the Tax Group

Is this Member already registered with FTA?

- Yes No

You can then proceed to add members of the Tax Group in the next section of the registration form.

If one of the members of the intended Tax Group is already registered with the FTA, please select the "Yes" button for the field "Is the Member already registered with FTA?"

You can provide the TRN/TIN of the member and click on the *Verify* button as shown below. Clicking on the *Verify* button will have the website verify whether the TRN/TIN entered by you is valid or not. If the TRN/TIN is valid, the legal names (both English and Arabic) of the member will be automatically populated on the registration form.

Members of the Tax Group

Is this Member already registered with FTA?

- Yes No

Please enter the VAT TRN / TIN of the Member

1000000370000VG



Verify

Legal Name of the Member (English)

Polo

Legal Name of the Member (Arabic)

پولو

Add member to the group

There is no member in the list to join the Tax group



Please click on *Add member to the group* button to add the member to the Tax Group.

If a member of the intended Tax Group is not already registered with the FTA, please select the “No” radio button for the field “Is the Member already registered with FTA?”.

Click on the *Add member* button to fill out information of the member in the form as shown below.

The screenshot shows a web-based application for adding a member to a tax group. The main title is "Add a member". On the left, there's a vertical sidebar with navigation links: "Members", "Persons", "Legal Name", "Add member", "Trade Licenses", and "About Us". The "Add member" link is highlighted. The main content area has several input fields:

- "Name of the applicant": A text input field.
- "Please confirm that this Member is a legal person*": A required checkbox.
- "Please confirm that this Member is established in the UAE*": A required checkbox.
- "Please confirm that this Member is not part of any other Tax Group*": A required checkbox.
- "Legal name of entity (English)*": An input field.
- "Legal name of entity (Arabic)*": An input field.
- "Enter trade name if different from above (English)": An input field.
- "Enter trade name if different from above (Arabic)": An input field.
- "Identification of the applicant": A section header.
- "Does this Member hold a Trade License in the UAE?": A question with "Yes" and "No" radio buttons.
- "Select the name of the authority that issued the Trade License": A dropdown menu.
- "Trade License number*": An input field.

This form will prompt you to complete the information required to add an additional member to the Tax Group.

Once you have completed the *Add member* form, click on the *Add member to the group* button. The added member will be listed as shown below.



Members of the Tax Group

Is this Member already registered with FTA? *

Yes No

Add a member

TRN/TIN	Legal Name of the Member (English)	Legal Name of the Member (Arabic)	View member	Delete
1000000370000V@	Polo	پلو	<input type="button" value="View member"/>	<input type="button" value="X"/>
	Bank of Today	بنك تودي	<input type="button" value="View member"/>	<input type="button" value="X"/>

About the Tax Group

Will any proposed Group Members have made or received any pre-payment or down-payment in respect of any supply, part or all of which is to be delivered after it has joined the Group? *

Yes No

Please provide details *

Tax group effective start date

Proceed to complete all the other fields in the registration form.

In order to save and review the form completed by you, all mandatory elements of the current section must be completed. Any field that is marked with a red asterisk (*) is **mandatory** and must be filled out in order to move to the next section.

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

Please agree to the declaration at the bottom of the form by checking the box for 'I accept & agree' as shown on the right.

Declaration

I hereby agree to have read the requirements, obligations, terms and conditions for VAT and Tax Group registration including meeting the related party and control conditions. I declare that the information provided is accurate and complete.

All Members of the proposed Tax Group will be jointly and severally liable for any action taken by the Representative or any other Member of the Group.

The Authorized Signatory has been permitted to sign this application on behalf of the Representative Member and Group Members.

I accept & agree

Legal name of entity (English)*

Please provide the required details

3.2.3. Saving your progress

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

Save as draft



After completing all mandatory fields, click the *Save and review* button at the bottom right hand corner of the screen to proceed to the following section.

Save and review →

Your application will not be submitted at this point; you will have an opportunity to read through your answers before submission.

3.2.3 Submitting your Tax Group registration application

To submit the Tax Group registration form, carefully review all of the information entered on the form after clicking on *Save and review*.

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

Submit for Approval →

The status of your application on the *Dashboard* will change to *Pending* and you will receive an email from us to confirm receipt of your application.

If the FTA requires any further details from you in order to assist with the verification of your application, you will receive an email notification setting out the information required from you.

3.2.4 Reviewing the progress of your Tax Group registration application

To review the status of your Tax Group registration application, click on the *Dashboard* tab and look next to *Status*:

- **Drafted** means the registration form has not been completed or submitted by the applicant;
- **Pending** means the registration form has been received by us and is under processing;
- **Resubmitted**: means the registration form has been received by us; however, we have requested you to send further information and are awaiting for the re-submission;
- **Rejected** means the registration form has been rejected by us; and
- **Approved** means the registration form has been approved by us and that the Tax Group has been successfully registered.



4. Amending a Tax Group

Only the representative member of a registered Tax Group can apply to amend the Tax Group. This can only be done once a Tax Group application has been approved by the FTA. The representative member must login into the e-Services account where the website facilitates making the following amendments to your Tax Group registration:

- Addition of a new member to the Tax Group;
- Removal of an existing member from the Tax Group; and
- Amendment of the Tax Group details

As the representative member, when you attempt to add new member(s) to the Tax Group, please ensure that each of them must:

- Be a legal person
- Be resident in the UAE; and
- Not a member of another Tax Group.

Once logged into the e-Services account, click on the *Tax Group amendment* button on the *Dashboard* within the Tax Group box as shown.

The status of your application is as below

Status	Approved	View
TRN	100000115400003	Download Certificate
Tax Group Amendment Status	N/A	Tax group amendment

After clicking on *Tax Group amendment* button, the options to add a member, remove a member and amend details of the registered Tax Group will be displayed to you as shown.

Tax Group Amendment

Representative Member

Please enter the VAT FRN / TIN of the Representative Member

1000001147000VG

Legal name of the member (English)

Tee

Legal name of the member (Arabic)

...

Members of the Tax Group

Is this member registered with the FTA?

Yes No

[Add New Member](#)

TRN/TIN	Legal name of the member (English)	Legal name of the member (Arabic)	Status	View member	Remove Member
1000001121000VG	Meenee	مئنة	Removed	View member	N/A
1000001139000VG	First Bank	بنكFirst	Approved	View member	



You can add members to a registered Tax Group if the members are already registered with the FTA or if they are not yet registered with the FTA. Intended members who already have an approved VAT registration with the FTA will be in possession of a Tax Registration Number (TRN). Intended members who have submitted the VAT registration form and submitted it will be in possession of a Tax Identification Number (TIN). A TIN is not a valid TRN, it is a number issued by the FTA for Tax identification purposes only.

4.1 Adding members to a registered Tax Group from the Tax Group Amendment Form

When you are viewing the Tax Group Amendment form, you will be able to add a member to the Tax Group. If the member you intend to add to the Tax Group is already registered, please select the “Yes” button for the field “Is this member registered for VAT?”

Members of the Tax Group

Is this member registered for VAT?

* Yes No

Please enter the VAT TRN / TIN of the Member

Verify

Provide the TRN/TIN of the member and click on the *Verify* button as shown.

If the TRN/TIN is valid, the legal name (both English and Arabic) of the member will be automatically populated on the form. Proceed to complete the other fields in the form.

If a member you intend to add to the Tax Group is not already registered with the FTA, please select the “No” button for the field “Is the Member already registered with the FTA for VAT?”.

Click on the *Add a member* button and the form to add a member will be displayed on your screen as shown.



Add a member X

Name of the member

Please confirm that this member is a legal person*

Please confirm that this member is established in the UAE*

Please confirm that this member is not part of any other Tax Group*

Legal name of entity (English)*	Legal name of entity (Arabic)*
Enter trade name if different from above (English)	Enter trade name if different from above (Arabic)

Proceed to complete all the fields in the form and save the amendments made by you by clicking on the Save button.

Save →

4.2 Removing members from a registered Tax Group in the Tax Group Amendment Form

When you are viewing the Tax Group Amendment form, you will be able to view a table which will list all members of the registered Tax Group along with specific details of the group member.

TRN/TIN	Legal name of the member (English)	Legal name of the member (Arabic)	Status	View member	Remove Member
1000001121000VG	Meena	—	Removed	View member	N/A
1000001139000VG	First Bank	—	Approved	View member	

Click on the icon for the member you wish to remove from the Tax Group as shown. You will then be prompted to confirm if you are sure you want to remove that member.

Click on the OK button if you would like to proceed and the 'Confirm and Remove' form will be displayed on your screen as shown.





Confirm and Remove

Remove Existing Member

Does the above Member own any capital assets subject to the Capital Assets Scheme when the application takes effect? *

Yes No

Please provide details *

Please provide any supporting documents *

Choose Files

Will the above Member be partly exempt if this change takes place? *

Yes No

Please provide details *

Please provide any supporting documents *

Choose Files

Has the above Member made or received any prepayment or down-payment in respect of any supply, part or all of which will be delivered after it has left the Group? *

Yes No

Please provide details *

Please provide any supporting documents *

Choose Files

Proceed to complete all the fields in the form.

Submit the amends made by you by clicking on the *Confirm and Remove* button. You will then return to the webpage which was displayed after you had clicked on the *Tax Group amendment* button.

Confirm and Remove →

4.3 Amending Tax Group representative member

The Tax Group will be able to update the group representative and its details. To do so, please access the dashboard – Tax Group box and click on 'Change Representative' Button.

From the drop down list – select the new member you wish to update (ensure the member is added at this stage).

You will then be prompted to confirm if you are sure you want to update the group representative. Click on "submit change representative request to FTA".

Your request will be transferred to FTA for approval and you will get a message of the same.

Tax Group

The status of your application is as below:

Status: Approved	View
TRN: 100060549100003	Download Certificate
Tax Group Amendment Status: N/A	One group amendment
Change Representative Status: Reject	Change Representative

Change Representative Of Tax Group

Select the member from the list who will be representative in place of you.

Submit Change Representative Request To FTA

Information

Your request for changing tax group representative has been successfully sent to FTA for review.

OK



4.3.1 Non-registered/ non-signed up Tax Group representative

If you wish to assign the Tax Group representative to a taxable person without a TIN, TRN and an e-services account, the newly-assigned Tax Group representative can use the email address of the authorized signatory to create an account on e-services. By clicking the forgot password option with said email address, a notification email will be sent and the person will be requested to verify and confirm the same by clicking on the link provided in the email.

Once the new Tax Group representative validates the link, he will be able to access the Tax Group account as the representative member.

It is not required to be registered in order to be a Tax Group representative.

4.4 Amending Tax Group details in the Tax Group Amendment Form

When you are viewing the Tax Group Amendment form, you will be able to view specific details of the registered Tax Group, which will be displayed below the table which lists the members of the Tax Group.

All of the fields in this form will be prepopulated and displayed. You can amend the fields that you wish you to change. Save the amends made by you by clicking on the *Save as draft* button to save the Tax Group amendment form with the new details.

Save as draft

Submit for Approval

Save and review

4.5 Submitting your Tax Group Amendment Application

Once the amendments have been made to the Tax Group, and the mandatory fields are completed, click the *Save and review* button at the bottom right hand corner of the screen to proceed to the following section. Carefully review all of the information entered after clicking on *Save and review*.

Once you are certain that all of the information is correct, click on the *Submit for Approval* button at the bottom right hand corner of the screen to submit the Tax Group Amendment Form.

The status of your application on the *Dashboard* will change to *Pending* and you will receive an email from us to confirm receipt of your application.



If the FTA requires any further details from you in order to assist with the verification of your application, you will receive an email notification setting out the information required from you.

4.6 Reviewing the progress of your Tax Group Amendment application

To review the status of your Tax Group amendment application, click on the *Dashboard* tab and look next to *Status*:

- **Drafted** means the amendment form has not been completed or submitted by the representative member;
- **Pending** means the amendment form has been received by us and are under processing or that we are awaiting further information from the representative member;
- **Resubmitted**: means the registration form has been received by us; however, we have requested you to send further information and are awaiting for the re-submission;
- **Rejected** means the amendment form has been rejected by us; and
- **Approved** means the amendment form has been approved by us and that the Tax Group has been successfully amended.

5. De-registering a Tax Group

De-registering a Tax Group will be enabled from Feb 1st, 2018. This guide will be updated and re-published by then.



United Arab Emirates

Appendix A: Important on-screen tools and other tips

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



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

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

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

Upload a scanned copy of the Certificate of incorporation*

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

On what basis are you applying for registration?

Select business type

Select business type

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

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

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

August 2017

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



Appendix B: Completing your Tax Group registration form

The Tax Group registration form captures a number of details about the applicant (i.e. the prospective representative member of the Tax Group) and the prospective group members. The following guidance is designed to help you understand the questions that the form asks in order for you to complete the form accurately.

Representative Member

Are you intending to apply as the Representative Member of the Tax Group?

Only a representative member can apply for the creation of a Tax Group.

The VAT TRN/TIN of the representative member and legal name of the member (both in English and in Arabic) will automatically appear on the form.

Members of the Tax Group

Is this member registered for VAT?

The prospective member of the Tax Group is considered as registered with the Federal Tax Authority (FTA) only if this person holds a valid VAT Tax Registration Number (TRN) or Tax Identification Number (TIN).

If you select “Yes”, please enter the VAT TRN/TIN of this member and click the “Verify” button.

If you select “No”, please answer the subsequent questions.

You may add more members to the Tax Group by clicking the “Add a member” button.

Please confirm that this Member is a legal person

For any prospective member which has not been registered with the FTA, you must confirm whether the prospective member is a UAE established or residing legal person that is not part of any other Tax Group, in order to proceed with the application.

Please confirm that this Member is established in the UAE or has UAE residence



Please confirm that this Member is not part of any other Tax Group

Name of the Member

Legal name of entity (English)*

This is the name under which you have been incorporated or by which you are known.

If you have a UAE Trade License, you will find your legal name listed in the license. It may alternatively be listed as your "Company Name" or "Business Name".

IMPORTANT: This information, together with your trade name (if applicable), will appear on the Group VAT Registration Certificate. It is important that you enter the details accurately.

Legal Name of the Member (Arabic)*

You must provide the legal name of the entity in Arabic and English. You may need to seek the assistance of a recognized translator.

IMPORTANT: The Federal Tax Authority cannot assist you with the translation of any information on the application form.

Enter trade name if different from above (English)

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

If you have a UAE Trade License you will find your trade name (if you have one) listed in it.

Enter trade name if different from above (Arabic)

You must provide the trade name of the entity in Arabic and English. You may need to seek the assistance of a recognized translator.

Identification of the Member

Does this Member hold a Trade License in the UAE?

In the UAE, the term Trade License is often used interchangeably with business license, commercial license or similar. It refers to any such license issued by



an authorized issuing body in the UAE, including those in a UAE Free Zone.

If you hold one or more Trade Licenses, you must select "Yes" for this question and complete the additional information requested.

Select the name of the authority that issued the Trade License*

A list of UAE Trade Licensing authorities is provided as a drop-down list on the form. Select the one that is relevant.

Trade License number*

You will find this on your Trade License. In some cases, it is known as the "Registered number".

Select Trade License expiry date*

Please enter the expiry date shown on your Trade License.

Upload scanned copy of Trade License*

Accepted file types are PDF, JPG, PNG and JPEG. The individual file size limit is 2 MB.

Upload scanned copy of Certificate of Incorporation (if available)

A Certificate of Incorporation is a legal document relating to the formation of an entity which has been incorporated. It is a license to form a corporation and is issued by a government or, in some jurisdictions, non-governmental entities.

Accepted file types are PDF, JPG, PNG and JPEG. The individual file size limit is 2 MB.

Upload other relevant documents you may have

In some limited situations whereby you have neither a UAE Trade License nor a Certificate of Incorporation, you should upload any other relevant supporting documents you may have.

Depending on the basis on which you are registering, other relevant documents may include:

- Articles of Association
- Partnership Agreement
- Similar documents which show ownership information of the business
- Club, charity or association registration documents and supporting evidence (applicable if you selected "Legal person – Club, Charity or Association")



- A copy of the Law or Decree (applicable if you selected “Legal person – Federal UAE Government Entity” or “Legal person – Emirate UAE Government Entity”)
- Other relevant documents such as documents providing information about your organization, including its activities and size (applicable if you selected “Legal person – Other”)

Accepted file types are PDF, JPG, PNG and JPEG. The individual file size limit is 2 MB.

Business contact details

Building name and number*	Please enter the address of the business here. Do not use another company's address (for example, your accountant). If you have multiple addresses, please provide details of the place where most of the day-to-day activities of the business are carried out.
Street*	
etc.	

Business activities of the member

Select the primary activity of the business*	Please choose from the drop down list of items that best describes your current or intended main business activities.
Add any other activities (or proposed activities)	Please include other activities from the drop down list of activities.

Actual or estimated financial transaction values

Turnover for the past 12 months (AED)*	When calculating this figure, you must include the following: <ol style="list-style-type: none">1) Taxable Supplies<ul style="list-style-type: none">• Standard rated supplies• Zero-rated supplies• Deemed supplies
---	---

IMPORTANT: Do not include the value of exempt supplies.



2) Imported goods and services

IMPORTANT: Do not include the value of imports if you are not a resident in the UAE and your customer is responsible for accounting for VAT under the reverse charge.

3) If you have purchased all or part of a business, Taxable Supplies made by the acquired whole or part of the Business.

The figure must only be reported in UAE Dirhams (AED).

Please upload any documentary proof to support the figures provided*

Accepted file types are PDF, JPG, PNG and JPEG. The individual file size limit is 2 MB.

Expected turnover in the next 30 days (AED)*

The figure must only be reported in UAE Dirhams (AED).

Expenses (subject to VAT) for the last 12 months.

Only those expenses that are subject to VAT can be included.

Include purchases of goods and services which are:

- Subject to UAE VAT at 5%; or
- Subject to VAT at the zero-rate (0%) in the UAE.

Exclude purchases of goods and services which are:

- Exempted from UAE VAT; or
- Out of scope of UAE VAT.

The figures must only be reported in UAE Dirhams (AED).

Please upload any documentary proof to support the figures provided*

Accepted file types are PDF, JPG, PNG and JPEG. The individual file size limit is 2 MB.

Expected expenses (subject to VAT) in the next 30 days

If you are registering on a mandatory basis, you are not required to provide this information.



The figures must only be reported in UAE Dirhams (AED).

Do you expect the VAT on your expenses to regularly exceed the VAT in your taxable supplies?

This information allows us to understand whether or not you will generally be in a position for VAT payment or VAT refund.

Do you also expect to make exempt supplies?

Exempt supplies include the following:

- Supplies of certain financial services;
- Supplies of residential buildings other than the first sale;
- The supply of bare land; and
- The supply of local passenger transport.

Authorised signatory

Name in English*

The signatory of the Tax Group registration form must be authorized to do so.

Name in Arabic*

Thus, if the application is being submitted by a registrant who is not a legal person, that person will automatically be authorized to sign on behalf of himself or herself.

etc.

However, if the application is being submitted in respect of a legal person (or entity), the signatory must be a person who is authorized by the legal entity to do so.

Evidence of authorization may include a Power of Attorney or similar in the case of legal persons.

About the Tax Group

Will any proposed Group Members have made or received any pre-payment or down-payment in respect of any supply, part or all of which is to be delivered after it has joined the Group?*

If any of the members to be added to the group have received any kind of payment related to a supply that has to be delivered after the member has joined the Tax Group, select the "Yes" option.



Please provide details*

If the “Yes” option has been selected above, provide details of the delivery.

Tax Group Effective Date of Registration

Enter the proposed preferred date for adding the member to the Tax Group

Please enter your reason for the above preferred date

If you are applying before 1 January 2018:

By default, the Effective Date of Registration for the Tax Group will be 1 January 2018 or any other date as determined by the FTA. The FTA may in certain rare situations accept another preferred date indicated by you. If you wish to propose a preferred effective date of registration for the Tax Group other than those stated above, please contact us.

If you are applying after 1 January 2018:

By default, the Effective Date for the member to join the Group, subject to necessary checks being satisfied, will be the first day of the tax period following the tax period in which the application is received or any other date as decided by the FTA.

The FTA may in certain rare situations accept an alternative preferred date. If you wish to propose a preferred date for a Member to be added to the Tax Group, please indicate it here and provide a reason.

The FTA may contact you for more information in order to assess the appropriate effective date of registration.

Actual or Estimated Financial Transaction Values for the Group

Turnover for the last 12 months (AED)*

The turnover refers to the group's taxable supplies (including transactions between the group's members).

The figure must only be reported in UAE Dirhams (AED).

Upload scanned copies of documentary proof of either

Accepted file types are PDF, JPG, PNG and JPEG. The individual file size limit is 2 MB.



the expenses or turnover as relevant*

Expected turnover in the next 30 days (AED)*

The turnover refers to the group's taxable supplies (including transactions between the groups members).

The figure must only be reported in UAE Dirhams (AED).

Expenses (subject to VAT) for the last 12 months (AED)*

The expenses refer to the group's expenses subject to VAT. (including transactions between the group's members).

The figure must only be reported in UAE Dirhams (AED).

Upload scanned copies of documentary proof of either the expenses or turnover as relevant*

Accepted file types are PDF, JPG, PNG and JPEG. The individual file size limit is 2 MB.

Expected expenses (subject to VAT) in the next 30 days (AED)*

The expenses refer to the group's expenses subject to VAT (including transactions between the groups members).

The figure must only be reported in UAE Dirhams (AED).

Do you also expect to make exempt supplies? *

Exempt supplies include the following:

- Supplies of certain financial services;
- Supplies of residential buildings other than the first sale;
- The supply of bare land; and
- The supply of local passenger transport.

Tax Group Control Conditions

Please provide evidence that the Tax Group control conditions have been met and the group members are Related parties. Please refer to the instructions for details.

Each member must be related to the other to a sufficient extent. In this context, "related" is taken to mean they share economic, financial and organisational ties (either in law, shareholding or voting rights). One person must be able to control the members.

Control exists between two legal persons -



United Arab Emirates

(e.g. Group structure including details of shareholdings in subsidiary companies)*

<p>...where one person, or two or more persons acting in a formal partnership arrangement¹...</p> <p>...or where each of them...</p>	<p>...has any of the following:</p> <ul style="list-style-type: none"> i) a voting interest in those companies of at least 50% when added together; or ii) a market value interest in each of those companies of at least 50% when added together; or iii) control by any other means <p>...is a related party with a third Legal Person</p>
---	---

I agree that all Members proposed to form the Tax Group comply with the necessary control conditions as defined in the instructions/ getting started guide. *

Is there a Group Controller?*

You must declare by clicking the check box here in order to proceed.

A Group Controller can be an individual, corporate body or partnership who controls the group. This is either:

- The controlling member of the group who controls all of the proposed members of the group (this can be different from the representative member).
- Someone outside the group, be it another corporate body, an individual or a partnership who controls each of the proposed members.

**Is any of the Group Members the Group Controller? *
Is the representative member, the group controller? ***

If any of the Group Members is the Group Controller, you should provide the name of the Group Controller from the drop down list and provide details of the Group Controller.

Authorised Signatory

¹ Unless a formal arrangement has been entered into between partners, evidence of the informal nature of the arrangement and the ability for the parties concerned to exercise control will be required.



United Arab Emirates

Title

Name in English*

Name in Arabic*

etc.

The signatory of the Tax Group registration form must be authorized to do so.

Thus, if the application is being submitted by a registrant who is not a legal person, that person will automatically be authorized to sign on behalf of himself or herself.

However, if the application is being submitted in respect of a legal person (or entity), the signatory must be a person who is authorized by the legal entity to do so.

Evidence of authorization may include a Power of Attorney or similar in the case of legal persons.

Declaration

Using this checklist will help you to make sure that you have completed the form correctly and that you have included any other forms and documents we have asked you to send.

11.8 STATING TAX REGISTRATION NUMBER

The Taxable Person or any other Person authorised in writing by him shall state the Tax Registration Number on each Tax Return, notification, Tax Invoice, Tax Credit Note, and any other document related to Tax or correspondence as required under this Decree-Law or said Federal Law No. (7) of 2017 on Tax Procedures.

11.9 DE-REGISTRATION

De-registration means deactivation or cancellation 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 Tax Registration Number (TRN).

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.

Articles 21 to 24 of the decree law deal with provisions relating to De-registration.

11.9.1 Mandatory Tax De-registration Cases

Article 21 of the Decree Law read with Article 14 (2) of the Executive Regulation provides that

A Registrant shall apply to the Authority for Tax Deregistration and the Authority shall accept a Registrant's application for deregistration where any of the following 2conditions are met:

- a. The Registrant stops making supplies referred to in Article (19) of the Decree-Law and does not expect to make any such supplies over the next 12-month period;
- b. The value of supplies referred to in Article (19) of the Decree-Law made, or taxable expenses incurred, by the Registrant over **the previous 12-months is less than the Voluntary Registration Threshold** and the Authority is satisfied that **his supplies or taxable expenses, expected over the next 30 days, are not expected to exceed the Voluntary Registration Threshold**.

In other words, 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 and he anticipates that the total value of supplies or expenses will not exceed the voluntary registration threshold during coming 30 days period.

As per Clause 1 of Article 14 of the Executive Regulation on VAT, the Registrant must apply to the Authority for de-registration within (20) business days of the occurrence of any of above cases.

Effective Date of Tax De-registration:

- If the deregistration application is approved, the Authority shall cancel the Tax Registration of the Registrant with effect from the last day of the Tax Period during which the Registrant has met the conditions for deregistration or from such other date as may be determined by the Authority.
- Where the Authority is satisfied that the conditions in Clause (2) above are met, and the Registrant has not applied for deregistration, the Authority shall deregister the Registrant with effect from the last day of the Tax Period in which the Authority became satisfied that the conditions have been met or from any other date determined by the Authority.

Period of Notification:

Where the Authority has deregistered a Registrant from Tax, it shall notify that Registrant of the date on which deregistration takes effect within (10) business days of making the decision. [Article 14(8) of ER]

11.9.2 Tax De-Registration at the option of Registrant

A Registrant **may apply** to the Authority for Tax Deregistration if the value of his Taxable Supplies during the past (12) months was less than the Mandatory Registration Threshold.

Effective Date of Tax De-registration:

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

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

Period of Notification:

Where the Authority has deregistered a Registrant from Tax, it shall notify that Registrant of the date on which deregistration takes effect within (10) business days of making the decision. [Article 14(8) of ER]

11.9.3 Voluntary Tax De-Registration

A Registrant under Article (17) may not apply for Tax Deregistration within (12) months of the date of Tax Registration. It means a person once registered voluntarily, he shall not apply for de-registration with 12 months from the date of tax registration. In other words, a person who has obtained **voluntary registration is not permitted to apply for deregistration within 12 months** of the date of registration.

11.9.4 Deregistration of a Tax Group Registration

Article 15 of Executive Regulation on VAT

1. The Authority must deregister a Tax Group if the following conditions are met:
 - a. If the Persons who are registered as a Tax Group no longer meet the requirements for registration as a Tax Group in accordance with the Decree-Law.
 - b. If there is no longer an association based on economic, financial and regulatory practices.
 - c. If there are serious grounds for believing that if the registration as a Tax Group is permitted to continue, it would enable Tax Evasion or would significantly decrease Tax paid to the Authority.
2. The Authority shall amend the composition of a Tax Group in any of the following circumstances:
 - a. A Person shall be removed from a Tax Group where the conditions in Clause (1) are met for that Person.
 - b. A Person shall be added to a Tax Group where the Authority establishes that a Person's activities should be regarded as part of the Business carried out by a Tax Group in accordance with Clause (7) of Article (10) of this Decision.
3. The representative member of a Tax Group shall notify the Authority if any member of the Tax Group is no longer eligible to be part of the Tax Group, within 20 business days of the ceasing to be eligible.
4. Where the Authority decided to either deregister a Tax Group or amend a Tax Group registration, it shall give Notification of that decision and its effective date to the representative member within 10 business days of making such decision.
5. Where a Taxable Person is no longer a member of a Tax Group, the Authority shall issue it with a new individual Tax Registration Number or re-activate a Tax Registration Number that was assigned to it prior to joining a Tax Group, and it shall be treated as a Registrant immediately following the time when it left the Tax Group.

11.9.5 Other Relevant Provision relating to Tax De-registration

- A Registrant shall not be deregistered unless he has paid all Tax and Administrative Penalties due and filed all Tax Returns as due under the Decree-Law and the Federal Law No. (7) of 2017 on Tax Procedures. **[Article 14(5) of ER]**
- For the purposes of Clause (5) of Article 14, any Goods and Services forming part of the assets of Business carried on by a Registrant shall be **deemed to be supplied by him at a time immediately before ceasing to be a Registrant** and any tax payable shall be included in the final tax return, unless the Business is carried on by an appointed trustee in bankruptcy pursuant to the Federal Law No (7) of 2017 on Tax Procedures. **[Article 14(6) of ER]**
- Deregistration does not exempt the Person from his obligations and liabilities that were applicable under the Decree-Law while he was still a Registrant. **[Article 18 of ER]**

MODULE 12

TAX INVOICE AND TAX CREDIT NOTE

ARTICLES OF FDECREE LAW ON VAT RELEVANT TO THIS MODULE	
Article (65)	Conditions and Requirements for Issuing tax Invoices
Article (66)	Document of Supplies to an Implementing State
Article (67)	Date of Issuance of Tax Invoice
Article (68)	Rounding off of Tax Invoice
Article (69)	Currency Used on Tax Invoice
Article (70)	Tax Credit Notes
ARTICLES OF EXECUTIVE REGULATION ON VAT RELEVANT TO THIS MODULE	
Article (59)	Tax Invoice
Article (60)	Tax Credit Note
Article (61)	Fractions of Fils

12.1 INTRODUCTION

This is one of the most important modules for the tax payers. As we know, VAT is a consumption tax levied on the supply of goods and services. Therefore, for the purpose of compliance and proper administration of VAT laws, it becomes necessary to document the evidence of supply of goods and services in the form of Tax Invoice. This module provides answers to below questions.

- **What is a Tax Invoice?**
- **Why is a Tax Invoice needed?**
- **What are the conditions and requirements of issuing a Tax Invoice?**
- **What is a Simplified Tax Invoice?**
- **What are the conditions under which a Simplified Tax Invoice issued?**
- **What is a Tax Credit Note?**
- **What are the conditions and requirements of issuing a Tax Credit Note?**
- **Can Tax Invoice or Tax Credit Note be issued electronically?**
- **Can a recipient issue Tax Invoice to himself? What are the conditions to be met in such a case?**

12.2 RELEVANCE OF TAX INVOICE

As per the normal trade practices an invoice is generally issued by the seller in respect of any sale transaction evidencing supply of goods and services. It is a commercial document that identifies both the trading parties, and which describes, and quantifies the

items sold, shows the date of shipment and mode of transport, prices and discounts, if any, and the delivery and payment terms. Thus, a tax invoice is similar to any commercial invoice or receipt, but it contains additional details or information as specified under the VAT laws.

The VAT law mandates the issuance of a tax invoice for every supply of goods or services. 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. Therefore, a Tax Invoice is the most important document under the VAT Regime.

It contains all the information such as details of supply of goods and services, details of registered supplier and recipient of goods and services, date of supply, VAT rate and the amount of VAT payable as stipulated under the VAT law.

A tax invoice provides essential evidence in regard to the date of supply and supports both the business and the government in proper administration and compliance of VAT laws.

- i) The tax invoice triggers the time of supply as the invoice date will determine when VAT is to be accounted for and paid to the government by a registered supplier on the supply of goods and services.

Example 1:

- i) A furniture manufacturer (VAT registered person on a monthly taxable period) supplies furniture to a retailer on 10th February 2018. The manufacturer issues an invoice on the same date and payment is, however received on 13th March 2018.

In this case, 10th February 2018, the date of the tax invoice is the time of supply and the registered person has to account for VAT to the tax authority during his Tax Period of February even though payment is received on 13th March 2018.

- ii) Tax Invoice issued by the supplier determines the time and the tax period when the recipient can claim his input tax.

Example 2:

The retailer in the above example, being registered for VAT can claim his Input VAT paid on the purchase of furniture for business purpose. Input tax can be claimed during the tax period of February itself by the retailer as long as he has a tax invoice from his supplier even though he has not paid for the supply.

The chart given below clearly specifies the importance of issuance of a Tax Invoice.

For suppliers - the issuance of a valid tax invoice is important as it may dictate the time of supply, and therefore determine in which tax period the output tax should be accounted for.

For customers - the receipt of a valid tax invoice is important for VAT registered recipients as a tax invoice is needed as evidence to support the recovery of VAT incurred on purchases as input tax. In all cases, the receipt of a tax invoice ensures transparency regarding VAT amounts charged.

Moreover, Article 65 of Federal Decree Law mandates a Registrant making a Taxable Supply to issue an original Tax Invoice and deliver it to the Recipient of Goods or Recipient of Services.

Clause 2 of the aforesaid article 65 also requires a Registrant making a Deemed Supply to issue an original Tax Invoice and deliver it to a Recipient of Goods or Recipient of Services if available or keep it in his records if there is no Recipient of Goods or Recipient of Services.

12.3 CONDITIONS AND REQUIREMENTS FOR ISSUING TAX INVOICES

In this section, we will find answers to the below questions.

- i) What is a Tax Invoice?
- ii) What are the details to be mentioned in a Tax Invoice? Has any format of the Tax Invoice prescribed under the VAT laws?
- iii) What are the consequences for non-issuance or non-compliance of laws related to Tax Invoice?

A tax invoice (also commonly known as a “VAT invoice”) is a written or electronic document which records the details of a standard-rated taxable supply. It is pertinent to note here that the VAT Law has not prescribed any standard format for a Tax Invoice. However, it has laid down the details that are mandatorily required to be mentioned in 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.**

The format of a legally valid tax invoice is shown in **Figure I & II** below.

Figure I: Example of Tax Invoice (Wholly Taxable Supply)

TAX INVOICE								
SUPPLIER ABC FILMS LLC DUBAI, UNITED ARAB EMIRATES TRN NO. : XXXXXXXXXXXXXXXX			INVOICE NO. & DATE 9000000101 DATED 07.01.2018					
			Sales Contract No & Dated SALES ORDER NO: 7010026075 DATED 05.01.2018					
			Other Reference P.O. NO. 174310, 174314-15 DATED 03.01.2018					
BUYER XYZ TRADING LLC SHARJAH, UNITED ARAB EMIRATES TRN NO. : XXXXXXXXXXXXXXXX			CONSIGNEE/RECIPIENT					
Mode of Transport BY ROAD	Place of Taking in Charge / of Receipt ABC LLC DUBAI WAREHOUSE	Country of origin of goods UNITED ARAB EMIRATES	Place of Final Dest / Of Delivery SHARJAH					
Vehicle number	Port of Loading ABC LLC DUBAI WAREHOUSE	Terms of Delivery and Payment EXW, ABC FILMS LLC UAE WAREHOUSE 100% ADVANCE	EXCHANGE RATE : 1 VAT @ 5%					
Description Of Goods			Quantity(Kgs)	Unit Rate (AED / Kg)	Taxable Amount (AED)	Discount (AED)	Taxable Amount(AED)	VAT Amount(AED)
Thickness ss (Micron)			Width(mm)					
POLYESTER Film	12	1050	187.000	6.00	1,122.00	122.00	1,000.00	50.00
POLYESTER Film	10	1000	407.000	6.00	2,442.00	42.00	2,400.00	120.00
POLYESTER Film	15	900	408.000	6.00	2,448.00	48.00	2,400.00	120.00
POLYESTER Film	20	1060	1224.000	6.00	7,344.00	44.00	7,300.00	365.00
POLYESTER Film	12	1500	244.000	6.00	1,464.00	64.00	1,400.00	70.00
POLYESTER Film	12	1250	502.000	6.00	3,012.00	12.00	3,000.00	150.00
TOTAL			2,972.00		17,832.00	332.00	17,500.00	875.00
Total Amount (in words)			DC number with DATE					
AED Eighteen Thousand Three Hundred and Seventy Five only.								
Declaration:- We declare that this Invoice shows the actual price of goods described and that all particulars are true and correct				For ABC FILMS LLC (Authorised Signatory)				
Interest @ 0.05%/day will be chargeable in case of delay of more than 7 calendar days from the due date in receiving the payment against this invoice into our account.								

Figure II: Example of Tax Invoice (Wholly Taxable Supply)

TAX INVOICE											
Cust. Name: XYZ ASSOSIATES Address: XYZ STREET, XYZ, XYZ Phone No: XXXXXXXXXXXXXXXX Email: XXXXX@XXXXXX.XXXX TRN: XXXXXXXXXXXXXXXX				Supplier: ABC Trading LLCDubai (UAE) Date: 12/1/2018 Inv. No: 11SED54MN/201 Date of Delivery: 15/1/2018 Payment Term: 60 Days Place of Supply: Dubai TRN: XXXXXXXXXXXXXXXX							
Sr.N O	Item Code	Description	Unit	QTY	Unit Price	Amount Before Discount	Discount	Amount Before VAT	Value Added Tax Rate	Amount	Net Amount
1	1010	AAAAAA	Pcs	2	AED 150.00	AED 300.00		AED 300.00	5%	AED 15.00	AED 315.00
2	2020	BBBBBBB	CTN	4	AED 600.00	AED 2,400.00		AED 2,400.00	0%	AED 0.00	AED 2,400.00
3	3030	CCCCCC	PKT	6	AED 15.00	AED 90.00	10	AED 80.00	0%	AED 0.00	AED 90.00
4	5554	DDDDDD	BOX	25	AED 500.00	AED 12,500.00		AED 12,500.00	0%	AED 0.00	AED 12,500.00
				37	AED 1,265.00	AED 15,290.00	AED 10.00	AED 15,280.00		AED 15.00	AED 15,305.00
Amount in words: Fifteen Thousand Three Hundred And Five Dirham											
										Total Before VAT:	AED 15,290.00
										Discount:	AED 10.00
										Sub Total / VATable Amount :	AED 15,280.00

12.4 SIMPLIFIED TAX INVOICE

A Simplified Tax Invoice is basically a simplified version of a Tax Invoice, in which fewer details are required to be mentioned, as compared to a Tax Invoice. This provision of law has been framed with the objective to provide convenience to both supplier and the recipient in respect of small value of supplies particularly where the recipient is an end consumer or recipient not registered under VAT.

As per Clause 5 of Article 59 of Executive Regulation on VAT, the Taxable Person may issue a Simplified Tax Invoice in either of the following situations:

- a. Where the Recipient of Goods or Recipient of Services is not a Registrant.
- b. Where the Recipient of Goods or Recipient of Services is a Registrant and the Consideration for the supply does not exceed AED 10,000

Clause 2 of Article 59 of Executive Regulation on VAT provides that a simplified Tax Invoice shall contain all of the following particulars:

- a. The words “**Tax Invoice**” clearly displayed on the invoice.
- b. **The name, address, and Tax Registration Number of the Registrant** making the supply.
- c. **The date of issuing the Tax Invoice.**
- d. **A description of the Goods or Services supplied.**
- e. **The total Consideration and the Tax amount charged.**

Practically, simplified tax invoices are issued by retailer or suppliers whose customer base is end consumers and who generate large volume of invoices such as hypermarkets, mini markets, restaurants, beauty salons, petrol kiosks, motor workshops and other point of sales outlets.

It is important to mention here that a Simplified tax invoice can be used to claim input tax on satisfaction of the above mentioned conditions. Thus, where a simplified tax invoice has been issued to a recipient who is registered under VAT, the registrant shall be able to take credit of the input tax against that invoice paid if the total consideration is AED 10,000 or less.

The formats of a Simplified Tax Invoice are shown in **Figure III & IV** below.

Figure III: Example of Simplified Tax Invoice (Wholly Taxable Supply)

Your Tax Invoice should include:

TAX INVOICE	
ABC LLC Street, Emirate, UAE TRN 101234567890003	
Item 1	2.50
Item 2	8.50
Item 3	12.00
Total before VAT	21.90
VAT incl.	1.10
Total	23.00
Date: 02/01/2018	

“Tax Invoice” displayed

Tax Registration Number (TRN)

Price includes VAT

Amount of tax charged



Can businesses charge VAT if they are not registered?

Businesses are not allowed to charge VAT unless they are registered for VAT and have a TRN.

For more information, please visit the FTA's official website www.tax.gov.ae

Source: Federal Tax Authority

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Figure IV: Example of Simplified Tax Invoice (Wholly Taxable Supply)

Tax Invoice									Name, address and TRN of the supplier
ABC Trading LLC Abu Dhabi TRN : 1230000000000000									
Dated: 1-Jan-2018									
Description	Quantity	Rate	Per	Amount (AED)	Discount	Taxable Value (AED)	VAT Rate	VAT Amount (AED)	
Phone covers	5 nos	200	nos	1,000		1,000	5%	50	
VAT				50					
Total	5 nos			1,050		1,000		50	
For ABC Trading LLC Authorised Signatory									

12.5 SUMMARY TAX INVOICE

As explained earlier in this module, tax invoice shall need to be issued within 14 days from the date of supply of taxable goods and services. However, the UAE VAT laws dispense with the requirement of issuance of tax invoice after every supply where the supplies are made more than once to the same recipient of goods and services in the same calendar month and details of all the supplies are included in the summary Tax Invoice issued by the supplier. Thus, if any registrant makes several supplies during the same calendar month to the same customer, he can opt to issue a Summary Tax Invoice. It should be noted that the Summary Tax Invoice shall contain all the information that must be included in any Tax Invoice.

Clause 6 Article 59 of Executive Regulation on VAT clearly states that **A Taxable Person shall not issue separate Tax Invoices in respect of supplies where he makes more than one supply of Goods or Services to the same Person and those supplies are included on a summary Tax Invoice issued to the Recipient of Goods or Recipient of Services in the same calendar month as the Date of Supply of those supplies.**

For example, a bank may issue a summary Tax Invoice to the customers for all Taxable Transactions at the end of the month.

Practically, a summary tax invoice can be issued in cases of continuous or recurrent supply of goods and services. Generally supply of goods through wire or cable (electricity), pipelines (liquids and gas) or other conduit (e.g. conveyor belt) is considered as a **continuous supply**.

A contract by a transporter with a petrol pump for supply of fuel for its trucks on regular basis or a contract by an office with a drinking water supplying firm for supply of water jars on all working days are examples of **recurrent supply**. A contract for providing security services on 24 X 7 basis is continuous supply of service whereas a contract for sale of under-construction property with construction-linked-payment obligations is a contract for recurrent supply of services.

12.6 PROFIT MARGIN SCHEME

VAT is normally charged on the full value of goods sold by way of issuance of Tax Invoice. However, the Profit Margin Scheme allows an **eligible person** who meets all the conditions imposed under the Margin Scheme to calculate and charge VAT on the

margin i.e. the difference between the price at which the goods are supplied (selling price) and the price at which the goods were acquired (purchase price). If there is no margin (because the purchase price exceeds or equals to the selling price), then no VAT is imposed for such supply. Since VAT is charged on the margin, no credit of Input Tax thus paid can be claimed or recovered.

As per Article 29 of the Executive Regulation on VAT, Profit Margin Scheme shall be applicable only if the conditions as stipulated there under are met.

The Scheme is optional. A Taxable Person may not elect to calculate Tax by reference to the profit margin in respect of specified Goods **if a Tax Invoice or other document is issued for that supply mentioning an amount of Tax chargeable on the supply.**

However where the registrant opts to get covered under the scheme, he has to comply with the conditions and requirement laid down under the aforesaid article. Accordingly, the registrant under the scheme has to issue invoice both at the time of Purchase and Sale of specified goods (second hand goods, antiques, collector's items).

1. Invoice to be issued by the registrant at the time of purchase of specified goods

Where the Goods are purchased from Persons who are not Registrants, the **Taxable Person must issue an invoice showing details of the Goods himself**, including at least the following information:

- 1) The name, address and Tax Registration Number of the Taxable Person.
- 2) The name and address of the Person selling the Good.
- 3) The date of the purchase.
- 4) Details of the Goods purchased.
- 5) The Consideration payable in respect of the Goods.
- 6) Signature of the Person selling the Good or authorized signatory.

2. Tax Invoice to be issued by the registrant at the time of sale of specified goods

Where a Taxable Person has charged Tax in respect of a supply with reference to the profit margin, the Taxable Person shall **issue a Tax Invoice that clearly states that the Tax was charged with reference to the profit margin**, in addition to all other information required to be stated in a Tax Invoice except the amount of Tax. In other words, the Tax invoice issued under this scheme shall contain all the information required to be mentioned in a Tax Invoice under Article 59 of Executive Regulation. Accordingly, it should contain all the information given below.

- a. The words "**Tax Invoice**" clearly displayed on the invoice.
- b. The **name, address, and Tax Registration Number of the Registrant** making the supply.
- c. The **name and address of the person selling the specified goods**.
- d. A **sequential Tax Invoice number** or a unique number which enables identification of the Tax Invoice and the order of the Tax Invoice in any sequence of invoices.
- e. The **date of issuing the Tax Invoice**.
- f. The **date of supply** if different from the date the Tax Invoice was issued.
- g. A **description of the Goods or Services** supplied.
- h. For each Goods or Service, **the unit price, the quantity or volume supplied and the amount payable** expressed in AED.
- i. The amount **of any discount** offered.

12.7 SELF BILLED TAX INVOICE

In a normal business transaction, the supplier will issue an invoice to the buyer. However, in the case of self-billed invoice the buyer or the recipient will issue an invoice.

Under the UAE VAT law, the recipient of the goods is allowed to issue an invoice to himself which is deemed to be a tax invoice in respect of a supply of goods or services to him by another registered person.

The issuance of this self-billed invoice by the recipient to himself under **Article 59(9) of Executive Regulation** on VAT shall be subject to the following conditions:

- a. The **Recipient of the Goods or Services is a Registrant**.
- b. The **supplier and the Recipient agree in writing** that the supplier shall not issue a Tax Invoice in respect of any supply to which this Clause applies.
- c. The Tax Invoice shall contain all the information **that is mandatorily required to be mentioned in a Tax Invoice**.
- d. The words "**Tax Invoice raised by buyer**" are clearly displayed on the Tax Invoice.

It can be concluded that in terms of content, both Tax Invoice and Self Billed Tax Invoice are same. However, there is one difference. In case of Tax Invoice, the word "Tax Invoice" is displayed whereas in the case of Self Billed Tax Invoice "**Tax Invoice raised by buyer**" is displayed on the invoice. Rest other details shall remain same. Format of Self Billed Tax Invoice is given below in **Figure V** for reference.

Similar to Tax Invoice raised by buyer, the recipient may issue a Tax Credit Note as well subject to conditions stated stipulated under Clause 4 of Article 60 of Executive regulation in case there is either change in the consideration of supply or cancellation of the supply. In this context, Article 60(4) makes a reference as under. It provides as under.

Where a Recipient of Goods or Recipient of Services agrees to raise a Tax Credit Note on behalf of a Registrant Supplier in respect of a supply of Goods or Services, that document shall be treated as if it had been issued by the supplier if the following conditions are met:

- a. The **Recipient of Goods or Recipient of Services is a Registrant**.
- b. The **Supplier and the Recipient of Goods or Recipient of Services agrees that the Supplier shall not issue a Tax Credit Note in respect of any supply to which this Clause applies**.
- c. The Tax Credit Note shall contain the particulars required under Clause (1) of this Article 60.
- d. The words "**Tax Credit Note created by buyer**" are clearly displayed on the Tax Credit Note.

Figure V: Example of Self Billed Tax Invoice (Wholly Taxable Supply)

TAX INVOICE RAISED BY BUYER									
SUPPLIER ABC FILMS LLC DUBAI, UNITED ARAB EMIRATES TRN NO. : XXXXXXXXXXXXXXXX			INVOICE NO. & DATE 9000000101 DATED 07.01.2018						
			Sales Contract No & Dated SALES ORDER NO: 7010026075 DATED 05.01.2018						
			Other Reference P.O. NO. 174310, 174314-15 DATED 03.01.2018						
BUYER XYZ TRADING LLC SHARJAH, UNITED ARAB EMIRATES TRN NO. : XXXXXXXXXXXXXXXX			CONSIGNEE/RECIPIENT						
Mode of Transport BY ROAD	Place of Taking in Charge / of Receipt ABC LLC DUBAI WAREHOUSE	Country of origin of goods UNITED ARAB EMIRATES				Place of Final Dest / Of Delivery SHARJAH			
Vehicle number	Port of Loading ABC LLC DUBAI WAREHOUSE	Terms of Delivery and Payment EXW, ABC FILMS LLC UAE WAREHOUSE 100% ADVANCE				EXCHANGE RATE : 1 VAT @ 5%			
Description Of Goods			Quantity(Kgs)	Unit Rate (AED / Kg)	Taxable Amount (AED)	Discount (AED)	Taxable Amount (AED)	VAT Amount(AED)	Total Amount (AED)
			Thickness (Micron)	Width(mm)					
POLYESTER Film	12	1050	187.000	6.00	1,122.00	122.00	1,000.00	50.00	1,050.00
POLYESTER Film	10	1000	407.000	6.00	2,442.00	42.00	2,400.00	120.00	2,520.00
POLYESTER Film	15	900	408.000	6.00	2,448.00	48.00	2,400.00	120.00	2,520.00
POLYESTER Film	20	1080	1224.000	6.00	7,344.00	44.00	7,300.00	365.00	7,665.00
POLYESTER Film	12	1500	244.000	6.00	1,464.00	64.00	1,400.00	70.00	1,470.00
POLYESTER Film	12	1250	502.000	6.00	3,012.00	12.00	3,000.00	150.00	3,150.00
TOTAL			2,972.00		17,832.00	332.00	17,500.00	875.00	18,375.00
Total Amount (in words)			Delivery Challan No. & Date						
AED Eighteen Thousand Three Hundred and Seventy Five only.									
Declaration:- We declare that this Invoice shows the actual price of goods described and that all particulars are true and correct					For ABC FILMS LLC (Authorised Signatory)				
Interest @ 0.05%/day will be chargeable in case of delay of more than 7 calendar days from the due date in receiving the payment against this invoice into our account.									

12.8 ISSUE OF TAX INVOICE/TAX CREDIT NOTE BY AGENTS

- An agent may buy or sell goods and services on behalf of a principal either in the name of the principal or in his own name.
- If an agent sells goods and services on behalf of the principal, the **principal is the seller and not the agent**. In such a case, an agent should not issue a tax invoice in his own name to the buyer. The agent is allowed to issue tax invoice on behalf of the principal provided that it is issued in the name of the principal.

Clause 11 of Article 59 of Executive Regulation on VAT may be noted in this regard which states that

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

Similarly, where an agent who is a Registrant makes a supply of Goods and Services for and on behalf of the principal of that agent, that **agent may issue a Tax Credit Note** in relation to that supply as if that agent had made the supply, and provided **that the principal shall not issue a Tax Credit Note [Article 60(6) of Executive Regulation on VAT].**

Hence, in accordance with the VAT legislation either Principal or Agent on the behalf of principal can issue a Tax Invoice or Tax Credit Note to the recipient of goods and services.

- If an agent buys goods and services on behalf of the principal, the principal is the buyer and not the agent. In such a case, the tax invoice must show the principal's details, i.e. the tax invoice should be issued to the principal.
- In the case of an agent who buys or sells goods and services in his own name, he is the buyer or the seller. If the agent is a registered person, he must issue a tax invoice in his own name.
- If the agent is a registered person, he must issue a tax invoice to claim the commission from the principal for his services as a selling or buying agent.

12.9 DOCUMENT OF SUPPLIES/INVOICE FOR INTRA GCC TRANSACTIONS

Article 66 of Decree Law read with clause 12 of Executive Regulation on VAT provides that the registrant, who supplies Goods or Services considered as supplied in any of the Implementing States (i.e. where the place of supply is considered outside UAE), shall provide the Recipient of Goods and Recipient of Services **with a document that includes all the information that must be included in the Tax Invoice**. However, **this document should not be labelled as "Tax Invoice" and shall not include any Tax charged.**

Apart from information that must be included in the Tax Invoice, **registration number of the recipient of Goods or Services issued to him by the competent authority of the Implementing State** in which the supply is treated as taking place must be mentioned on such document.

It is important to note here that the document issued by the supplier must not be labelled as Tax Invoice. In other words, the word "Tax Invoice" shall not be displayed on such document. This is based on the logic that such supplies are outside scope of UAE VAT as the place of supply is the Implementing State and not VAT is chargeable on such supplies. Tax Invoice will only need to be issued in case of taxable supplies.

Thus, on combined reading of Article 66 of Decree Law and Article 59 (12) of Executive Regulation, we can derive inference that the document of supplies to an implementing state shall contain all of the information given below.

- a. **The name, address and Tax Registration Number of the supplier.**
- b. **The name and address of the Recipient.**
- c. **Tax Registration Number of the recipient issued by the competent authority of the Implementing State.**
- 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 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 – **exchange rate** must be stated.

Article 66 of Federal Decree Law on VAT

Without prejudice to Article (65) of this Decree-Law, each Registrant who supplies Goods or Services considered as supplied in any of the Implementing States, shall provide the Recipient of Goods and Recipient of Services with a document that includes all the information that must be included in the Tax Invoice and any other information as specified in the Executive Regulation of this Decree-Law, provided that this document is not labelled "Tax Invoice" and does not include any Tax charged.

Article 59(12) of Executive Regulation on VAT

Where the Supply of Goods or Services is considered as supplied in an Implementing State, the Taxable Person must include the following additional particulars in the document issued:

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

12.10 WHOLLY ZERO-RATED SUPPLY

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

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

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

It means if a registrant makes a supply of both standard-rated and zero-rated goods and services, he shall be required to issue a tax invoice.

Article 59(3) of Executive Regulation on VAT:

If there are or will be sufficient records available to establish the particulars of a supply, a Taxable Person is not required to issue a Tax Invoice for the supply where the supply is a wholly zero-rated supply.

12.11 MIXED SUPPLY

There are some situations where a tax invoice is required to be issued while in some situations, a tax invoice is not required to be issued.

As explained earlier, **if a registrant makes a wholly standard rated supply, Tax Invoice shall required to be issued. However, if the person makes a wholly zero-rated or wholly exempt supply, he shall not be required to issue a Tax Invoice.**

The situation may become complicated to some extent if a registrant makes mixed supply of both taxable and non taxable goods and services. There can be various permutation and combination which are tabulated below.

S. No.	Mixed Supply	Tax Invoice Required to be Issued (Yes/No)
1	Standard-rated and Zero-rated	Yes
2	Standard-rated and Exempt	Yes

S. No.	Mixed Supply	Tax Invoice Required to be Issued (Yes/No)
3	Zero-rated and Exempt	No
4	Standard-rated, Zero-rated and Exempt	Yes

As seen from the above table, in the case of mixed supplies (standard rated supplies and Zero-rated supplies), a tax invoice is required to be issued. Similarly, in the case of mixed supplies which involve a Standard-rated supply and an exempt supply, a tax invoice is required to be issued.

However, in the case of mixed supplies which involve a zero rated supply and an exempt supply, a tax invoice is not required to be issued.

Thus, a tax invoice may contain details of more than one supply (taxable supply and exempt supply). For example, a invoice issued by an insurance company for the supply of both taxable as well as exempt services to the same buyer. When this occurs, the tax invoice must clearly distinguish between the various supplies and indicate separately the applicable values and the tax charged (if any) on each supply for VAT purpose.

12.12 DEEMED SUPPLY

As per the general rule, any registered person making a taxable supply of goods and services shall issue a Tax Invoice. The taxable supply includes **Deemed Supply of taxable goods and services** as well. Thus, in cases of deemed supply as well, tax invoice needs to be issued.

Article No. 11 of Federal Law on VAT which is the deeming fiction lays down four specific classes of transactions which are deemed as "Supply". For more details, please refer module "Supply of Goods & Services".

As per Article 11, the following 4 cases are considered as Deemed Supply.

1. A supply of Business Assets without Consideration.

Goods and services may be supplied for no consideration. Under this situation, such transactions may be deemed as a supply. Examples are disposal of business assets without consideration, gifts which cost more than five hundred Dirhams (AED 500.00) and private use of business assets. In all these case Tax Invoice needs to be issued in accordance with Article 59 of the Executive Regulation on VAT.

2. The transfer by a Taxable Person of Goods that constituted a part of his business assets from the State to another Implementing State, or from the Taxable Person's business in an Implementing State to his Business in the State.

Although, such transactions are deemed as supply, Tax Invoice is not required to be issued. There is a specific provision under the law covering Intra GCC transaction.

Article 66 of Decree Law read with clause 12 of Executive Regulation on VAT provides that the registrant, who supplies Goods or Services considered as supplied in any of the Implementing States (i.e. where the place of supply is considered outside UAE), shall provide the Recipient of Goods and Recipient of Services with a document that includes all the information that must be included in the Tax Invoice. However, **this document should not be labelled as "Tax Invoice" and shall not include any Tax charged.**

Apart from information that must be included in the Tax Invoice, **registration number of the recipient of Goods or Services issued to him by the competent authority of the Implementing State** in which the supply is treated as taking place must be mentioned on such document.

3. A supply of Goods or Services for which Input Tax may be recovered but the Goods or Services were used, in part or whole, for purposes other than Business, and such supply shall be considered as deemed only to the extent of the use for non-business purposes.

Cases where there is a non-business use of supplies includes abnormal destruction of inputs, theft, deterioration, personal consumption etc. In all such cases, the liability has been cast on the business to pay tax on such supplies. This can be done by issuance of tax invoice.

4. Goods and Services that a Taxable Person owns at the date of Tax Deregistration.

12.13 IMPORTS AND SUPPLIES UNDER REVERSE CHARGE MECHANISM

Importation of goods and services are subject to VAT. VAT for imported goods are declared and accounted for on Reverse Charge (RCM) basis at the time of importation based on the invoice from the overseas supplier using customs declaration forms. Under RCM, both Input VAT and Output VAT are accounted for on the value of imported goods. The **declaration form together with the bill of entry** will form basis for making entries in books of account under RCM. Thus, in respect of imported goods and services, **tax invoice is not required to be issued by the importer or buyer.**

12.14 ELECTRONIC TAX INVOICE OR TAX CREDIT NOTE

Issue of Electronic Tax Invoice is tenable under the VAT laws subject to the conditions stated therein. Clause 8 of Article 59 of Executive Regulation on VAT stipulates as under.

The Taxable Person may issue a **Tax Invoice by electronic means** provided that:

- The Taxable Person must be capable of **securely storing a copy of the electronic Tax Invoice** in compliance with the record keeping requirements.
- The authenticity of origin and integrity of content of the electronic Tax Invoice should be guaranteed.**

Similarly, as per Clause 3 of Article 60 of the Executive Regulation, The Taxable Person may also issue a Tax Credit Note by electronic means provided that:

- The Taxable Person must be capable of **securely storing a copy of the electronic Tax Credit Note** in compliance with the record keeping requirements.
- The authenticity of origin and integrity of content of the electronic Tax Credit Note should be guaranteed.**

12.15 PERIOD OF ISSUANCE OF TAX INVOICE

As per Article 67 of Federal Decree Law on VAT, the Registrant Supplier shall issue a Tax Invoice **within 14 days as of the date of supply** as stated in Article (25) of this Decree-Law. The date of supply for various types of supplies has been tabulated below for quick reference of the readers. For more details, please refer module "Time of Supply".

S. No.	Nature of Supply	Date of Supply	Date of Issuance of Tax Invoice
1	Goods	The date of supply shall be earliest of the following dates Date of removal of goods (in case of supply of goods with transportation) Date on which goods made available to customer (where no transportation) Date of assembly/installation Date of receipt of payment The date of a VAT Invoice	14 days from date of Supply
2	Supply of goods made on Returnable basis	The date of supply shall be earliest of the following dates Date of acceptance of supply by recipient (in case of supply Date no later than (12) months after the date of delivery to recipient Date of receipt of payment The date of a VAT Invoice	
3	Import of Goods	Date of Importation under Customs Legislation	
4	Services	The date of supply shall be earliest of the following dates Date on which performance of service is complete Date of receipt of payment The date of a VAT Invoice	

5	Continuous or recurrent supply of goods and services	The date of supply shall be earliest of the following dates The date of issuance of any Tax Invoice. The date payment is due as shown on the Tax Invoice. The date of receipt of payment.	14 days from date of Supply
6	Supply of goods through vending machines	The date on which funds are collected from the machine.	
7	Supply of a voucher	The date of issuance of voucher or supply thereafter	
8	Case of Deemed Supply	The date of their supply, disposal, change of usage or the date of Deregistration, as the case may be	

12.16 ROUNDING OFF TAX INVOICES / TAX CREDIT NOTES

As per Article 68 of Federal Decree Law read with Article 61 of Executive Regulation on VAT, where the Tax chargeable on a supply is calculated to a fraction of a Fils, the Taxable Person is permitted to round the amount to the nearest Fils on a mathematical rounding i.e. if the fraction is less than 0.5, it is rounded downward to the nearest fils and if the fraction is 0.5 or more, it is rounded upward to the nearest fils.

For example: If the VAT amount in a Tax Invoice is AED 40.35, the VAT amount can be rounded to AED 40 and if the VAT amount in a Tax Invoice is AED 40.60, the VAT amount can be rounded to AED 41.

12.17 CURRENCY USED ON TAX INVOICES

Generally in respect of all local/domestic sales, tax invoice is issued in UAE Dirham. However, UAE VAT laws don't restrict the supplier from issuing tax invoice in currency other than AED. Article 69 of Federal Decree Law on VAT states in this regard that If the supply is in a currency other than the UAE Dirham, then for the purposes of the Tax Invoice or Tax Credit Notes, the amount stated in the Tax Invoice or the Tax Credit Note shall be converted into the UAE Dirham according to the exchange rate approved by the Central Bank at the date of supply.

12.18 TAX CREDIT NOTE

A supplier of goods or services or both is mandatorily required to issue a tax invoice. However, during the course of trade or commerce, after the invoice has been issued there could be situations like:

- The supplier has erroneously declared a value which is more than the actual value of the goods or services provided.
- The supplier has erroneously declared a higher tax rate than what is applicable for the kind of the goods or services or both supplied.
- The quantity received by the recipient is less than what has been declared in the tax invoice.
- The quality of the goods or services or both supplied is not to the satisfaction of the recipient thereby necessitating a partial or total reimbursement on the invoice value.
- Any other similar reasons.

In order to regularize these kinds of situations the supplier is allowed to issue what is called as Tax Credit Note with the prescribed particulars to the recipient. Once the credit note has been issued, the tax liability of the supplier will reduce.

12.19 CONDITIONS AND REQUIREMENTS FOR ISSUING TAX CREDIT NOTE

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.

Moreover, Article 70 of the Federal Decree Law also provides as follow in this regard.

The Registrant shall issue an original Tax Credit Note when a reduction of Output Tax occurs in relation to any Supply or Deemed Supply made by him and deliver the same to the Recipient of Goods or Recipient of Services.

From the above it is now clear that Tax Credit Note has to be issued by the supplier in case of cancellation of supply or reduction in the consideration of the supply. The definition of Tax Credit Note provide under Article 1 also confirms the same. As per the definition, **Tax Credit Note is a written or electronic document in which the occurrence of any amendment to a Taxable Supply that reduces or cancels the same is recorded and the details pertaining to it.**

Let's consider an example below that explains the calculation mechanism.

Example 1:

On 1st Feb 2015, ABC Toys LLC a wholesaler of toys issued a sales invoice for amount AED 2,100 (including VAT@5%) for the supply of 20 sets of baby walker to XYX Retail LLC at AED 100 per unit. On receipt of the baby walker on 2nd February, 5 sets of walker was found to be defective and accordingly these were returned to the supplier ABC Toys LLC. As a result, ABC Toys LLC issued a Tax credit note that shows the value of AED 500 (AED100 x 5) for the walkers and the VAT amount of AED 25 (AED 500 x 5%). The total amount to be reversed including VAT is AED 525.

Now, let's discuss the format of Tax Credit Note and the information required to be mentioned in a Tax Credit Note. Clause 1 of Article 60 of Executive Regulation on VAT, mentions the information and details that are required to be contained in Tax Credit Notes.

As per the aforesaid article, 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.**

The format of Tax Credit Note is shown **Figure VI** below for reference.

Figure VI: Example of Tax Credit Note

TAX CREDIT NOTE						
Tax Credit Note No: XXX123						
Supplier ABC LLC Address: Jabel Ali Dubai	Buyer XYZ LLC Address Gold Souq Dubai					
TRN : 123000000000000			TRN : 124000000000000			
Date of Tax Credit Note : DD/MM/YYYY						
SI No	Description	*Reference Invoice No. & Date	Orginal Value of Tax Invoice	Revised Value	Tax Credit Note Amount	VAT on the Tax Credit Note Amount
1	AAAAAA	X1 dated 01.01.2018	1,000.00	800.00	200.00	10.00
2	BBBBBB	X2 dated 05.01.2018	5,000.00	4,000.00	1,000.00	50.00
Total (AED) to nearest fils						60.00
Discount						
Net Amount						
Exchange Rate						
Total (Foreign Currency)						
<i>Reason for Credit Note : "As to why Credit note is issued"</i>						
<i>*Information : "To identify the supply to which the Tax Credit Note relates"</i>						

12.20 NON ISSUANCE OF TAX INVOICE/TAX CREDIT NOTE

1. In accordance with Clause 7 of Article 59 of Executive Regulation, a **Tax Invoice may not required to be issued** Where the Authority considers that there are or will be sufficient records available to establish the particulars of any supply or class of supplies, and that it would be impractical to require that a Tax Invoice be issued by the Taxable Person, the Authority may determine that, subject to any conditions that the Authority may consider necessary:
 - a. Any of the particulars specified in Clauses (1) or (2) of Article 59 of Executive Regulation shall not be contained on a Tax Invoice.
 - b. A Tax Invoice is not required to be issued in certain cases.
2. Similarly, in accordance with Clause 2 of Article 60 of Executive Regulation, a **Tax Credit Note may not required to be issued** Where, on application by a Taxable Person, the Authority considers that there are or will be sufficient records available to establish the particulars of any supply or class of supplies, and that it would be impractical to require that a Tax Credit Note be issued by the Taxable Person, the Authority may determine any of the following, subject to any conditions that the Authority may consider necessary:

- a. Any one or more of the particulars specified in Clause (1) of Article 60 of Executive Regulation shall not be contained on a Tax Credit Note.
- b. A Tax Credit Note is not required to be issued.

12.21 LOST OR MISPLACED TAX INVOICE / TAX CREDIT NOTE

There is no specific provision under VAT laws relating to lost or misplaced tax invoice or tax credit note. However, as per the general practice, whenever a tax invoice of a particular supply is lost or misplaced, the recipient should request the supplier to provide a certified true copy of the tax invoice as it is an offence to issue more than one tax invoice per taxable supply. This certified copy of tax invoice can be used for claiming input tax.

MODULE 13

BOOKS OF ACCOUNT AND RECORD KEEPING

ARTICLES OF FEDERAL DECREE LAW ON VAT RELEVANT TO THIS MODULE	
Article (78)	Record Keeping
Article (79)	Stating Tax Registration Number
ARTICLES OF EXECUTIVE REGULATION ON VAT RELEVANT TO THIS MODULE	
Article (71)	Record-keeping Requirements
Article (72)	Record Keeping of the Supplies Made
ARTICLES OF FEDERAL LAW ON TAX PROCEDURES RELEVANT TO THIS MODULE	
Article (4)	Record Keeping
Article (5)	Language
ARTICLES OF EXECUTIVE REGULATION ON TAX PROCEDURES RELEVANT TO THIS MODULE	
Article (2)	Keeping Accounting Records and Commercial Books
Article (3)	Period of Record Keeping
Article (4)	How to Keep Accounting Records and Commercial Books
Article (5)	The use of a language other than the Arabic

13.1 INTRODUCTION

The UAE VAT laws provides for mandatory record keeping requirements for the businesses in UAE. The law itself doesn't define the term Records. Therefore, the same has to be understood in context of general trade practices. Business records can generally be understood as documents either stored as hard copy or digital form that records business transactions and activities.

Good record keeping practices are an important part of doing business. Having good record keeping practices benefits business in the following ways:

- a) Make better business decisions;
- b) Be aware of the financial status of their business (e.g. profit or loss position, whether there is internal fraud or theft (if any); and
- c) Reduce the cost and effort required to file VAT returns, and to reply to FTA's queries, if any.

13.2 TYPES OF BUSINESS RECORDS

Business records can be classified into following categories.

- I. **Business Entity Records:** It includes various legal documents and licences relating to incorporation, registration of business. These are the permanent records of the business.
- II. **Business Transaction Records:** These are mainly the source documents that substantiate all business transactions. It includes the following
 - (i) Sale and purchase records such as purchase order/order notes, delivery orders, tax invoices, invoices, receipts, vouchers, cash register roll, debit/credit notes and other related records.
 - (ii) Payment records such as cheques, bank drafts, letter of credit, fund transfers applications, debit advice and other related records.
 - (iii) Contract records (includes sub-contracts) such as agreements between buyers and sellers or parties involved in business transactions, joint venture/ leasing/ manufacturing agreements, royalty/ franchise/ license and other
 - (iv) Agency commission/brokers contract, distribution/ sale and purchase contract and other related records.
- III. **Accounting Records:** These are the accounting ledgers, schedules and journals documenting a business' assets and liabilities, income and expenses, profits and losses. It typically includes the following.
 - i. Financial Reports including Profit and Loss Account, Balancesheet.
 - ii. General Ledger and Subsidiary Ledgers
 - iii. Cash Book and Bank Book
 - iv. Sales Register and Purchase Register
 - v. Fixed Asset Register
 - vi. Records of salary and wages (i.e. salary sheet, salary slip etc.)
 - vii. Production records, stock sheet/list
 - viii. Debtors and creditors Ledger
 - ix. Audit adjustments
 - x. Journal, receipts, payment vouchers, payment slips, acknowledgement slip and other supporting records.
- IV. **Taxation Records:** To be very specific, these typically include all the accounting ledgers related to tax such as Output VAT, Recoverable Input VAT, VAT payable ledgers. As per Article 78 of Federal Decree Law on VAT, Tax Record includes the following information.
 - i) Due Tax on Taxable Supplies.
 - ii) Due Tax on Taxable Supplies accounted on Reverse Charge Mechanism
 - iii) Due Tax after the error correction or adjustment.
 - iv) Recoverable Tax for supplies or Imports.
 - v) Recoverable Tax after the error correction or adjustment.

13.3 RECORD KEEPING – REQUIREMENT UNDER VAT LAWS

Article 4 of Federal Decree Law No. 7 of 2017 on Tax Procedure read with Article 2 of Executive Regulation on Tax Procedures requires all the business to keep **Accounting Records and Commercial Books and Tax related information** in relation to the business.

Article 2 of Executive Regulation on Tax procedures provides an inclusive definition of **Accounting Records and Commercial Books** to include **all the business transactions records, accounting records, taxation records** as explained in the previous paragraph (Types of Business Records).

The said article 2 provides as under.

1. Accounting Records and Commercial Books shall include the following:

- a. Accounting books in relation to that Business, which include records of payments and receipts, purchases and sales, revenues and expenditures, and any business, and any matters as required under any Tax Law or any other applicable law, including:
 - 1) Balance sheet and profit and loss accounts.
 - 2) Records of wages and salaries.
 - 3) Records of fixed assets.
 - 4) Inventory records and statements (including quantities and values) at the end of any relevant Tax Period and all records of stock-counts related to Inventory statements.
- b. Additional records as may be required in the Tax Law and its Executive Regulation.
2. In addition to the Accounting Records and Commercial Books mentioned in Clause (1) of this Article, the Authority may require any other information in order to confirm, through an audit trail, the Person's Tax obligations, including any liability to register for Tax purposes.

Moreover, Article 78 of Federal Law No. 8 of 2017 on VAT **specifically laws down the obligation on the Taxable Person to keep following records.**

- a. Records of all supplies and Imports of Goods and Services.
- b. All Tax Invoices and alternative documents related to receiving Goods or Services.
- c. All Tax Credit Notes and alternative documents received.
- d. All Tax Invoices and alternative documents issued.
- e. All Tax Credit Notes and alternative documents issued.
- f. Records of Goods and Services that have been disposed of or used for matters not related to Business, showing Taxes paid for the same.
- g. Records of Goods and Services purchased and for which the Input Tax was not deducted.
- h. Records of exported Goods and Services.
- i. Records of adjustments or corrections made to accounts or Tax Invoices.
- j. Records of any Taxable Supplies made or received in accordance with Clause (3) of Article 48 of this Decree-Law, including any declarations provided or received in respect of those Taxable Supplies.
- k. A Tax Record that includes the following information:
 - i) Due Tax on Taxable Supplies.
 - ii) Due Tax on Taxable Supplies pursuant to the mechanism in Clause (1) of Article (48) of this Decree-Law.
 - iii) Due Tax after the error correction or adjustment.
 - iv) Recoverable Tax for supplies or Imports.
 - v) Recoverable Tax after the error correction or adjustment.

13.4 RECORD KEEPING – PROFIT MARGIN SCHEME

The Taxable Person must keep the following records in respect of supplies made under Profit Margin Scheme [Article 29 (5) of Executive Regulation on VAT]. For details please refer module "Value of Supply"

- a. A stock book or a similar record showing details of each Good purchased and sold under the profit margin scheme.
- b. Purchase invoices showing details of the Goods purchased under the profit margin scheme. Where the Goods are purchased from Persons who are not Registrants, the Taxable Person must issue an invoice showing details of the Goods himself, including at least the following information:
 - 1) The name, address and Tax Registration Number of the Taxable Person.
 - 2) The name and address of the Person selling the Good.
 - 3) The date of the purchase.
 - 4) Details of the Goods purchased.
 - 5) The Consideration payable in respect of the Goods.
 - 6) Signature of the Person selling the Good or authorized signatory.

13.5 HOW TO KEEP RECORDS – MANUAL OR ELECTRONIC

As per Article 4 of Executive Regulation on Tax Procedures, Original Documents which support the entries contained in the record must be retained by the business. It means all the source documents like tax invoices, tax credit notes received from suppliers/third parties must be retained in original.

Where the record is in an electronically readable form, the record shall be kept in such manner as to enable the record to be readily accessible and the same can be reproduced within a reasonable period, if requested by the Authority.

13.6 LANGUAGE OF RECORDS AND RETURNS SUBMITTED

Article 5 of the Tax Procedure Law read with Article (5) of Executive Regulation on Tax Procedures provides that:

- 4. Each Person must submit the Tax Return, data, information, records and documents related to Tax that he is required to submit to the Authority in Arabic as determined by the provisions of the Tax Law.
- 5. As an exception to Clause (1) above, the Authority may accept data, information, records and other Documents related to any Tax to be submitted to it in English. The Authority may, at its discretion, request the Person to translate some or all of these to Arabic.
- 6. Where the data, information, records and other Documents related to any Tax are issued in any foreign language other than English, the Person is required to submit these Documents to the Authority as translated into Arabic.
- 7. The Person submitting any translation of data, information, records and other Documents related to any Tax to the Authority shall be liable for the accuracy and correctness of the translation, and shall bear all associated costs. The Authority shall have the right to rely on the translation provided.

13.7 PERIOD OF RECORD KEEPING

Article 3 of the Executive Regulation on Tax Procedures provides as under

- 1. Every taxable person shall keep accounting records and commercial books for a period of 5 years from the end of the tax period to which they relate.
- 2. Every non-taxable person shall keep accounting records and commercial books for a period of 5 years from the end of the calendar year in which they were created.

For example: ABC LLC issues Tax Invoice in respect of a supply made on 25th January, 2018. Since, the calendar year in which invoice was issued ends on 31st December 2018, the invoice must be retained until 31st December 2023.

3. The Authority may, before the expiry of the period as specified above, inform the Person to retain the records for a further period not exceeding (4) years, in the following cases
 - a. If the Taxable Person's tax obligations are subject to a dispute between him and the Authority.
 - b. If the Person is being subject to a Tax Audit and that Tax Audit has not yet been completed.
 - c. If the Authority has given notice to the Person that it intends to conduct a Tax Audit before the expiry of the period
4. Where a Person enters into bankruptcy proceedings, his Legal Representative is required to keep the records of that Person for 12 months from the date on which those proceedings have come to an end.

Capital Assets:

However, note that Article 60 (2) of the Federal Decree Law on VAT requires maintenance of records pertaining to covered under Capital Asset Scheme for at least 10 years from the end of the tax period to which they relate.

Real Estate:

Further, as per Article 71 (2) of Executive Regulation on VAT states that any records related to a real estate required to be kept shall be held for a period of 15 years after the end of the Tax Period to which they relate.

13.8 EMIRATES WISE RECORD

Apart from maintaining records as specified above, Article 72 of Executive Regulation on VAT lays down additional requirement. As per Clause 2 of Article 72, the Taxable Person who makes a Taxable Supply of Goods or Services in the State must keep records of the transaction **to prove the Emirate in which the Fixed Establishment related to this supply is located.**

It means where goods are collected by recipient from a physical place or a location of the supplier, then it will be deemed that supply has taken place in the emirate where this physical location is situated.

Example 1: ABC LLC has warehouse in Sharjah from where all the deliveries are made to recipient of goods located in different emirates. In such a case, all the sales should be reported under Sharjah Emirates as the Fixed Establishment related to such supply is located in Sharjah.

Now, let's consider another example.

Example 2: XYZ Perfumes LLC is engaged in the business of manufacturing, distribution and sales of perfumery products via its retail outlets located in different emirates. As a practice, the company sales its product to retail customers only through retail outlets located in all the 7 emirates of UAE. Apart from retail sales, the company also makes sale to its wholesale distributors from its warehouse in UAE.

In this case, XYZ LLC should report sales emirates wise. The location of retail outlets and central warehouse shall be taken basis for emirates wise reporting.

Clause 3 of Article 72 provides an exception to the above rule. It states that, if the Taxable Person who makes a Taxable Supply of Goods or Services does not have a Fixed Establishment in the State, **the Taxable Person must keep records of the transaction to prove the Emirate in which the Supply is received.** In simple words, the place or location of fixed establishment of the recipient shall be taken as a basis for emirates wise reporting of sales by the supplier.

13.9 ACCOUNTING REQUIREMENT

As explained earlier, the VAT laws lay down the requirement of maintaining tax records as well as other accounting records and information. This information contained in the records are organised and summarized either with the help of accounting software or are done manually for the purpose of filing VAT returns. Thus, accounting of all the business transaction needs to be done in a correct manner for the purpose of VAT compliance. Principles or Rules used for the purpose of VAT accounting have been explained below.

1. When Goods are bought and you have to pay both purchase value and VAT input or paid both, at that time, following journal entry will be passed.

Purchase Account Dr.	(Value of Purchase)
VAT Input Account Dr.	(Input Tax incurred)
Cash or Bank or Name of Creditor Account Cr.	(Value of Purchase + VAT input)

Reason of this Journal Entry:

When we buy goods, it increases our current asset. Increase of asset will always debit. VAT input is also our current Asset because we paid this to our creditor or supplier (for paying govt.) but still our net liability has not been determined. The moment we sell goods or services and receive Output VAT, Input VAT will get adjusted against Output VAT. If VAT input will be more than VAT Output, we have to get money from Govt. So, VAT input account will be Debit. If we are final consumer, we need not show the VAT Input account, its cost will be included in purchase account.

2. When Goods are Sold and you have to receive both Sale Value and VAT Output or received both, at that time, following journal entry will be passed

Cash or Bank or Name of Customer Account Dr.	(Value of Purchase + VAT output)
Sale Account Cr.	(Value of Sales)
VAT Output Account Cr.	(Value of Sales)

Reason of this Journal Entry:

When we sell any goods we receive cash or bank. If we sell the goods on credit, we have to get money from our customer. So, it increases our current asset. However, in case of cash sale, we will debit cash or bank account. In case of credit sale, we will debit to debtor or customer account. We will credit to sale account because in sale, we transfer the ownership of goods to other party. So, it is decrease of our current asset. All the amount of VAT which we receive on sale is a liability for us as we are collecting tax on behalf of the Government. As a result, it increases our current liability. So, this account will get credited.

3. At the time of adjustment of Input Tax against Output Tax, following journal entry will be passed.

Output Tax Account Dr.	(With the amount of Output Tax)
Input Tax Account Cr.	(With the amount of Input Tax)
VAT Payable Account Cr/VAT Receivable Account Dr.	((Difference between Input VAT & Output VAT))

4. When we pay the Net VAT (Payable) to Government. At that time, following journal entry will be passed.

Net VAT Payable Account Dr.	(Excess of VAT Output over VAT Input)
Bank Account Cr.	

Reason of this Journal Entry:

When we will debit VAT Payable account, it means, we are decreasing our current tax liability. Every payment through bank account will decrease our current asset, so bank account will credit. We have to show only excess of VAT output over VAT Input because the VAT which we have to pay already through purchasing need to pay again. So, we will deduct VAT input from VAT output.

Let's understand the accounting aspect with the help of an example given below.

Example 3:

ABC Manufacturing LLC, a manufacturer of Furniture items got itself registered under UAE VAT during the month of March 2018. The manufacturer sells those items to different wholesalers across UAE. The manufacturer is required to file monthly tax return. The total value of sale during the tax period of March 2018 amounts to AED 1,000,000. The manufacturer acquired raw materials amounting to AED 735,000 locally (inclusive of VAT) during the period. In the VAT return for March 2018, the manufacturer has to account and pay VAT on the following:

Output Tax: AED 1,000,000 x 5% = AED 50,000

Input Tax: AED 735,000 x 5/105 = AED 35,000

Amount payable to FTA during the tax period of March 2018 = AED 50,000 – AED 35,000 = AED 15,000 (Output Tax – Input Tax)

The following accounting entries should be passed in respect of the above transaction for the month of March 2018.

v) At the time of purchase of Input Goods and Services

Purchase Account	Dr. (Value of Purchases)	AED 700,000
Input Tax/VAT Account	Cr. (Input VAT on Purchases)	AED 35,000
Cash or Bank or Customer Account	Cr. (Value of Purchase + Input VAT)	AED 735,000

Input VAT amount paid to the supplier is not a cost to the recipient as the same is recoverable. Hence, the same is treated as an asset in books of account. For details, refer module “Books of Account and Record Keeping”

vi) At the time of purchase of Input Goods and Services

Cash or Bank or Customer Account	Dr. (Value of Sales + VAT output)	AED 1,050,000
Sales Account	Cr. (Value of Sales)	AED 1,000,000
Output Tax/VAT Account	Cr. (VAT on Sales)	AED 50,000

Output VAT amount collected from the recipient cannot be treated as income rather it should be treated as liability as the same is payable to the government. For details, refer module “Books of Account and Record Keeping”

vii) At the time of offsetting Recoverable Input Tax against Output Tax.

If the Output Tax for the tax period exceeds the Input Tax during the tax period, the difference will be transferred to VAT/Tax payable account. However, if the Input Tax exceeds the Output Tax, the same is transferred to VAT receivable account (asset) at the end of tax period. For details, refer module “Books of Account and Record Keeping”

Output Tax	Dr. (VAT on Sales)	AED 50,000
Input Tax	Cr. (VAT on Purchases)	AED 35,000
Output Tax/VAT Payable Account	Cr. (Difference)	AED 15,000

viii) At the time of payment of Tax liability.

On or before the due date of filing return, the liability as appearing in the VAT payable account shall be discharged by making payment to the government. In case there is receivable, the taxable person has the option to apply for refund of Input Tax else the same is carried forward for subsequent tax period. For details, refer module “Books of Account and Record Keeping”

Output Tax/VAT Payable Account	Dr. (Output Tax minus Input Tax)	AED 15,000
Bank Account	Cr.	AED 15,000

MODULE 14

TAX RETURNS

ARTICLES OF DECREE LAW ON VAT RELEVANT TO THIS MODULE	
Article (71)	Duration of Tax period
Article (72)	Submission of Tax Returns
ARTICLES OF EXECUTIVE REGULATIONS ON VAT RELEVANT TO THIS MODULE	
Article (62)	Length of tax period
Article (63)	Tax Periods in the Case of Loss of Capacity
Article (64)	Tax Return and Payment
ARTICLES OF FEDERAL LAW ON TAX PROCEDURES RELEVANT TO THIS MODULE	
Article (8)	Tax Return Preparation and Submission
Article (10)	Voluntary Disclosure

14.1 INTRODUCTION

As explained earlier, VAT is calculated and paid by a taxable person to the government on self assessment basis. Thus, the amount of tax liability needs to be declared by the taxable person before the government through the tax return filed on a periodical basis. By filing a tax return the taxable person makes an assessment of tax for that tax period and the filed tax return qualifies as an assessment.

The responsibility of the Authority is to ensure that the amount of tax is correctly assessed and paid by the taxpayer. The authority may issue an assessment of the tax due for the relevant tax period in cases where the taxable person has failed to file a tax return or where it has reasons to believe that tax amount is not correctly assessed or has escaped assessment.

The tax return of a taxable person therefore, must be filed for **each tax period** with the Authority by a taxable person or a person authorized to act on behalf of the taxable person.

14.2 DURATION OF TAX PERIOD

As per VAT laws, every taxable person is assigned a tax period for which he is required to account for tax in his tax return to be furnished to the Federal Tax Authority. Thus, a Tax Period is a specific period of time for which the Payable Tax shall be calculated and paid.

Article 71 of Federal Decree Law on VAT provides that **the Executive Regulation of this Decree-Law shall specify the Tax Period for which the Taxable Person shall calculate and pay Tax as well as the exceptional circumstances in which the Authority may amend the Tax Period.**

Accordingly Article 62 of the Executive Regulations provides that **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. The following screen will appear showing details of his first and subsequent tax period.

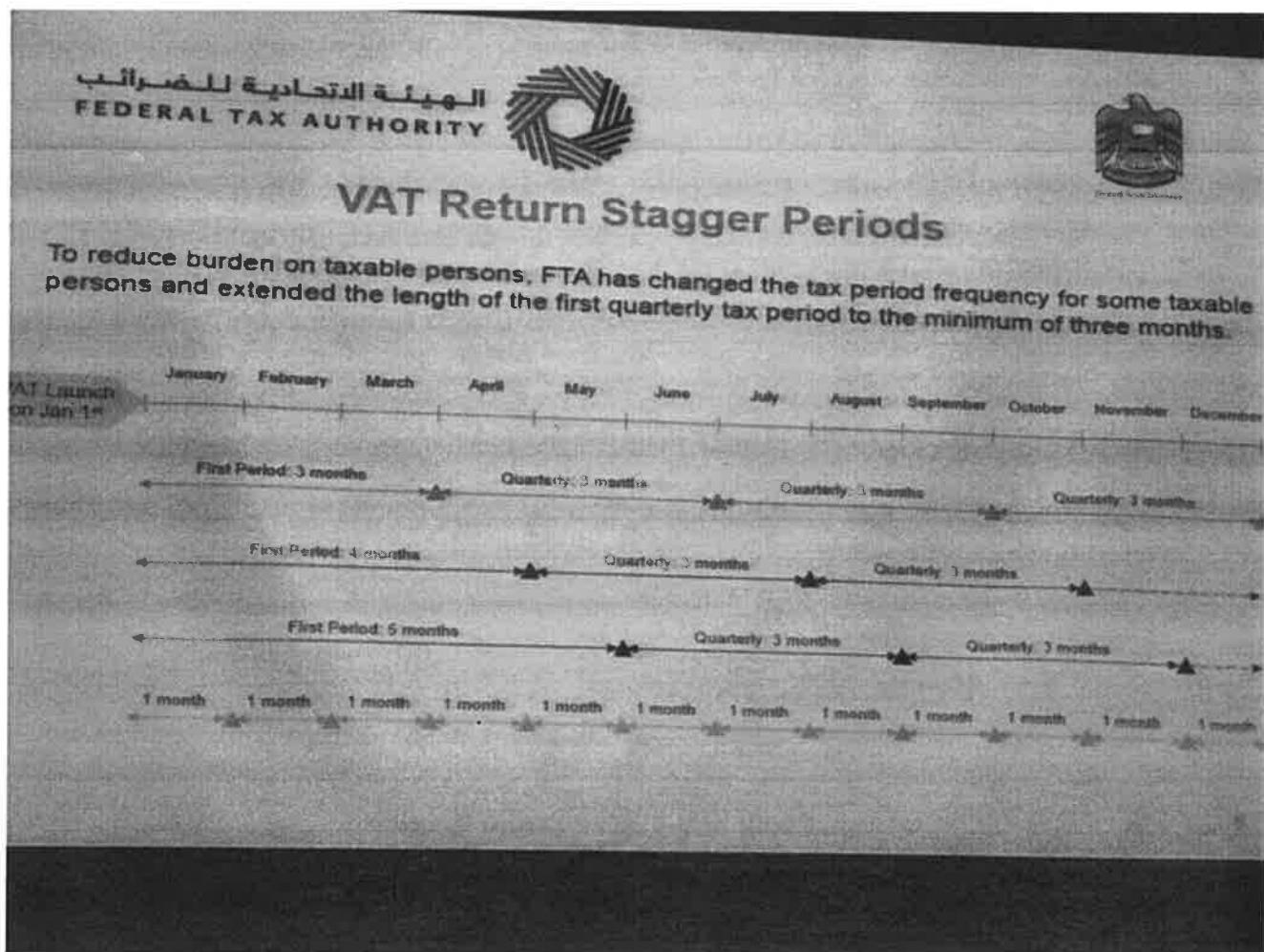
Status	Approved	<input type="button" value="View"/>	
TRN		<input type="button" value="Download Certificate"/>	
Tax Group Amendment Status	Drafted	<input type="button" value="Tax group amendment"/>	
Change Representative Status	N/A		
First VAT Group Return Period	1 Jan 2018 – 30 April 2018 and quarterly thereafter		
First VAT Group Return Due Date	28th day following the end of the VAT return period		
Start And End Date Of Tax Group Period	1 Feb to 30 Apr, 1 May to 31 July, 1 Aug to 31 Oct, 1 Nov to 31 Jan		

Further, Clause 2 of Article 62 of the Executive Regulations provides that **the Authority may assign a Person or class of Persons a shorter or longer Tax Period where it considers that a non-standard Tax Period length is necessary or beneficial to:**

- a. Reduce the risk of Tax Evasion.
- b. Enable the Authority to improve the monitoring of compliance or collection of Tax revenues.
- c. Reduce the administrative burden on the Authority or the compliance burden on a Person or class of Persons.

In accordance with the power conferred under Clause 2 of Article 62 of the Executive Regulations, FTA has provided for **four cycles / staggers of Tax Periods (unless otherwise indicated by the FTA)** which are as tabulated below:

Staggers	1st Tax Period in 2018	Tax Periods (following 1st Tax Period)	Due Date of 1st Tax Period
VAT Stagger 1 (Tax Year end: 31 January of every year)	1 Jan 2018 - 30 Apr 2018	Feb – Apr; May – Jul; Aug – Oct; Nov – Jan	28 May or first business day after in case of public holiday / weekend
VAT Stagger 2 (Tax Year end: last day of February of every year)	1 Jan 2018 – 31 May 2018	Mar – May; Jun - Aug; Sep – Nov; Dec – Feb	28 Jun or first business day after in case of public holiday / weekend
VAT Stagger 3 (Tax Year end: 31 March of every year)	1 Jan 2018 – 31 Mar 2018	Apr – Jun; Jul – Sep; Oct – Dec; Jan – Mar	28 Apr or first business day after in case of public holiday / weekend
VAT Stagger 4 (Tax Year end: last day of the calendar year)	1 Jan 2018 – 31 Jan 2018	Monthly	28 Feb or first business day after in case of public holiday / weekend



Where a Taxable Person is assigned the standard Tax Period, he may request that the Tax Period ends with the month as requested by him, and the Authority may accept such request at its discretion. (Clause 2 of Article 62 of the Executive Regulations)

Tax Periods in the Case of Loss of Capacity (Article 63 of Executive Regulation)

1. Where a Person becomes an incapacitated Person, his current Tax Period will end on the day before the Person became incapacitated Person. A new Tax Period will commence on the day the Person became incapacitated Person in the name of the Legal Representative.
2. For the purposes of Clause (1) of this Article “incapacitated Person” means a Registrant who dies, or goes into liquidation or receivership, or becomes bankrupt or incapacitated.
3. The Legal Representative will, for the purposes of the new Tax Period referred to in Clause (1) and subsequent Tax Periods, be treated as the Registrant himself for the purposes of the Decree-Law and this Decision for the period of incapacitation.

14.3 PREPARATION AND SUBMISSION OF TAX RETURNS

Article 71 of Federal Law No. 8 of 2017 on VAT stipulates as below

1. The Taxable Person shall submit the Tax Return to the Authority at the end of each Tax Period within the time limits and according to the procedures specified in the Executive Regulation of this Decree-Law declaring all supplies made and received during that Tax Period.
2. A Cabinet Decision shall be issued upon the recommendation of the Minister, determining the Government Entities that may submit simplified Tax Returns to the Authority.

Article 64 of the Executive Regulations on VAT accordingly contains below provisions with respect to submission of VAT returns. These are as follows.

1. **A Tax Return must be 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.**
2. A Person whose registration has been cancelled must provide a final Tax Return for the last Tax Period for which he was registered.
3. 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 date specified in Clause (1) of this Article.
4. Where Recoverable Tax for a Tax Period exceeds Due Tax for the Tax Period, the excess Recoverable Tax may be repaid to the Taxable Person in accordance with the relevant provisions in the Decree-Law and the Federal Law No. (7) of 2017.
5. A Tax Return must contain such details as the Authority may require and, at the minimum, allow for the following information to be included:
 - a. The name, address and the TRN of the Registrant;
 - b. The Tax Period to which the Tax Return relates.
 - c. The date of submission.
 - d. The value of Taxable Supplies made by the Person in the Tax Period and the Output Tax charged.
 - e. The value of Taxable Supplies subject to the Zero-rate made by the Person in the Tax Period.
 - f. The value of Exempt Supplies made by the Person in the Tax Period.
 - g. The value of any supplies subject to Clauses (1) and (3) of Article (48) of the Decree-Law.

- h. The value of expenses incurred in respect of which the Person seeks to recover Input Tax and the amount of Recoverable Tax.
- i. The total value of Due Tax and Recoverable Tax for the Tax Period.
- j. The Payable Tax for the Tax Period.

It is pertinent to note that above information is the minimum one prescribed under law. The Authority has been given power under the aforesaid clause 5 to prescribe and amend Tax Return format. The tax payers shall therefore, provide all the information sought under the VAT return. **For details on the information sought under VAT Returns, please refer paragraph 14.4 (VAT Returns User Guide).** The guide provides the format of the VAT return for filing purpose.

14.4 VOLUNTARY DISCLOSURE IN CASE OF INCORRECT RETURN

Article 10 of Federal Law on Tax Procedure contains below provisions in case taxable person becomes aware that incorrect return has been filed.

1. If a Taxable Person becomes aware that a Tax Return submitted by him to the Authority or a Tax Assessment sent to him by the Authority is incorrect, resulting in a calculation of Payable Tax according to the Tax Law being less than it should have been, the Taxable Person must in that event apply to correct such Tax Return by submitting a Voluntary Disclosure within the time limit specified in the Executive Regulations of this Law.
2. If a Taxable Person becomes aware that a Tax Return submitted by him to the Authority or a Tax Assessment sent to him by the Authority are incorrect, resulting in the calculation of Payable Tax according to the Tax Law being more than it should have been, he may in that event apply to rectify such a Tax Return by submitting a Voluntary Disclosure.

14.5 VAT RETURNS USER GUIDE ISSUED BY FTA

In order to assist taxpayer to **meet their compliance obligations** in respect of VAT Return filing and payments of tax, FTA has come up with the detailed user guide on filing of VAT returns. The guide contains detailed instructions with respect to filing of returns. The same is being reproduced here for quick reference of the readers.



United Arab Emirates

VALUE ADDED TAX (VAT) RETURNS USER GUIDE

February 2018



1. Brief overview of this user guide

This guide will help you navigate the e-Services portal, and is designed to be read in conjunction with the Taxable Person Guide for VAT to file your Value-Added Tax (“VAT”) Tax Return (Form VAT201). It is intended to help you:

- **meet your compliance obligations** in respect of VAT Return filing, payments of tax and obtaining VAT refunds.
- **understand the icons and symbols** included in the forms.

What is the VAT Return: The official document to be completed by the Taxable Person and submitted to the Federal Tax Authority (“FTA”) at regular intervals detailing any output tax due and input tax recoverable and including any other information that is required to be provided. In this guide, we will refer to it as the “VAT return”.

All VAT Returns should be submitted online using the FTA portal. The return can be submitted by the Taxable Person, or another person who has the right to do so on the Taxable Person’s behalf (for example, a Tax Agent or a Legal Representative).

2. Important notes about the VAT Return

2.1. Tax Period

- A Tax Period is a specific period of time for which the Payable Tax shall be calculated and paid.
- The standard Tax Period applicable to a Taxable Person shall be a period of **three calendar months** ending on the date that the FTA determines. The FTA may, at its discretion, assign a different Tax Period, other than the standard one, to a certain group of Taxable Persons (e.g. in some cases businesses may be required to file VAT returns on a monthly basis).
- Where a Taxable Person is assigned the standard Tax Period, he may request that the Tax Period ends with the month as requested by him, and the FTA may accept such a request at its discretion.
- The VAT Return must be received by the FTA no later than the **28th day** following the end of the Tax Period concerned or by such other date as directed by the FTA. Where a payment is due to the FTA, it must be **received** by the FTA by the same deadline.

Where the due date for the submission of the VAT Return and the corresponding payment falls on a weekend or a national holiday, the deadline for filing the VAT Return or making a payment is extended to the first business day thereafter.



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- You will be under one of the following four cycles / staggers of Tax Periods (unless otherwise indicated by the FTA), based on your Tax Year end as follows:

Staggers	Tax Periods (following 1 st Tax Period)	1 st Tax Period in 2018	Due Date of 1 st Tax Period
VAT Stagger 1 (Tax Year end: 31 January of every year)	Feb – Apr; May – Jul; Aug – Oct; Nov - Jan	1 Jan 2018 - 30 Apr 2018	28 May or first business day after in case of public holiday / weekend
VAT Stagger 2 (Tax Year end: last day of February of every year)	Mar – May; Jun - Aug; Sep – Nov; Dec – Feb	1 Jan 2018 – 31 May 2018	28 Jun or first business day after in case of public holiday / weekend
VAT Stagger 3 (Tax Year end: 31 March of every year)	Apr – Jun; Jul – Sep; Oct – Dec; Jan – Mar	1 Jan 2018 – 31 Mar 2018	28 Apr or first business day after in case of public holiday / weekend
VAT Stagger 4 (Tax Year end: last day of the calendar year)	Monthly	1 Jan 2018 – 31 Jan 2018	28 Feb or first business day after in case of public holiday / weekend

- If there is no business transaction for the Tax Period, you are required to submit a “nil” VAT Return by the respective due date.

2.2. Understanding tax liability

Below are some key terms with respect to the operation of VAT, and how these could impact a Taxable Person's tax liability.

Output Tax

“Output tax” is the VAT a Taxable Person calculates and charges on its supplies of goods and services once it is registered for VAT. Output tax must generally be calculated on supplies made to other persons; however, in certain situations VAT might be required to be charged on supplies which were deemed to occur for VAT purposes or on supplies which are subject to the reverse charge provisions.

The obligation to account for output tax arises at the tax point of the supply, i.e. at the date of supply. Once the date of the supply has taken place, the Taxable Person must account for the output tax in the VAT Return covering that Tax Period.



Input Tax

From the recipient's point of view, "input tax" is the VAT added to the price by the supplier when the recipient purchases goods or services which are subject to VAT. If the recipient is registered for VAT then they may be able to recover this input tax from the FTA, subject to the conditions below:

- the Taxable Person has received and retained a tax invoice or other documentation evidencing the amount of VAT on the supply or import; and
- the amount of VAT has been paid, or is intended to be paid, in whole or in part (in which case the amount of input tax recoverable shall be limited to the equivalent amount).

Once the ability to recover input tax has been confirmed, the person is able to include the amount in the relevant VAT Return as an input tax deduction.

2.3. Calculating tax liability

A registered person's tax liability is simply the difference between the output tax payable for a given Tax Period and the input tax which is recoverable for the same Tax Period. Where the output tax exceeds the input tax amount, a payment of the difference must be made to the FTA.

Where the amount of input tax exceeds the amount of output tax, a Taxable Person is entitled to a refund of VAT from the FTA.

2.4. Filing VAT Returns

For each Tax Period, a Taxable Person will be required to submit a VAT Return which contains details regarding the supplies made or received by the Taxable Person.

With respect to sales and other outputs, the Taxable Person will need to report:

1. supplies of goods and services made which are subject to the standard rate of VAT per Emirate;
2. tax refunds you have provided to tourists under the Tax Refunds for Tourists Scheme, if you are a retailer and provide tax refunds to tourists in the UAE under the official tourists refund scheme;
3. supplies of goods and services received by the Taxable Person which are subject to the reverse charge provisions;
4. supplies of goods and services made which are subject to the zero rate of VAT;
5. supplies made which are exempt from VAT;
6. goods imported into the UAE and have been declared through UAE customs; and
7. where applicable, adjustments to goods imported into the UAE and which have been declared through UAE Customs.



With respect to purchases and other inputs, the Taxable Person should report:

1. purchases and expenses that were subject to the standard rate of VAT and for which you would like to recover VAT; and
2. any supplies which were subject to the reverse charge for which you would like to recover input tax.

The amounts of VAT charged and input tax recoverable by the Taxable Person would then need to be netted off in the Tax Return. The resulting amount is the net VAT payable to, or to be refunded by, the FTA (i.e. the net VAT position).

3. Completing and Submitting the VAT Return Form

As a Taxable Person registered for VAT purposes, you are required to declare and pay the payable due tax in the VAT Return which relates to the Tax Period in which you made and received supplies.

3.1. Initiate the form

To initiate and access the VAT Return, you should login to the FTA e-Services portal using your registered username and password. In order to begin completing your VAT Return, go to the “VAT” tab on the navigation bar and then go to ‘VAT201 – VAT Returns’ tab. From this screen, click on ‘VAT201 – New VAT Return’ to initiate the VAT Return form.



3.2. Complete the form

The below section is a walkthrough of the form including the information required to be completed in each section:



Taxable Person Details

Details of the Taxable Person will be pre-populated and your input is not required. If a Taxable Person has appointed a Tax Agency and a Tax Agent, their details will also appear accordingly. This includes information such as the "TRN" or "Tax Registration Number" for the Taxable Person, as well as their name and address. If you are a Tax Agent submitting the VAT return on behalf of a Taxable Person, you will also see your "TAAN" or "Tax Agent Approval Number" and your associated "TAN" or "Tax Agency Number", along with the Tax Agent and Tax Agency name populated at the top of the VAT Return. You will also be able to see your VAT Return submission due date here. Please check and ensure that all of this information is correct before going any further.

Taxable Person Details

TRN

100314157700003

Taxable Person Name (English)

ABC

Taxable Person Name (Arabic)

Taxable Person Address

ABC Street

Dubai, United Arab Emirates,
12, +971522116682

VAT Return Period

The form will automatically populate the 'VAT Return Period' for which you are currently filing for, the Tax Year end and VAT period reference number.

The Tax Year end is important for businesses which are not able to recover all of their VAT and need to perform an input tax apportionment annual adjustment. This adjustment is due in the first tax period following the Tax Year end. The VAT return period reference number tells you which tax period you are completing within that tax year. So, if the VAT return period reference is 1, those affected businesses should include their input tax apportionment annual adjustment in this VAT return.

Please note that this will only be required after the 1st year of VAT, i.e. from 1 January 2019 onwards.

You'll also be able to see your VAT return submission due date here. Please check and ensure that all of this information is correct before going any further.



VAT Return Period

VAT Return Period*

01/01/2018 - 31/01/2018

VAT Return Due Date

28/02/2018

Tax Year End*

31 December 2018

VAT Return Period Reference Number*

01 - 2018

Common requirements when completing the VAT Return

When completing each box of the VAT Return, you must:

- Insert all amounts in United Arab Emirates Dirhams (AED)
- Insert all amounts to the nearest fils (the form allows for two decimal places)
- Complete all mandatory fields
- Use "0" where necessary and where there are no amounts to be declared

VAT on Sales and all other Outputs

Insert the amount details on sales and all other outputs as follows:

- **Amount (AED):** Enter all amounts relating to sales and other outputs **net** of VAT and for each Emirate, where applicable, according to the provisions of the VAT legislation.

You should also include reductions in value due to credit notes issued and errors that you are allowed to correct for previous Tax Periods. For any corrections of errors, consider if you are required to make a voluntary disclosure instead, according to the provisions of the Federal Tax Procedures legislation.

If you become aware that a VAT Return that you have submitted previously contains errors that resulted in a calculation of payable tax being less than required by not more than AED 10,000, then you can correct this error in the current VAT Return in which you have discovered the error.

Under the "Amount" column, you should only declare the net amount of the correction excluding the amount of VAT.

If the error has resulted in a calculation of payable tax being less than required by more than AED 10,000, you should make a Voluntary Disclosure.



- **VAT Amount (AED):** Enter the VAT amounts relating to sales and other outputs and for each Emirate where applicable. You should also include reductions in the VAT amount due to credit notes issued and errors that you are allowed to correct from previous Tax Periods. For any corrections of errors, consider if you are required to make a voluntary disclosure instead, according to the provisions of the Federal Tax Procedures legislation.

If you become aware that a VAT Return that you have submitted previously contains errors that resulted in a calculation of payable tax being less than required by not more than AED 10,000, then you can correct this error in the current VAT Return in which you have discovered the error.

Under the “VAT Amount” column, you should only declare the VAT amount of the correction.

If the error has resulted in a calculation of payable tax being less than required by more than AED 10,000, you should make a Voluntary Disclosure.

- **Adjustment (AED):** Use this column for any adjustments required to Output Tax as a result of adjustments for Bad Debts. All amounts entered should be VAT amounts only and can only be negative amounts. These should be reported for each Emirate, where applicable, in accordance with the respective Output Tax amounts being adjusted.

In addition, the “adjustment” column in this section of the VAT return is used to record any adjustments made to the output tax due as a result of sales of commercial property in the UAE. If you are a seller of taxable commercial property in the UAE which has taken place in the tax period and the buyer has already paid for the output tax to the FTA, you must account for the output tax as normal and also include the output tax in the adjustments column. This will prevent accounting for the output tax twice, as the buyer has already made a payment of VAT to the FTA. All amounts entered should be VAT amounts only and can only be negative amounts. Again, these should be reported for each Emirate in relation to the Emirate in which the property is located.

If you are not claiming VAT Bad Debt Relief or making a real estate adjustment, you should not include anything in the “adjustment” column.



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VAT on Sales and All Other Outputs

	Amount (AED)	VAT Amount (AED)	Adjustment (AED)
1a Standard rated supplies in Abu Dhabi [*]	20000	1000	0.00
1b Standard rated supplies in Dubai [*]			0.00
1c Standard rated supplies in Sharjah [*]			0.00
1d Standard rated supplies in Ajman [*]			0.00
1e Standard rated supplies in Umm Al Quwain [*]			0.00
1f Standard rated supplies in Ras Al Khaimah [*]			0.00
1g Standard rated supplies in Fujairah ^k			0.00
2 Tax Refunds provided to Tourists under the Tax Refunds for Tourists Scheme [*]	- 0.00	- 0.00	
3 Supplies subject to the reverse charge provisions [*]			
4 Zero rated supplies [*]			
5 Exempt supplies ^a			
6 Goods imported into the UAE [*]	0.00	0.00	View Details
7 Adjustments to goods imported into the UAE ^a			
8 Totals	0.00	0.00	0.00

The below is a description of each box for the boxes 1 to 8:

Box 1: Standard rated supplies

Box 1 refers to the net value of standard rated supplies made, and the VAT due, on all standard rated supplies made by you. Standard rated supplies are those supplies which are subject to VAT at 5%. The net value means the value of the supplies excluding the VAT charged to the customer. For example, if you have sold goods for AED 100 with AED 5 of VAT, you should account for AED 100 under the "Amount (AED)" column and AED 5 under the "VAT Amount (AED)" column.



This information should be identified by the Emirate in which that supply was made. For businesses with fixed establishments in the UAE, the supply should be reported in the Emirate where the fixed establishment most closely connected to the supply is located. For non-established businesses, the supply should be reported in the Emirate where the supply was received.

Please refer to the table below for some examples of what to be included and not included into this Box:

Please include the following:

- The supply of goods and services subject to VAT at 5%
- Supplies of goods and services at a discounted rate (after deducting the discount value)
- Deposits received as part payment
- Sales through vending machines
- Supplies of commercial property
- Inter-company sales (where you don't have a Tax Group registration in place)
- Supplies made to staff, for example canteen takings, private use charges
- The sale of business assets
- Deemed supplies, such as gifts of business assets which are above the relevant limits provided in the VAT legislation or business assets put to private use. Goods and services that you own at the date of tax deregistration must also be reported here
- Reimbursements of expenses from customers where you have recovered the VAT on the expenses as a separate supply and made a recharge of the cost to your customer
- The full value of goods sold under the profit margin scheme (less any VAT calculated on the margin), even though the VAT due is only calculated on the profit achieved
- Sales from non-resident persons who are registered for VAT purposes in the UAE, where the importer is not responsible for the calculation and settlement of the tax
- Supplies of goods located within Designated Zones where the goods are consumed within the Designated Zone
- Reductions in value due to credit notes issued; or



- Errors that you are allowed to correct for previous Tax Periods. This will apply where you have discovered an error where the payable tax is more or less than required by AED 10,000 or less, and you discovered the error in this tax period. If the tax value of the error you have discovered is more than AED 10,000 you should submit a voluntary disclosure in the Tax Period in which the error was found.

Please exclude the following:

- sales of goods located within Designated Zones which are not consumed within the Designated Zone
- out of scope supplies
- zero-rated supplies, such as exports of goods or services outside the UAE, zero-rated educational services and zero-rated healthcare services; or
- disbursements.

You should use the Adjustments column only to:

- record any adjustments made to the output tax due as a result of any claims for VAT Bad Debt Relief, as noted above in this guide
- record any adjustments made to the output tax due as a result of sales of taxable commercial property in the UAE, as noted above in this guide.

Box 2: Tax Refunds provided to Tourists under the Tax Refunds for Tourists Scheme

Box 2 requires you to include the value of any tax refunds provided to tourists under the tax refunds for tourists scheme. You should only use this box if you are a retailer and provide tax refunds to tourists in the UAE under the official tourists refund scheme. The amounts reported in this box should always be negative, and will therefore reduce your total output tax liability.

Note: Only businesses registered and enrolled under the tax refunds for tourists scheme should use this box, otherwise nil values are already pre-populated and should be included within this box.

Please include the following:

The net and VAT amounts of any tax refunds that you have provided to tourists under the tax refunds for tourists scheme. You should report under the "VAT Amount (AED)" column the amount of VAT that you have refunded to tourists.



Box 3: Supplies subject to the reverse charge provisions

You should declare in Box 3 the value of supplies of goods and services received which are subject to VAT under the reverse charge mechanism. This includes imports of services where the customer is required to account for the VAT. Please disregard any imports of goods that have been declared to UAE customs during this Tax Period which are subject to the reverse charge and for which the import VAT is reported separately in Box 6. As a result, in most cases the values declared within this box will relate only to purchased services which are subject to the reverse charge mechanism. The **only** circumstance where a purchase of imported goods should be reported in this box would be where the movement was not declared via UAE Customs for some reason. The value to be included in these boxes include only the net value and VAT value of the output tax due on these supplies. If the taxable person is entitled to recover the VAT on the supply as input tax, that will be recovered in Box 10 of the VAT return.

Please refer to the table below for some examples of what to be included and not included into this Box:

Please include the following:
<ul style="list-style-type: none"> • Services received from foreign suppliers which are subject to the standard rate of VAT
<ul style="list-style-type: none"> • Services received from foreign suppliers which are subject to the zero rate of VAT
<ul style="list-style-type: none"> • Goods received which are subject to the reverse charge provisions and have not been declared to UAE customs (e.g. through an import declaration)
<ul style="list-style-type: none"> • Local supplies subject to the reverse charge provisions (e.g. specific supplies within the oil and gas industry)
Please exclude the following:
<ul style="list-style-type: none"> • Imports of goods into the UAE which are subject to the reverse charge provisions but which have been declared to UAE customs and therefore will be reported in Box 6 of the VAT Return.



Box 4: Zero-rated supplies

In Box 4, you should declare the value of supplies of goods and services which are subject to VAT at 0% ("zero-rated supplies"). Only the net value of the supply is required to be declared in this Box, since VAT on the supply is calculated as nil.

Please refer to the table below for some examples of what should be included in this Box:

Please include the following:

- Exports of goods and services outside the UAE.
- Local supplies of certain educational services and related goods and services
- Local supplies of certain healthcare services (e.g. preventive and basic healthcare services and related goods and services)
- Supplies or imports of investment precious metals
- Supplies of crude oil and natural gas

Box 5: Exempt supplies

All exempt supplies should be indicated in this Box. Only the net value of the supply is required to be declared in this Box, since there is no VAT on the supply.

Please refer to the table below for some examples of what should be included in this Box:

Please include the following:

- Local supplies of certain financial services
- Supplies of residential buildings through sale or lease, other than the ones subject to the zero rate of VAT
- Supplies of bare land
- Supplies of local passenger transport



Box 6: Goods imported into the UAE

Box 6 will include the net value and the output tax (i.e. VAT amount) due on goods which have been imported into the UAE. This will include all imports which have been declared through UAE Customs where payment of the VAT on import is to be made on the VAT return. The value of this box ("Amount (AED)") should be auto-populated based on imports you have declared under your customs registration number, which should be linked to your TRN. Please note that this amount will also include any customs duties and any Excise Tax that you have paid on the goods imported within this Tax Period. The respective output tax amount ("VAT Amount (AED)") will also be auto-populated by applying a 5% VAT to the net value amount. You should check that the values which have been included in this box match the values you expected to declare, based on the import declarations you have submitted during the tax period.

If you are an agent who imports goods into the UAE on behalf of non-registered persons, it is your responsibility to pay the tax in respect of the import of goods. Therefore, such imports should also appear in this box.

Please refer to the table below for some examples of what should be included in this Box:

Please include the following:

- Imports of goods into the UAE through UAE customs that have already been reported in your customs declarations
- Imports of goods from agents on behalf of an unregistered persons

Box 7: Adjustments to goods imported into the UAE

You should use this box **only** if the information that is prepopulated in Box 6 regarding goods imported into the UAE is incomplete or incorrect. If this is the case, you can use this box to make adjustments accordingly. The amounts of adjustments included into this box could be positive or negative, and you should be able to justify them, if asked to by the FTA. Please adjust accordingly, the net amount field and/or the VAT amount field depending on the adjustment to be made.



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As noted above, VAT at the point of import is imposed on the Value of the import which comprises of the customs value as defined in the Customs legislation, including the value of insurance, freight and any customs fees and any Excise Tax paid on the import of the goods into the UAE. Therefore, import VAT will be imposed on top of your customs duties and Excise Tax inclusive value.

If any imports appear to have been excluded from Box 6 or appear to be incorrect, when comparing them to the amounts reported in your customs and (if applicable Excise Tax) import declarations, you can use Box 7 to make adjustments accordingly. For example, if you have imported goods worth 1 million AED plus VAT, and this import does not appear to be included within Box 6, you can manually include this within Box 7 (i.e. 1 million) and the respective VAT amount (if any). Furthermore, if you have imported any goods which are not subject to the standard rate of VAT of 5% (for example goods subject to the 0% VAT rate), please use Box 7 to adjust the VAT amount accordingly, as by default all of your imports have been assumed to be subject to a 5% VAT rate. Please note that it is your responsibility to identify such adjustments that are required to be made and adjust them through your VAT Return using Box 7. In order to be able to identify such adjustments which may be required, you may use the “View Details” option available on your screen in order to see how both the net amount of your total imports under “Amount (AED)” and the respective output tax or import VAT under “VAT Amount (AED)” in Box 6 are comprised.

If you are an agent who imports goods into the UAE on behalf of non-registered persons, it is your responsibility to pay the tax in respect of the import of goods. Therefore, if any such imports have been excluded from Box 6 or appear to be incorrect, you can use Box 7 to make adjustments accordingly for such amounts and/or the respective output tax as well.

Box 8: Totals

Box 8 automatically calculates the totals of all of the above boxes, arriving at the total output tax due to the FTA and total adjustments applicable to that value, for the tax period.

VAT on Expenses and all other Inputs

Fill in the VAT amount details on expenses and all other inputs as follows:



- **Amount (AED):** Enter all amounts relating to all expenses and inputs net of VAT, for which you would like to recover input tax.

You should also include reductions in value due to credit notes issued by supplies and errors that you are allowed to correct for previous Tax Periods. For any corrections of errors, consider if you are required to make a voluntary disclosure instead, according to the provisions of the Federal Tax Procedures legislation.

If you become aware that a VAT Return that you have submitted previously contains errors that resulted in a calculation of payable tax being more or less than required and it is not more than AED 10,000, then you can correct this error in the current VAT Return in which you have discovered the error.

Under the “Amount” column, you should only declare the net amount of the correction excluding the amount of VAT.

If the error has resulted in a calculation of payable tax being less than required by more than AED 10,000, you should make a Voluntary Disclosure as provided by the FTA.

- **Recoverable VAT amount (AED):** Enter the amounts of recoverable VAT only (not total incurred VAT, in case your ability to recover input tax is restricted). You should also include changes in the VAT amount due to credit notes and errors that you are allowed to correct from previous Tax Periods. For any corrections of errors, please consider if you are required to make a voluntary disclosure instead, according to the provisions of the Federal Tax Procedures legislation.

If you become aware that a VAT Return that you have submitted previously contains errors that resulted in a calculation of payable tax being more or less than required and by not more than AED 10,000, then you can correct this error in the current VAT Return in which you have discovered the error.

Under the “VAT Amount” column, you should only declare the VAT amount of the correction.

If the error has resulted in a calculation of payable tax being less than required by more than AED 10,000, you should make a Voluntary Disclosure as provided by the FTA.



- **Adjustment (AED):** Use this column for any adjustments relating to Input Tax for previously reported amounts which arise as a result of adjustments for bad debts, end of year adjustments to the recoverable Tax and/or adjustments under the Capital Assets Scheme.

All amounts provided should be VAT amounts and can be positive or negative amounts.

The first type of adjustment would be any adjustment relating to input tax previously recovered on purchases where you haven't paid the supplier of those goods or services for more than 6 months after the due date for payment. In such cases, the supplier is likely to claim VAT bad debt relief for the output tax he should have already paid to the FTA on the supply to you. Given that you haven't paid the supplier, and the FTA will be required to repay the VAT to the supplier, you are no longer entitled to the VAT you recovered on the supply and should repay it to the FTA in the adjustment box. If you later pay the expense in a subsequent tax period, you will be able to reclaim the input tax on the VAT Return for that tax period.

The second type of adjustment which could be included within this box would be an input tax apportionment annual adjustment, in cases where you are a business which can't recover all of the input tax it incurs. The input tax apportionment annual adjustment is due to be made in the first tax period following the end of the tax year. So, you would be expected to include the annual adjustment on this return if the VAT Return period reference number at the top of the VAT return is Period 1 for any tax year after 2018, i.e. from the beginning of 2019 onwards. The adjustment should relate to the tax year which has just ended. The values included within the adjustments column may either be positive or negative values. For more information on completing your input tax apportionment annual adjustment, please see the FTA website for guidance.

The third type of adjustment which could be included within this box would be adjustments under the Capital Assets Scheme. If any of your capital assets are eligible for the Capital Assets Scheme then the input tax incurred in relation to that capital asset should be adjusted in each tax year, according to the provisions of the VAT legislation and over a period of either five or ten consecutive years depending on the type of capital asset it is.



Depending on the result of your adjustment calculation every year, input tax amount should be adjusted accordingly upwards or downwards by using this box of the VAT return.

If you are not performing any of the above adjustments, you should not include anything in the “adjustment” column.

VAT on Expenses and All Other Inputs

	Amount (AED)	Recoverable VAT amount (AED)	Adjustment (AED)
9 Standard rated expenses ^A	0.00	0.00	0.00
10 Supplies subject to the reverse charge provisions ^B	0.00	0.00	0.00
11 Totals	0.00	0.00	0.00

Box 9: Standard rated expenses

Enter all expenses subject to the standard rate of VAT for which you would like to recover Input Tax. The total net value of the standard rated purchases on which you’re seeking to recover VAT should be reported in the “Amount (AED)” column. The VAT amounts relating to the net value of expenses and inputs previously included within the “Amount (AED)” column, should be included within the “Recoverable VAT Amount (AED)” column. This should only include the VAT you are entitled to recover, **not** the total value of VAT you have incurred on all costs. For example, if you have incurred 1,000 AED of input tax which directly relates to the making of exempt supplies this input tax is not recoverable by you. The net value of this irrecoverable cost should be reported within the “Amount (AED)” column. However, the VAT value should not be included within the “Recoverable VAT Amount (AED)” column.

You should also include any required adjustments to the Recoverable Tax under the “Adjustment (AED)” column, as indicated above.

Please refer to the table below for some examples of what to be included and not included into this Box:





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Please include the following:

- goods or services purchased for business purposes from VAT registered suppliers that were subject to VAT at 5%
- goods or services which were purchased at a discount
- the total price that you have paid for the goods purchased, which you are selling under the profit margin scheme
- goods or services purchased before your tax registration and for which you wish and are able to claim the tax incurred. The claim must be made in your first VAT return
- reductions in value due to credit notes received from suppliers; and
- errors that you are allowed to correct for previous Tax Periods. This will apply where you have discovered an error where the payable tax is more or less than required by AED 10,000 or less, and you discovered the error in this tax period. If the tax value of the error you have discovered is more than AED 10,000 you should submit a voluntary disclosure in the Tax Period in which the error was found

Please exclude the following:

- wages and salaries
- money put into and taken out of the business by you
- purchases that were purely for private or personal use
- expenses where the input tax is specifically disallowed, such as entertainment costs, motor vehicles which are available for private use and any other costs which are put to private use
- expenses which were incurred to make exempt or non-business supplies
- exempt or zero-rated purchases – note that purchases which were subject to VAT under the reverse charge mechanism should be recovered in Box 10, not Box 9
- purchases of goods located within Designated Zones which were not consumed in the Designated Zone or subsequently imported into the UAE mainland
- gifts or donations of money freely given for nothing in return
- purchases from members of the same tax group
- fines and penalty charges received e.g. traffic fines

You should use the Adjustments column only to:

- record any adjustments made to the input tax due as a result of any claims for VAT Bad Debt Relief made by your supplier, as noted above in this guide
- record any input tax apportionment annual adjustments
- record any Capital Assets Scheme adjustments



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Box 10: Supplies subject to the reverse charge provisions

Box 10 allows you to recover any VAT you have paid as output tax under the reverse charge mechanism which was declared in Boxes 3, 6 and 7 of the VAT return. If you are entitled to recover some or all of the VAT declared under the reverse charge mechanism, you should include the net value of the expenses you are eligible to recover and the VAT applicable on those expenses. Any element of the VAT incurred on expenses which were subject to the reverse charge mechanism and which is not recoverable, should not be reported in any of these boxes.

For example, if you previously declared supplies of 1 million AED which were subject to VAT under the reverse charge mechanism in Box 3 of the VAT return, you should also have declared 50,000 AED of output tax due on that supply. If you are entitled to recover all of the VAT incurred under the reverse charge mechanism, you should declare the same value of supplies in Box 10 and recover the same value of VAT. If, however, you are only entitled to recover half of the VAT incurred under the reverse charge mechanism then in Box 10 you should declare 1 million AED in the "amount" column and 25,000 AED in the "recoverable VAT amount" column. Even where you can't recover all of the VAT incurred on the supply, it is important that the full value of the supply and the output tax due to the FTA has been included within Box 3 above.

Please refer to the table below for some examples of what to be included and not included into this Box:



Please include the following:

- Services received from foreign suppliers which are subject to the standard rate of VAT and for which you are eligible to recover any VAT (these should have also been reported in Box 3)
- Services received from foreign suppliers which are subject to the zero rate of VAT (these should have also been reported in Box 3)
- Goods received which are subject to the reverse charge provisions and have not been declared to UAE customs (e.g. through an import declaration) and for which you are eligible to recover any VAT (these should have also been reported in Box 3)
- Local supplies subject to the reverse charge provisions (e.g. specific supplies within the oil and gas industry) and for which you are eligible to recover any VAT (these should have also been reported in Box 3)
- Imports of goods into the UAE through UAE customs that have already been reported in your customs declarations and for which you are eligible to recover any VAT (these should have also been reported in Box 6 and/or Box 7)
- Imports of goods from agents on behalf of an unregistered persons (these should have also been reported in Box 6 and/or Box 7)

Box 11: Totals

Box 11 then automatically calculates the total of the values declared in Box 9 and Box 10. These totals represent the total value of VAT you are entitled to recover, as well as any adjustments made to those values.

Net VAT Due

The following fields will indicate your payable tax for the Tax Period.

Net VAT Due

12 Total value of due tax for the period	1,000.00
13 Total value of recoverable tax for the period	0.00
14 Payable tax for the period	1,000.00



Box 12: Total value of due tax for the period

The total value of Output Tax that is due for the Tax Period will be calculated based on the above information. This will be the sum of the VAT and Adjustments columns in the Outputs section.

Box 13: Total value of recoverable tax for the period

The total value of Input Tax that is recoverable for the Tax Period will be calculated based on the above information. This will be the sum of the VAT and Adjustments columns in the Inputs section.

Box 14: Payable tax for the period

This will be the total due tax for the period less the total recoverable tax for the period and will indicate your net payable or recoverable tax for the current Tax Period.

If the figure in Box 12 is more than the figure in Box 13, the difference is the amount of VAT that you must pay. If the figure in Box 12 is less than the figure in Box 13, then you will be eligible to request a refund for the net amount of recoverable tax.

If you do not wish to request for a refund of the excess recoverable tax, your excess recoverable tax will be carried forward to subsequent Tax Periods and can be used to offset against payable tax and/or penalties, or you can apply for a refund later at any point in time.

Box 15: Do you wish to request a refund for the above amount of excess recoverable tax.

If you are in a net recoverable position, an option will be available on the VAT Return to request a refund of the excess recoverable tax.

If 'Yes' is selected, you will be required to complete the VAT refund application (Form VAT311) after the VAT Return Form is submitted.

If you select 'No', your excess recoverable tax will be carried forward to subsequent Tax Periods and can be used to offset against payable tax and/or penalties.



Additional Reporting Requirements

Please note that the additional reporting requirements section requires the provision of additional reporting only for specific taxable persons to whom this specific section applies. If the below section does not apply to you for the specific Tax Period you are filing for, please indicate 'No' as your answer.

The additional reporting requirements section does not have any financial implications on your VAT payable or recoverable amounts as it does not impact the VAT Return totals.

Profit Margin Scheme

You will be required to indicate whether you have used and applied the provisions of the Profit Margin Scheme during this period. Please select 'Yes' only if you have used the Profit Margin Scheme during the current Tax Period for which you are filing the current VAT Return.

Additional Reporting Requirements

Profit Margin Scheme

Did you apply the profit margin scheme in respect of any supplies made during the tax period?

Yes No



Declaration and Authorised Signatory

Once you have finished filling in the VAT Return form, tick the box next to the declaration section.

Please note that all of the relevant Authorised Signatory details and information will be prepopulated based on the information that has already been provided upon the completion of your Taxable Person records.

Declaration and Authorised Signatory

Name in English

Abbas

Name in Arabic

أبو

Phone/Mobile country code

United Arab Emirates (+971)

Phone/mobile number

564914215

Date of submission (dd/mm/yyyy)

22/01/2018

E-mail address



I declare that all information provided is true, accurate and complete to the best of my knowledge and belief.

Cancel

Save as draft

Submit



3.3. Save the progress

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

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

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

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

3.4. Submit the VAT Return Form

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

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

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



United Arab Emirates

4. Paying VAT

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

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



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

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

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

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

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

VAT & Penalty Payment

Total Outstanding Liability 0.00 AED

Enter amount you want to pay *

Make Payment

Payment Information

Tel: 00971564550000

Pay Amount 1,000.00 AED

Pay Now **Cancel**

e-Dirham: VISA



الدبي المالي e-dirham

Payment Methods Types

Please select one of the payment methods





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

5. VAT Return Penalties

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

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

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

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

VAT & Penalty Payment

Total Outstanding Liability 2000 AED

Enter amount you want to pay *

Make Payment



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

Payment Information

TIN: ESTTHAHV90

Pay Amount: 1,000.00 AED

Pay Now **Cancel**

e-dirham VISA

الدرهم الإلكتروني
e-dirham

Payment Methods Types

Please select one of the payment methods

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

Confirm **Cancel**

Verified by VISA
MasterCard
American Express
Truline
Truline

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

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

6. Final VAT Return

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

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



United Arab Emirates

Appendix A: Important on-screen tools and other tips

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



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

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

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

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

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

Upload a ~~scanned~~ copy of the Certificate of incorporation*

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

(i)

On what basis are you applying for registration?*

Select business type

Select business type

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

August 2017

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

MODULE 15

PAYMENT OF TAX

ARTICLES OF DECREE LAW ON VAT RELEVANT TO THIS MODULE

Article (73)

Payment of Tax

ARTICLES OF EXECUTIVE REGULATION ON VAT RELEVANT TO THIS MODULE

Article (64)

Tax Return and Payment

15.1 INTRODUCTION

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

15.2 TIME OF PAYMENT OF TAX

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

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

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

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

15.3 PROCEDURE FOR PAYMENT OF TAX

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



United Arab Emirates

PAYMENT USER GUIDE

March 2018



1. Brief overview of this user guide

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

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



2. Paying Tax Due

2.1. Paying via e-Dirham or credit card

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

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



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

VAT & Penalty Payment

Total Outstanding Liability 0.00 AED

Enter amount you want to pay *

Make Payment

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

Payment Information

TAX
VAT/054610400

Pay Amount 1,000.00 AED

Pay Now **Cancel**

e-dirham VISA

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



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



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

2.2. Paying via eDebit

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

NOTES:

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

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



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

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

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

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

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

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

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

Payment Details

Customer Information	FederalMinistries
Order Name	1489970/30283
Order Unique Number	AED 114.00
Amount	AED 100.00
Description	AED 1.00
e-Dirham Service	AED 7.00
Order Date/Time	AED 11.00

Payment Method Details	Bank Account
Payment Method	Debit/Credit Card
Bank	Al Rajhi Bank
Notification Email	Al Rajhi Bank
Confirm Notification Email	Al Rajhi Bank
<input checked="" type="checkbox"/> Required	Al Rajhi Bank

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



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

The screenshot shows the 'Central Bank of the UAE - Payment Gateway' interface. It displays 'Transaction Details' with fields: Merchant Name (HSF2), Order Information (1476173303852), Description (service payment through t-zone), Transaction Amount (4.00), and Transaction Type (Direct Debit). Below this, a 'Select Product' dropdown menu is open, showing 'Retail Banking' and 'Corporate Banking' options. A 'Submit' button is visible at the bottom right.

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

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

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



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

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

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

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

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



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

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

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

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

MODULE 16

REFUND OF TAX

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

16.1 INTRODUCTION

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

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

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

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

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

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

16.2 TAX REFUND – EXCESS RECOVERABLE TAX

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

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

It simply means when the Input tax is greater than Output tax on a VAT return, the Taxable Person is able to request a VAT refund. This may happen in a number of situations, but this will most commonly seen in cases of supply of zero rated goods and services, particularly exports. A supplier of "Zero-rated Goods and Services receives inward supplies of goods and services by paying Input VAT for which he is allowed to get credit. His Output Tax will be Nil as the supply of goods and services are zero-rated. Thus, the supplier of zero-rated goods and services will always be in a position to recover or claim refund of VAT paid on Input goods and services procured by him.

16.3 TAX REFUND IN SPECIAL CASES

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

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

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

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

I. Construction of New Residence by the Citizen of UAE

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

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

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

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

II. Business Visitors

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

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

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

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

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

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

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

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

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

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

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

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

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

III. Tourist Visitors

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

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

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

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

IV. Foreign governments

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

The application of refund is subject to the following conditions:

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

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

16.4 TAX REFUND PROCEDURES

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

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

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

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

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



United Arab Emirates

VAT REFUND USER GUIDE

February 2018



1. Brief overview of this user guide

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

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

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

2. Purpose of the Claim

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

3. Timeframes for repayment

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

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



United Arab Emirates

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4. Submitting the Claim

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

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

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

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

4.2. Complete and submit the form

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

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

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

5. Verify your Balance post the approval

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



Appendix A: Important On-Screen Tips

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

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

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

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

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

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

Upload a scanned copy of the Certificate of incorporation*

On which basis are you applying for registration?*

Select business type

Selected business type

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

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

	August 2017					
Su	Mo	Tu	We	Th	Fr	Sa
30	31	1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31	1	2
3	4	5	6	7	8	9



Appendix B: Details about the VAT Refund Form

Basic Information

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

TRN

About the Refund

Total amount of Excess Refundable Tax (AED)	<p>This field is prepopulated based on:-</p> <ul style="list-style-type: none"> The excess refundable tax reported in the relevant past VAT Returns, which have already been submitted up to the last return; <p><i>minus</i></p> <ul style="list-style-type: none"> Administration penalties due (except for the late registration penalty which is shown separately)
The amount you wish to have refunded (AED)	Please enter the amount you wish to have refunded here. This amount must be equal to or less than the "Total amount of Excess Refundable Tax".
Remaining amount of eligible Excess Refundable Tax	This field is prepopulated and represents the remaining amount of excess refundable tax you may apply for in the future.
Late registration penalty amount (in AED)	This field is prepopulated depending on whether you have had a penalty imposed and have settled the late registration penalty for VAT or not:-

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



United Arab Emirates

Note

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

Authorized Signatory

Name (English)

This section is prepopulated from the system.

Name (Arabic)

etc.

Declaration

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

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

I agree to pay back any amount wrongfully obtained

MODULE 17

TAX AUDIT AND ASSESSMENT

ARTICLES OF FEDERAL LAW ON TAX PROCEDURE APPLICABLE TO THIS MODULE	
Article (17)	The right of the Authority to perform a Tax Audit
Article (18)	The Right of the Authority to Access the Original Records during a Tax Audit
Article (19)	Timing of the Tax Audit
Article (20)	New Information Surfacing after a Tax Audit
Article (21)	Cooperation during the Tax Audit
Article (22)	The Audited Person's Rights
Article (23)	Notification of the Tax Audit Results
Article (24)	Tax Assessments
ARTICLES OF EXECUTIVE REGULATION ON TAX PROCEDURE RELEVANT TO THIS MODULE	
Article (11)	Regularity of Tax Audits
Article (12)	Right to Conduct Tax Audit
Article (13)	Notice of Audit
Article (14)	Power to remove and retain Original Documents or Assets or make Copies Thereof
Article (15)	Power to Mark Assets and Record Information
Article (16)	Storage and Providing Access to removed Documents and Assets
Article (17)	Result of the Audit
Article (18)	Notice to Provide Information or Documents
Article (19)	Complying with Notifications

17.1 INTRODUCTION

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

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

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

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

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

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

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

17.2 TAX AUDIT

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

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

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

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

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

17.2.1 RIGHT OF THE AUTHORITY TO PERFORM TAX AUDIT

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

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

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

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

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

17.2.2 NOTICE OF THE AUDIT

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

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

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

17.2.3 RIGHTS OF THE AUTHORITY TO ACCESS RECORDS

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

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

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

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

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

The Authority shall have the power to:

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

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

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

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

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

17.2.4 TIMING OF THE TAX AUDIT

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

17.2.5 COOPERATION DURING A TAX AUDIT

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

17.2.6 NOTICE TO PROVIDE INFORMATION OR DOCUMENTS

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

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

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

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

17.2.7 THE AUDITEE'S RIGHT

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

The audited Person has the right to:

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

17.2.8 TAX AUDIT RESULTS

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

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

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

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

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

17.3 TAX ASSESSMENT

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

Article 24 of Tax Procedure Law accordingly states as below:

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

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

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

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

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

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

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

MODULE 18

COLLECTION OF PAYABLE TAX

ARTICLES OF FEDERAL LAW ON TAX PROCEDURE RELEVANT TO THIS MODULE

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

18.1 INTRODUCTION

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

18.2 TAX COLLECTION PROCEDURE

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

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

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

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

18.3 TAX COLLECTION PROCEDURE IN SPECIAL CASES

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 23 of the Executive Regulation accordingly provides as under.

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

MODULE 19

OFFENCES, PENALTIES AND PROSECUTION

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

19.1 ADMINISTRATIVE PENALTIES

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

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

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

19.1.1 Administrative penalties imposed under federal decree law on VAT

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

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

Display of Tax Inclusive Prices:

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

Margin based Tax:

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

Designated Zones:

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

Tax Invoice & Credit Note

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

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

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

19.1.2 Administrative penalties imposed under tax procedures law

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

Record Keeping:

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

Registration & Deregistration:

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

Legal Representative:

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

Tax Return:

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

Tax Payment:

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

Tax Audit:

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

Others:

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

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

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

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

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

19.2 TAX EVASION PENALTIES

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

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

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

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

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

MODULE 20

OBJECTIONS AND APPEALS

ARTICLES OF FEDERAL LAW ON TAX PROCEDURE RELEVANT TO THIS MODULE

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

20.1 INTRODUCTION

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

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

20.2 APPLICATION TO FEDERAL TAX AUTHORITY FOR RECONSIDERATION

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

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

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

20.3 OBJECTION TO THE TAX DISPUTES RESOLUTION COMMITTEE

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

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

20.3.1 Tax disputes resolution committee (article 28)

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

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

20.3.2 Jurisdiction of the committee (article 29)

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

The Committee shall have jurisdiction to:

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

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

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

20.3.4 PROCEDURES OF THE COMMITTEE (Article 31)

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

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

20.3.5 Enforcement of committee's decision (article 31)

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

20.4 CHALLENGES BEFORE COURTS (Article 33)

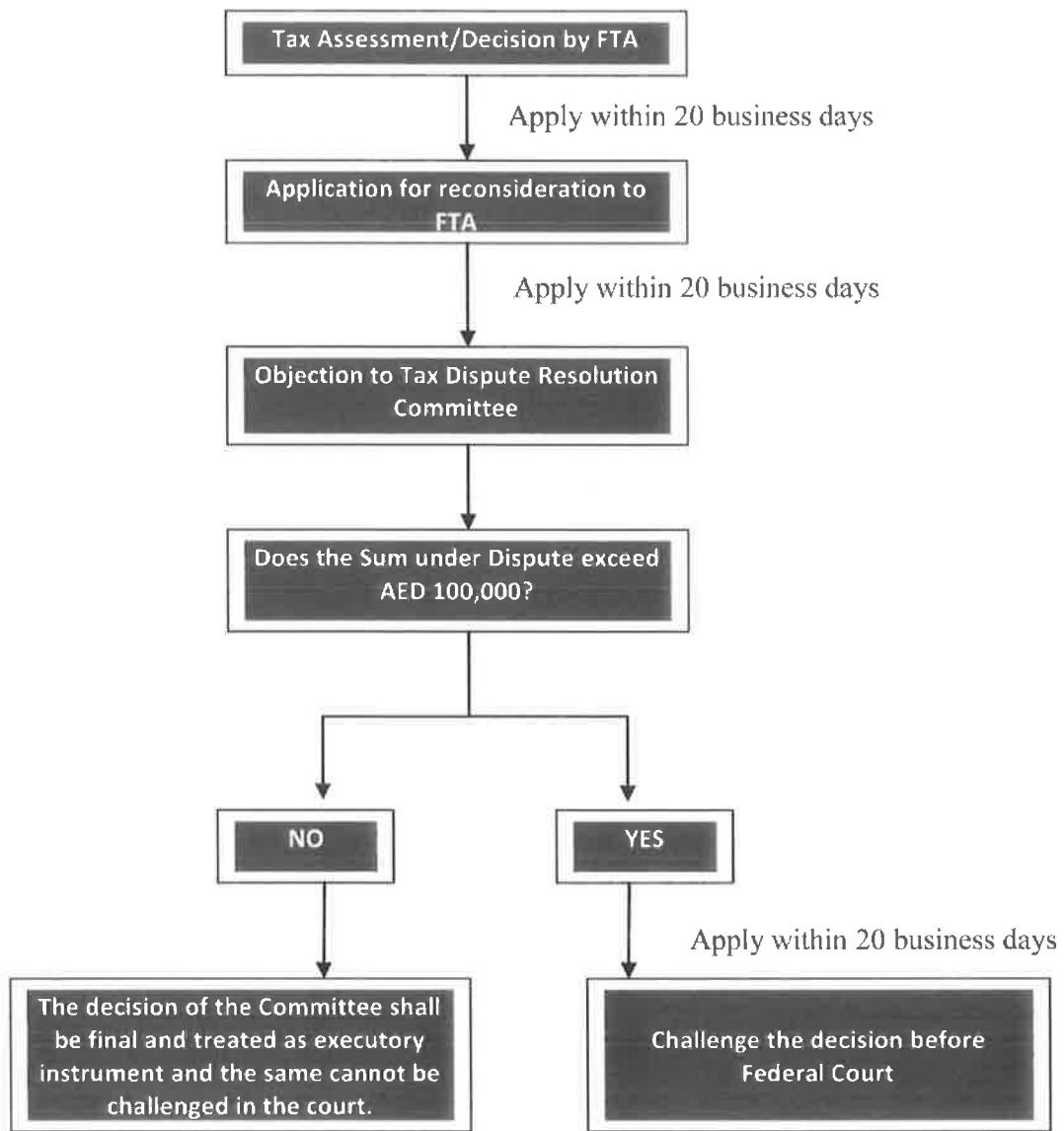
The decision of the FTA can be challenged. Before this, the aggrieved person needs to ask for an internal FTA administrative review or consideration of its decision. If still unhappy, one can escalate it to a Tax Disputes Resolution Committee. However, the taxpayer need to pay whatever tax first as per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

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

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

20.5 CONCLUDING SUMMARY

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



MODULE 21

TRANSITIONAL RULES

ARTICLES OF FEDERAL DECREE LAW ON VAT RELEVANT TO THIS MODULE

Article (80)	Transitional Rules
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ARTICLES OF EXECUTIVE REGULATION ON VAT RELEVANT TO THIS MODULE

Article (70)	Transitional Rules
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21.1 INTRODUCTION

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

21.2 ONE-OFF SUPPLY OF GOODS OR SERVICES

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

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

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

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

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

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

Example 1:

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

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

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

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

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

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

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

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

Example 2:

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

Example 3:

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

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

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

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

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

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

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

Example 4:

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

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

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

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

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

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

Example 5:

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

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

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

21.2.5 Adjustments to supply made before 1 January 2018

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

Example 6:

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

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

21.3 CONTINUOUS SUPPLY OF GOODS OR SERVICES

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

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

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

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

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

Example 7:

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

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

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

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

Conditions to be met

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

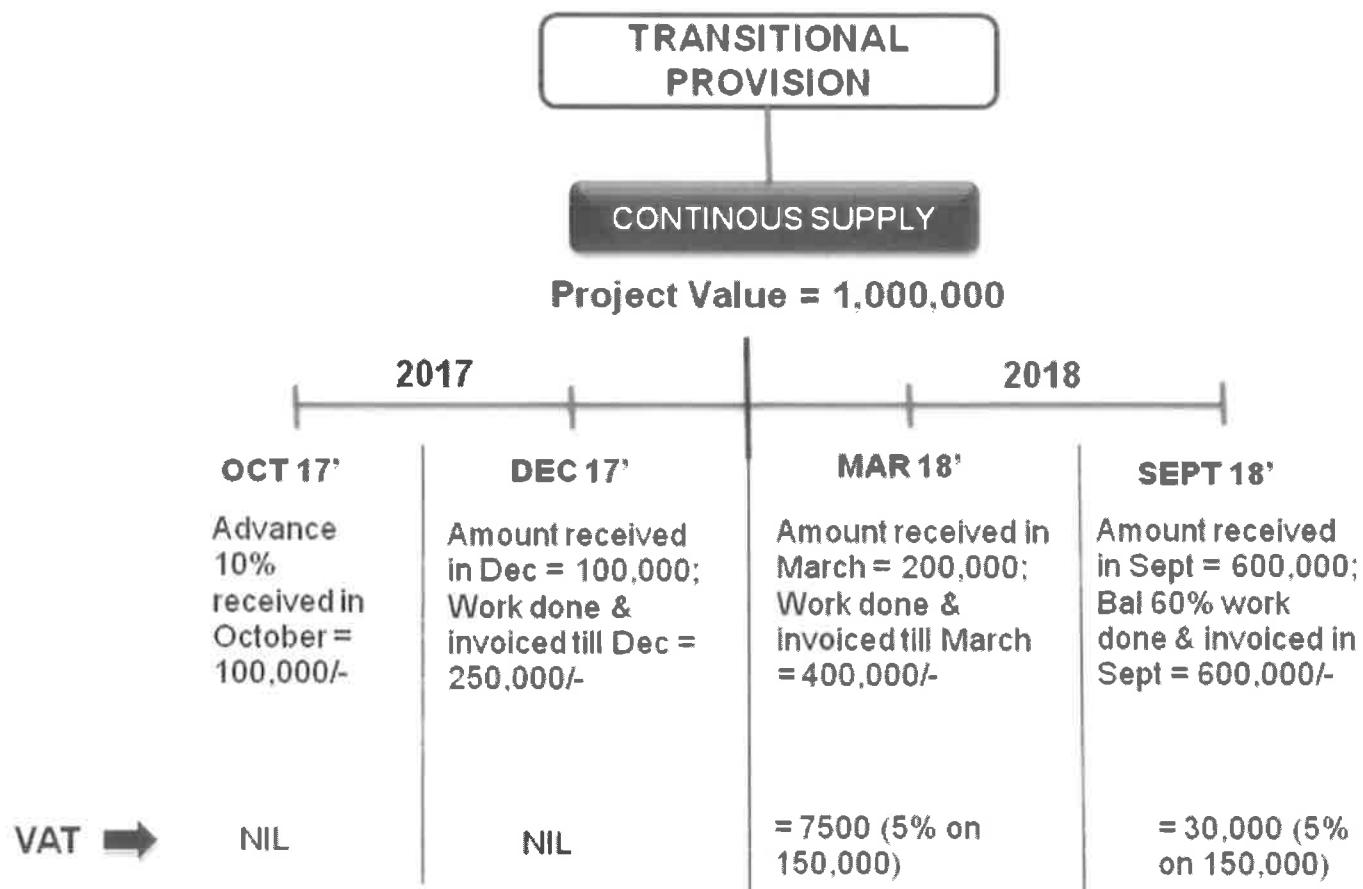
Since, the Recipient XYZ LLC is neither registered under VAT nor expecting to get registered w.e.f. 1st January 2018, ABC LLC shall calculate VAT treating Consideration as inclusive of VAT. Accordingly, ABC LLC shall be liable to pay VAT amounting to AED 476 (5/105 x AED 10,000).

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

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

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

Example 8:



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

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

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

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

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

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

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

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

Example 9:

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

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

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

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

MODULE 22

TAX AGENT

ARTICLES OF FEDERAL LAW ON TAX PROCEDURE RELEVANT TO THIS MODULE	
Article (12)	Register of Tax Agents
Article (13)	Tax Agents Registration
Article (14)	Conditions of Registration in the Register
Article (15)	Appointment of a Tax Agent
Article (16)	Person's Records with the Tax Agent
ARTICLES OF EXECUTIVE REGULATION ON TAX PROCEDURE RELEVANT TO THIS MODULE	
Article (10)	Procedures for listing a Tax Agent in the Register and Rights and Obligations of Tax Agents

22.1 INTRODUCTION

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

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

22.2 TAX AGENTS

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

1. Who is a Tax Agent?

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

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

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

3. Who can practice as a Tax Agent?

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

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

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

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

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

5. Who can appoint a Tax Agent?

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

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

6. What are the responsibilities of a Tax Agent?

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

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

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

Clause 9 of Article 10 of Executive Regulation on Tax procedures provides that The Authority may de-list the Tax Agent from the Register in any of the following cases:

- a. If it was proven to the Authority that the Person is not eligible to be a Tax Agent.
- b. If the Authority found that the continued registration of the Person as a Tax Agent would adversely affect the integrity of the Tax system.
- c. If he committed a significant violation of the provisions of Law or Tax Law.

8. What is a Tax Agency?

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

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

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

1. It must have business or trade license that allows the applicant to operate as a Tax Agency (usually issued by the Department of Economic Development, "DED"); and
2. It must hold professional indemnity insurance in respect of your Tax Agency business; and
3. It has at least one registered Tax Agent associated with it.

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

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

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

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

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

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

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

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

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

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

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

1. Anyone requesting to be listed in the Register shall satisfy the following conditions:
 - a. To be of good conduct and behaviour and to have never been convicted of a crime or misdemeanour prejudicial to honour or honesty, irrespective of whether or not he may have been rehabilitated.
 - b. To hold at least a certified bachelor or Master degree in tax, accounting or law from a recognised educational institution, or a bachelor degree in any field plus a tax certification as accepted from an internationally known tax institute.
 - c. To have a relevant recent experience of at least three years, in either tax, qualified accounting or law, with the ability to communicate orally and in writing in both Arabic and English.
 - d. To pass any tests to meet qualification standards as may be specified by the Authority.
 - e. To be medically fit to perform the duties of the profession.
 - f. To hold a professional indemnity insurance contract.
 - g. To perform his activity through a legal person approved by the Ministry of Economy and the local competent authority.
2. The Person shall submit an application for listing in the Register to the Authority using the form specified by the Authority.
3. The Authority may request further information from the Person applying for registration, request an interview with the Person or check references provided in the application before deciding whether or not to list the applicant as a Tax Agent.
4. The Authority shall review the applications and shall issue its decision within (15) business days from receiving the application. Exceptionally, in case of gathering additional information under Clause (3) of this Article, it shall issue the decision within (15) business days from the date of receipt of the information.
5. If the Authority accepts the application, the applicant will be listed in the Register within (5) business days from the date of the Authority's approval of the application or any other date that may be specified by the Authority after settling the required fees.
6. The Authority may refuse an application for listing a Person in the Register in any of the following cases:
 - a. The Person fails to meet the conditions specified in Clause (1) of this Article.
 - b. Listing the Person as a Tax Agent would adversely affect the integrity of the Tax system.

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

22.3 TAX AGENT - GETTING STARTED GUIDE

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

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY



Tax Agency - Getting Started Guide



Tax Agency- Getting Started Guide

1. Overview

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

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

2. Important basics about Tax Agent registration

a. What is a Tax Agency?

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

b. What registration enable a Tax Agency to do?

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

3. Registration criteria

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

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

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

a. Information required to complete the registration application

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

- business or trade license; and



- professional indemnity insurance

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

b. How long will the application process take?

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

c. Save as you go

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

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

d. Taking care

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

5. What happens next?

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

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

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

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

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

PART - C

TRANSACTION SPECIFIC GUIDE

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MODULE 1

DESIGNATED ZONE

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

1.1 INTRODUCTION

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

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

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

1.2 DESIGNATED ZONES

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

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

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

1.3 CUSTOM DUTY APPLICABILITY IN DESIGNATED ZONES

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

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

1.4 REGISTRATION UNDER VAT

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

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

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

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

As per Article 51(9) of the Executive Regulation, any Person established, registered or which has a Place of Residence in a Designated Zone shall be deemed to have a Place of Residence in the State for the purposes of the Decree-Law. Thus, place of residence of person located in any designated zone shall be UAE only. According, **all designated zone companies shall get registration under VAT** on satisfaction of other conditions stipulated by the VAT Laws. For more details, refer Module "Registration and De-registration".

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

1.5 VAT APPLICABILITY IN DESIGNATED ZONES

Article 51 of Executive Regulation on VAT:

1. Any Designated Zone specified by a decision of the Cabinet **shall be treated as being outside the State and outside the Implementing States**, subject to the following conditions:

- a. The Designated Zone is a specific fenced geographic area and has security measures and Customs controls in place to monitor entry and exit of individuals and movement of goods to and from the area.
 - b. The Designated Zone shall have internal procedures regarding the method of keeping, storing and processing of Goods therein.
 - c. The operator of the Designated Zone complies with the procedures set by the Authority.
2. Where the Designated Zone changes the manner of operating or no longer meets any of the conditions imposed on it that led to it being specified as a Designated Zone under the Cabinet Decision, it shall be treated as if being inside the State.

However, Clause 9 of Article 51 of Executive Regulation provides that **Any Person established, registered or which has a Place of Residence in a Designated Zone shall be deemed to have a Place of Residence in the State** for the purposes of the Decree-Law.

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

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

1.5.1 SUPPLY OF GOODS - DESIGNATED ZONES

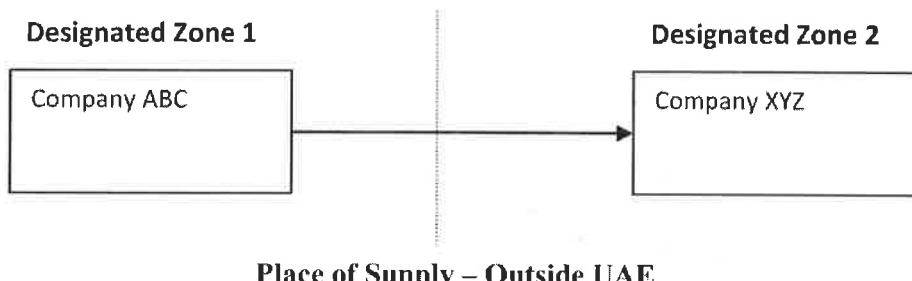
Let's now discuss the VAT aspect in case of supply of goods involving designated zones. Our discussion relating to place of supply involving designated zones can be broadly grouped into the following.

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

I) GOODS SUPPLIED WITHIN OR BETWEEN DESIGNATED ZONES

As per Article 50 of the Federal Decree Law on VAT read with Article 51 (1) of Executive Regulation, **any Designated Zone specified by a decision of the Cabinet shall be treated as being outside the State and outside the Implementing States**, subject to the following conditions:

- a. The Designated Zone is a **specific fenced geographic area** and has security measures and Customs controls in place to monitor entry and exit of individuals and movement of goods to and from the area.
- b. The Designated Zone shall **have internal procedures** regarding the method of keeping, storing and processing of Goods therein.
- c. The **operator of the Designated Zone complies with the procedures set by the Authority.**



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

Clause 3 of Article 51 further states that the transfer of Goods between Designated Zones shall not be subject to Tax if the following two conditions are met:

- a. Where the Goods or part thereof, are not released, and are not in any way used or altered during the transfer between the Designated Zones.
- b. Where the transfer is undertaken in accordance with the rules for customs suspension according to GCC Common Customs Law.

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

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

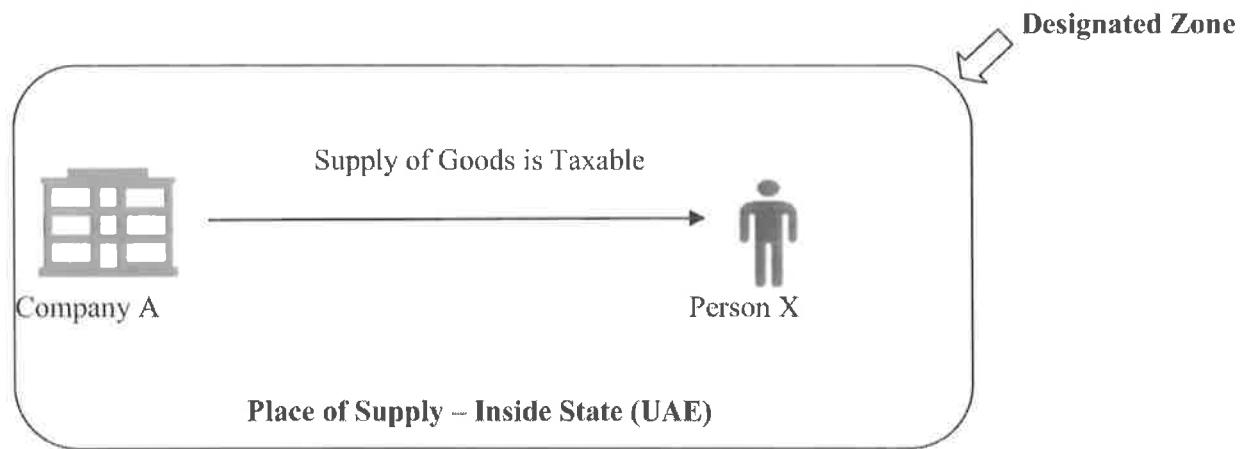
Clause (4) of Article 51 of the Executive Regulations of this Decree Law states that where Goods are moved between Designated Zones, the Authority may require the owner of the Goods to provide financial guarantee for the payment of Tax, which that Person may become liable for should the conditions for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

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

Consumption of Goods in Designated Zone

Clause 5 of Article 51 of Executive Regulation provides that where a supply of Goods is made within a Designated Zone to a Person to be used by him or a third person, then the place of supply shall be the State unless the Goods are to be incorporated into, attached to or otherwise form part of or are used in the production or sale of another Good located in the same Designated Zone which itself is not consumed.

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



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

- a. The Goods are consumed by the owner unless the Goods are incorporated into, attached to or otherwise form part of or are used in the production of another Good located in a Designated Zone which itself is not consumed.
- b. The Goods are unaccounted for.

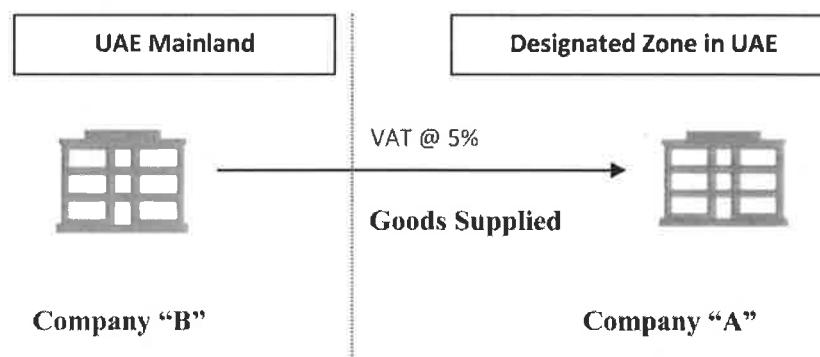
II) SUPPLY OF GOODS BETWEEN UAE MAINLAND (WITHIN STATE) AND DESIGNATED ZONES

Goods Supplied from the State to Designated Zone

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

Let's consider an example.

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



Goods Supplied from Designated Zone to the State (UAE)

Let's consider 2 scenarios here.

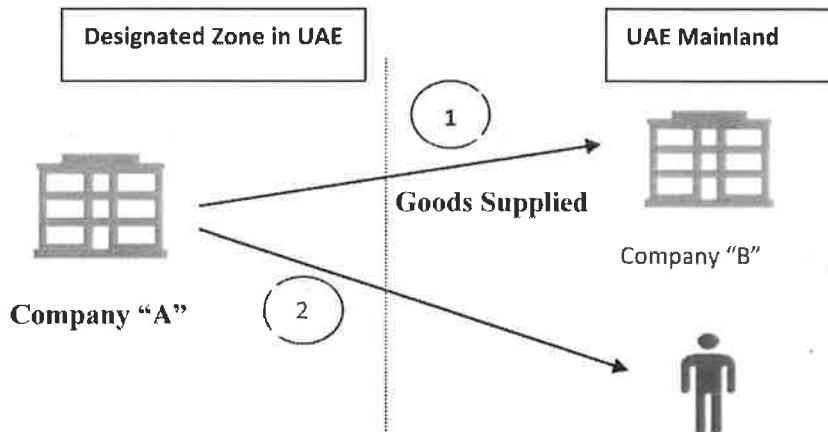
Scenario 1: Company "A" in the designated zone makes supplies of goods to company "B", then the importer of record into the State from the designated zone to the State accounts for the VAT as the same will be treated as import and place of supply shall be the State i.e. UAE.

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

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

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

In this context it should be noted that any Person established, registered or which has a Place of Residence in a Designated Zone shall be deemed to have a Place of Residence in the State [Article 51 (9) of Executive Regulation]



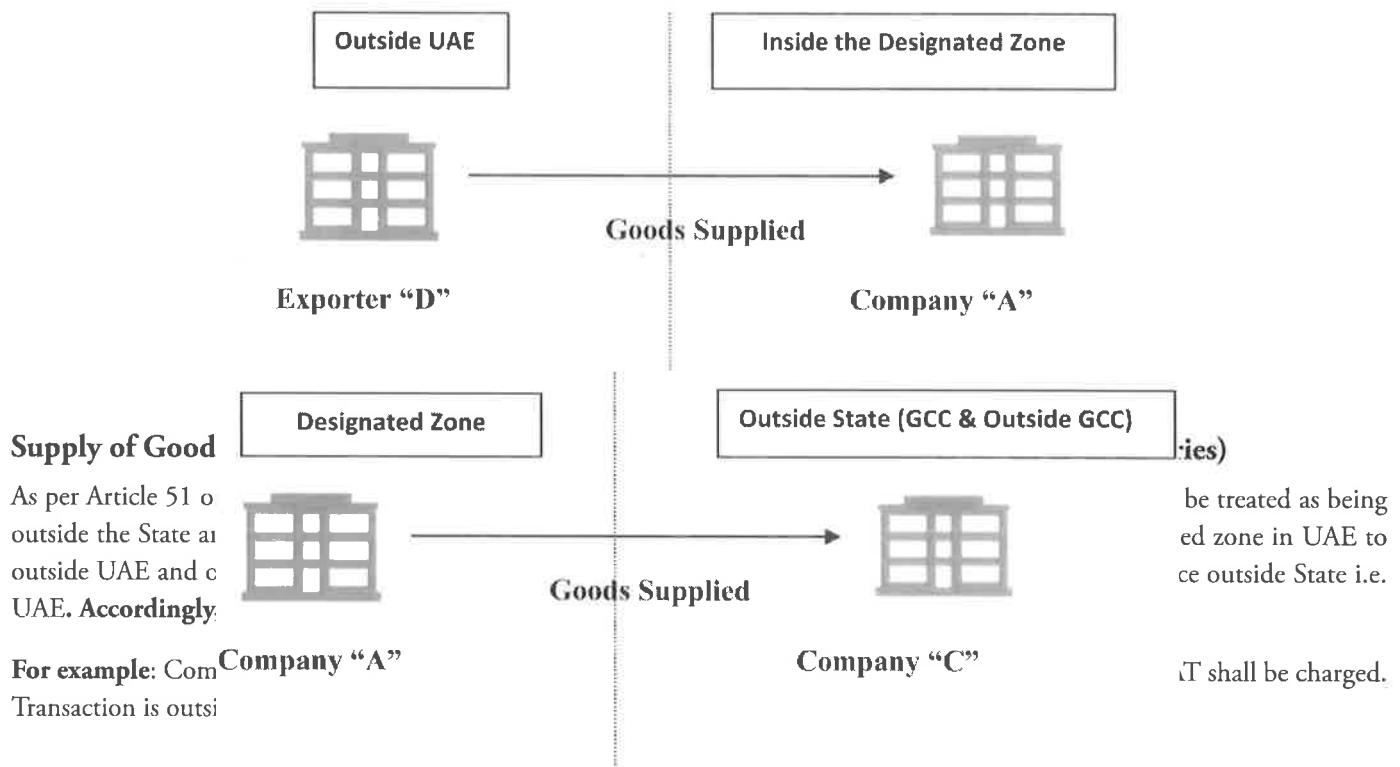
III) SUPPLY OF GOODS BETWEEN DESIGNATED ZONE AND OUTSIDE STATE

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

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

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

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



1.5.2 SUPPLY OF SERVICES - DESIGNATED ZONES

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

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

Clause 9 of Article 51 of Executive Regulation provides that **Any Person established, registered or which has a Place of Residence in a Designated Zone shall be deemed to have a Place of Residence in the State** for the purposes of the Decree-Law.

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

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

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

I) SERVICES SUPPLIED WITHIN DESIGNATED ZONES

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

Clause 9 of Article 51 of Executive Regulation provides that **Any Person established, registered or which has a Place of Residence in a Designated Zone shall be deemed to have a Place of Residence in the State** for the purposes of the Decree-Law.

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

Figure 1:

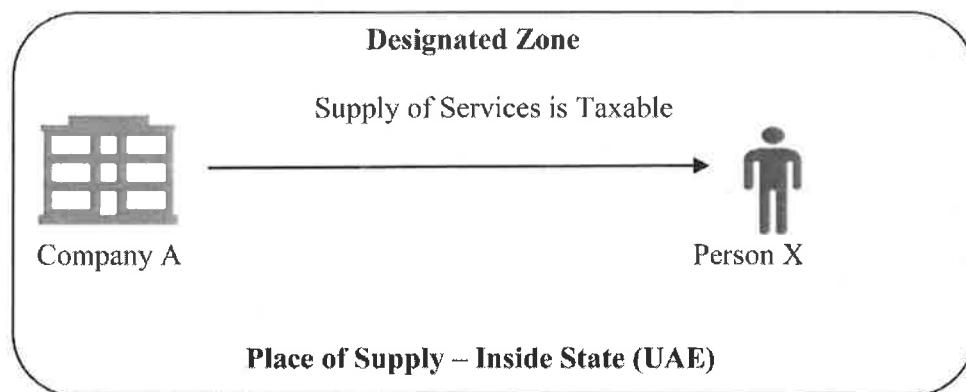
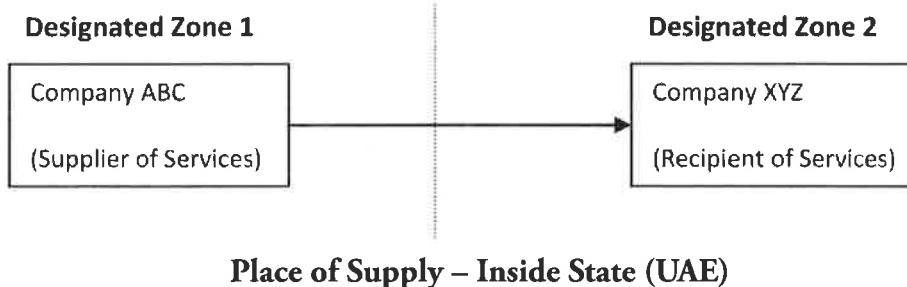


Figure 2:



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

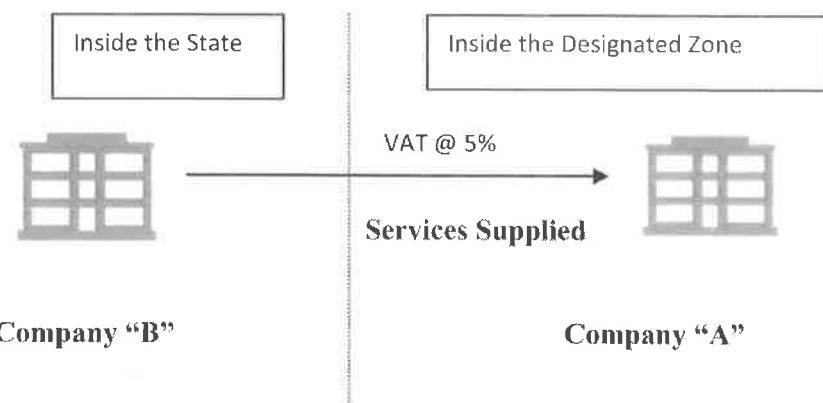
We can have 2 scenarios in this case.

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

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

Example:

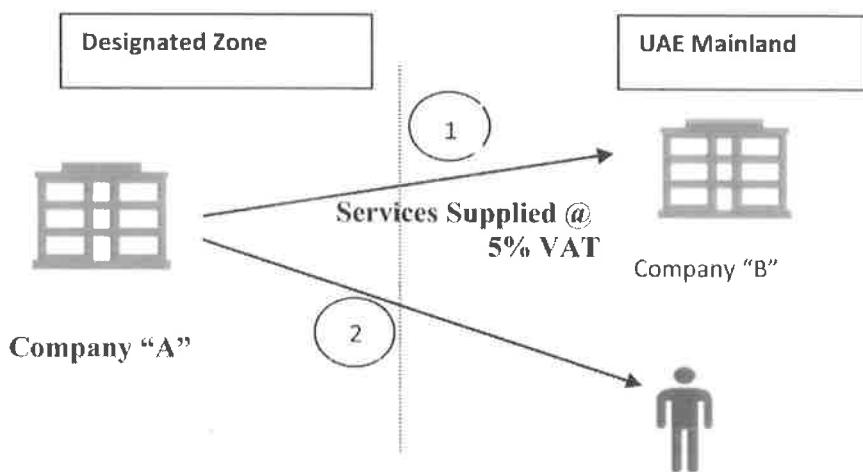
Company "B", a supplier of goods inside the State, makes supplies to company "A" located in the designated zone. In such a scenario, company B shall charge 5 % VAT to company "A" and collect tax on the behalf of A. A can accordingly claim credit of the VAT paid to company "B".



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

In this case too, place of supply shall be considered inside UAE State in accordance with the provisions of Clause 9 of Article 51 of Executive Regulation which inter-alia provides that **any Person established, registered or which has a Place of Residence in a Designated Zone shall be deemed to have a Place of Residence in the State**.

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



III) SUPPLY OF SERVICES BETWEEN DESIGNATED ZONE AND OUTSIDE STATE

We can have 2 scenarios in this case.

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

As discussed previously that **any Person established, registered or which has a Place of Residence in a Designated Zone shall be deemed to have a Place of Residence in the State**. [Article 51(9) of ER]

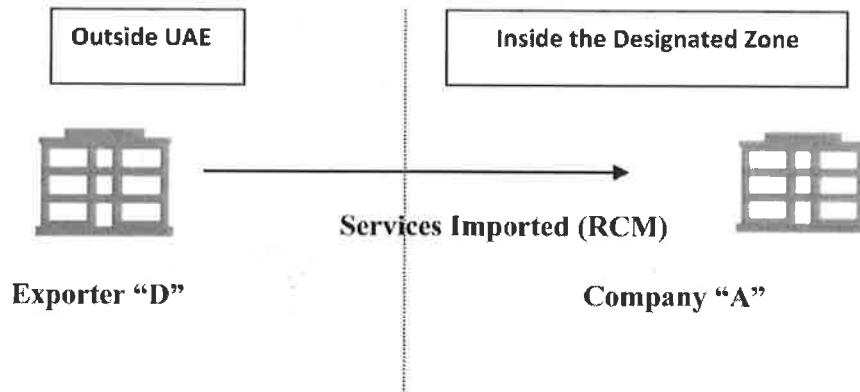
Moreover, clause 2 of Article 30 of Federal Decree Law on VAT provides that where the Recipient of Services is in Business and has a Place of Residence in the State, and the Supplier does not have a Place of Residence in the State, **the place of supply shall be in the State**.

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

Clause 3 of Article 48 of the Executive Regulation should be referred to in this regard. The clause provides that where a Taxable Person who has a Place of Residence in the State receives a supply of Goods or Services from a supplier who does not

have a Place of Residence in the State and does not charge Tax on that supply, the supply shall be treated as being of Concerned Goods or Concerned Services.

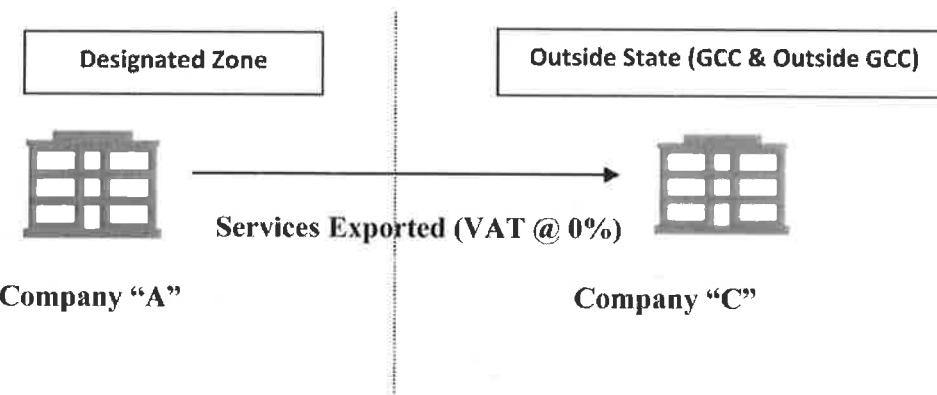
For example: Company “D” from outside the State provides services to company “A” located in the designated zone. Transaction is deemed performed Inside the State and will be treated as import of services. Accordingly, Company will account for VAT under Reverse Charge Mechanism.



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

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

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

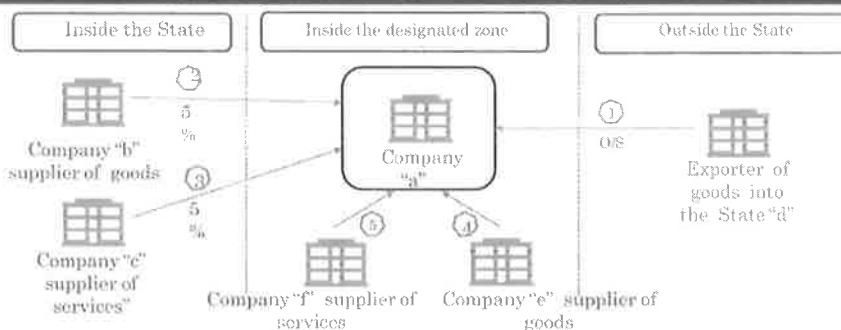


1.6 CONCLUSION

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

APPENDIX - I

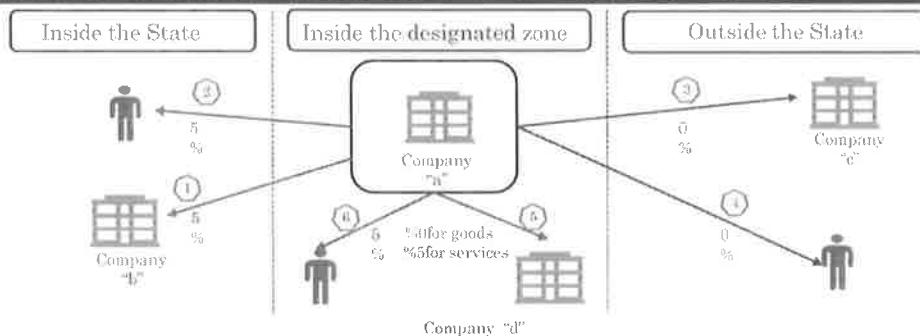
Tax Treatment for Designated Zone Companies - Company Inputs (3/3)



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

APPENDIX - II

Tax Treatment for Designated Zone Companies - Company Outputs



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

MODULE 2

INTRA GCC TRANSACTIONS

2.1 INTRODUCTION

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

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

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

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

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

2.2 DEFINITIONS

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

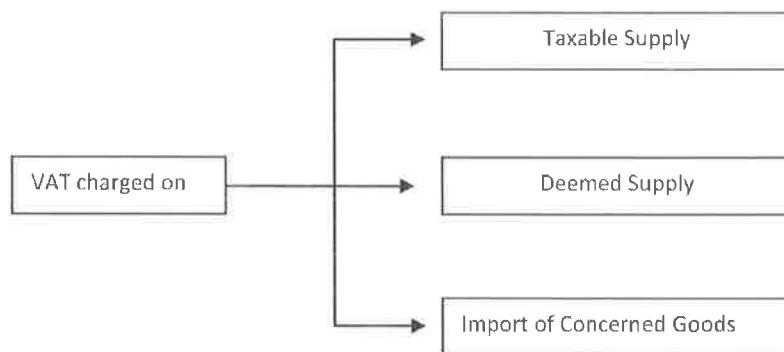
- **State:** United Arab Emirates
- **Minister:** Minister of Finance
- **Value Added Tax:** A tax imposed on the import and supply of Goods and Services at each stage of production and distribution, including the Deemed Supply
- **Tax:** Value Added Tax (VAT).
- **GCC States:** All countries that are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

- **Services:** Anything that can be supplied other than Goods
- **Taxable Supply:** A supply of Goods or Services for a Consideration by a Person conducting Business in the State, and does not include Exempt Supply.
- **Deemed Supply:** Anything considered as a supply and treated as a Taxable Supply according to the instances stipulated in this Decree-Law.
- **Import:** The arrival of Goods from abroad into the State or receipt of Services from outside the State
- **Concerned Goods:** Goods that have been imported, and would not be exempt if supplied in the State.
- **Concerned Services:** Services that have been imported, where the place of supply is in the State, and would not be exempt if supplied in the State.
- **Recipient of Goods:** Person to whom Goods are supplied or imported
- **Person:** A natural or legal person.
- **Taxable Person:** Any Person registered or obligated to register for Tax purposes under this Decree-Law
- **Taxpayer:** Any person obligated to pay Tax in the State under this Decree-Law, whether a Taxable Person or end consumer.
- **Taxable Trader:** A Taxable Person in the Implementing States, whose main activity is the distribution of water and all types of energy as specified in the Executive Regulation of this Decree-Law.
- **Tax Registration:** A procedure according to which the Taxable Person or his Legal Representative registers for Tax purposes at the Authority.
- **Consideration:** All that is received or expected to be received for the supply of Goods or Services, whether in money or other acceptable forms of payment.
- **Business:** Any activity conducted regularly, on an ongoing basis and independently by any Person, in any location, such as industrial, commercial, agricultural, professional, service or excavation activities or anything related to the use of tangible or intangible properties.
- **Place of Establishment:** The place where a Business is legally established in a country pursuant to the decision of its establishment, or in which significant management decisions are taken and central management functions are conducted.
- **Place of Residence:** The place where a Person has a Place of Establishment or Fixed Establishment, in accordance with the provisions of this Decree-Law.
- **Fixed Establishment:** Any fixed place of business, other than the Place of Establishment, in which the Person conducts his business regularly or permanently and where sufficient human and technology resources exist to enable the Person to supply or acquire Goods or Services, including the Person's branches.
- **Exempt Supply:** A supply of Goods or Services for Consideration while conducting Business in the State, where no Tax is due and no Input Tax may be recovered, except according to the provisions of this Decree Law.
- **Input Tax:** Tax paid by a Person or due from him when Goods or Services are supplied to him, or when conducting an Import.
- **Non-Resident:** Any person who does not own a Place of Establishment or Fixed Establishment in the State and usually does not reside in the State.
- **Another Implementing States:** The GCC States other than UAE that are implementing a Tax law pursuant to an issued legislation.

2.3 SCOPE OF TAX

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

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



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

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

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

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

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

2.4 REGISTRATION

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

- a. Where the total value of all supplies referred to in Article (19) exceeded the Mandatory Registration Threshold over the previous 12-month period.
- b. Where it is anticipated that the total value of all supplies referred to in Article (19) will exceed the Mandatory Registration Threshold in the next thirty (30) days.

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

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

2.5 PLACE OF SUPPLY

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

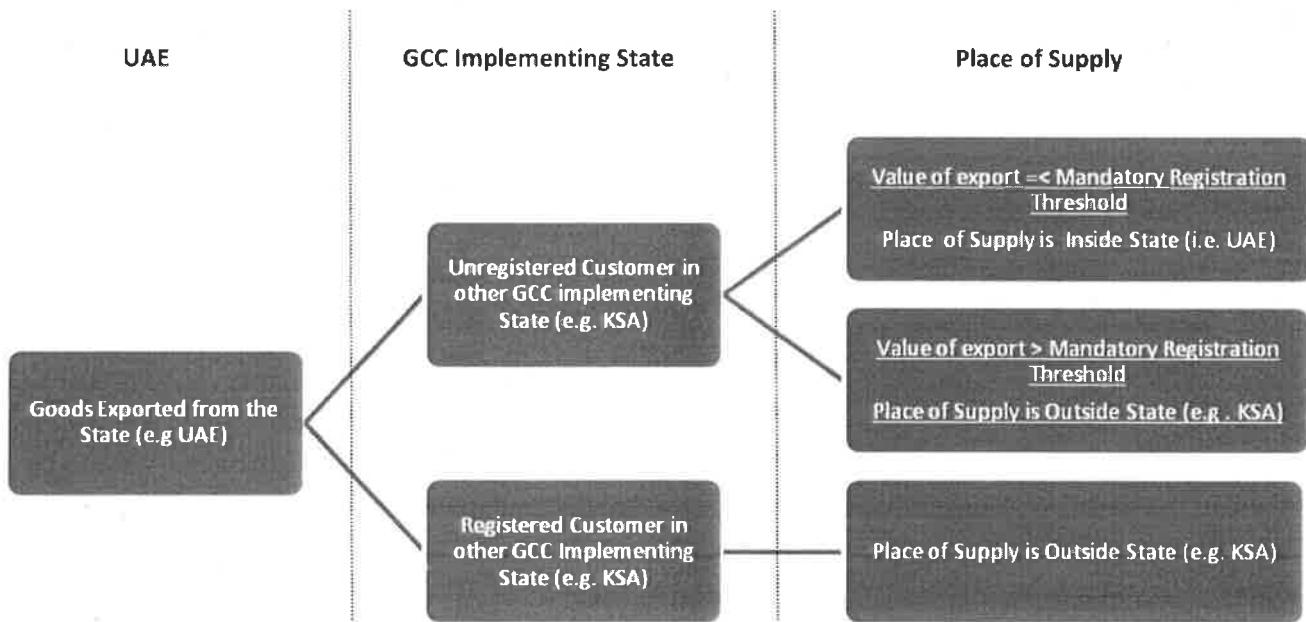
2.5.1 Place of supply of goods

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

Place of Supply = Supplier's place of residence.

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

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



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

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

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

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

Conclusion:

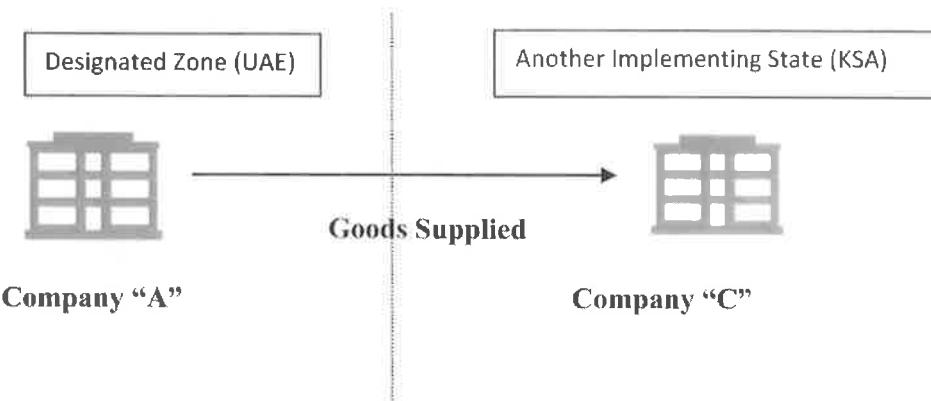
It can be summarized that place of supply will always be outside state in case of exports from UAE to another Implementing State. The rationale behind this provision is that place of final consumption will be another Implementing State and not the UAE in case of exports from UAE. This is aligned with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

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

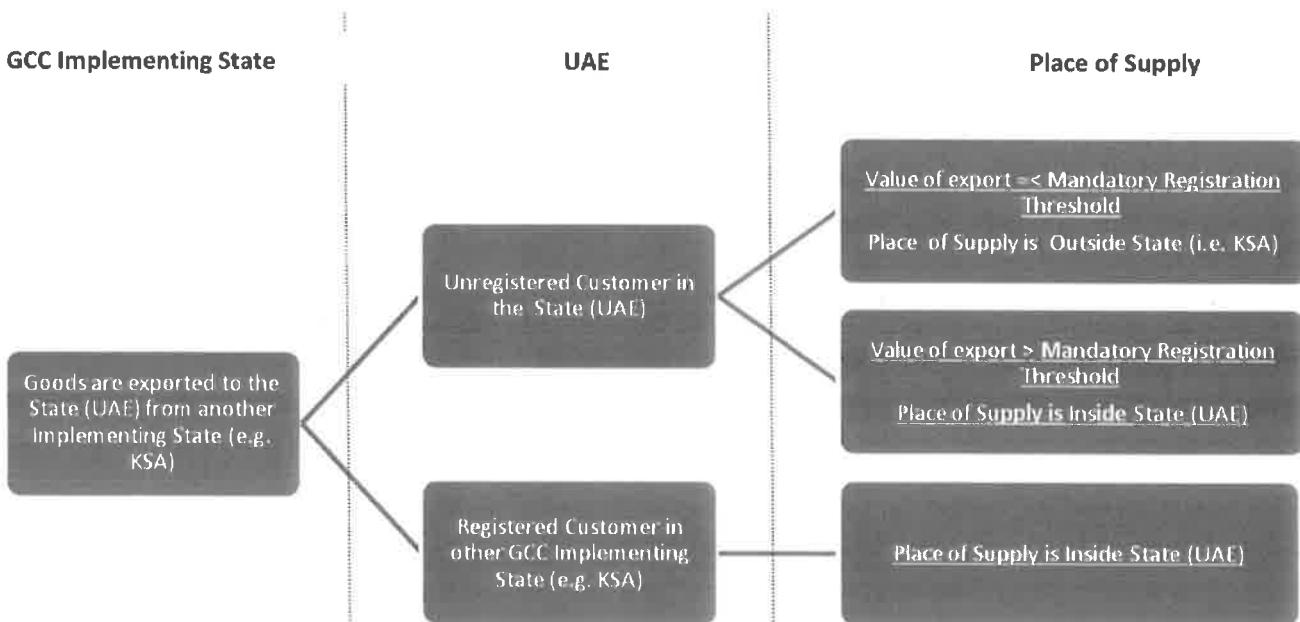
B. Supply of Goods from Designated Zone to another Implementing State

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

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



C. Imports into UAE from another VAT Implementing State



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

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

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

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

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

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

Conclusion:

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

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

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

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

The importer in such a case pay import VAT without using reverse charge. Article 48 (2) clearly provides that in case the final destination of the Goods when entering the State is another Implementing State, the Taxable Person shall pay the Due Tax on Import of Concerned Goods

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



2.5.2 Place of supply of installed or assembled goods

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

The place of supply of installed or assembled Goods if exported from or imported into the State shall be:

- a. **In the State if assembly or installation of the Goods was done in the State.**
- b. **Outside the State if assembly or installation of the Goods was done outside the State.**

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

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

2.5.3 Place of supply of water and energy

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

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

1. The supply of water and all forms of energy shall be considered as done in the **Place of Residence of the Taxable Trader** in case the distribution was conducted by a Taxable Person having a Place of Residence in the State to a Taxable Trader having a Place of Residence in an Implementing State.
2. **The supply of water and all forms of energy through a distribution system shall be considered to have occurred at the place of actual consumption**, if distribution was conducted by a Taxable Person to a Non-Taxable Person.

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

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

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

2.5.4 PLACE OF SUPPLY OF SERVICES

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

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

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

and has a Place of Residence in the State, and the Supplier does not have a Place of Residence in the State, the place of supply shall be in the State

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

2.5.5 Place of supply - special cases

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

1. Installation Services

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

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

2. Lease of Means of Transport

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

3. Restaurant Services

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

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

4. Cultural, Artistic, Educational Service

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

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

5. Real Estate Services

For the Supply of Services related to real estate as specified in the Executive Regulation of this Decree-Law, the place of supply shall be where the real estate is located.

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

6. Transportation Services

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

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

7. Telecommunication Services

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

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

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

2.6 RATE OF TAX

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

2.7 RECOVERABLE INPUT TAX

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

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

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

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

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

Moreover, where **Goods were acquired by a Taxable Person in another Implementing State and then moved into the State**, the Taxable Person shall be entitled to treat the Tax paid in respect of the Goods in the Implementing State as Recoverable Tax in accordance with Article 54 (3) of Federal Decree Law on VAT.

2.8 RECORD KEEPING REQUIREMENTS

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

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

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

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

MODULE 3

EXPORTS

3.1 DEFINITIONS

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

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

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

Services: Anything that can be supplied other than Goods.

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

Fixed Establishment: Any fixed place of business, other than the Place of Establishment, in which the Person conducts his business regularly or permanently and where sufficient human and technology resources exist to enable the Person to supply or acquire Goods or Services, including the Person's branches

State: United Arab Emirates

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

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

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

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

3.2 EXPORT OF GOODS AND SERVICES

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

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

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

3.2.1 Direct or indirect exports of goods

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

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

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

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

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

B. Indirect Export: An Export of Goods to a destination outside of the Implementing States, where the **overseas customer is responsible for arranging the collection of the Goods from the supplier in the State and who exports the Goods himself, or has appointed an agent to do so on his behalf**. A typical example of indirect export as stipulated under clause 8 above will be **sale goods from duty-free shops**. In other words, sale from duty-free shops to outbound passengers are subject to zero rate of tax provided below conditions are fulfilled.

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

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

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

1. The **Direct Export shall be subject to the zero rate** if the following conditions are met:
 - a. The Goods are physically exported to a place outside the Implementing States or are put into a customs suspension regime in accordance with GCC Common Customs Law within 90 days of the date of the supply.
 - b. Official and commercial evidence of Export or customs suspension is retained by the exporter.
2. An **Indirect Export shall be subject to the zero rate** if the following conditions are met:

- a. The Goods are physically exported to a place outside the Implementing States or are put into a customs suspension regime in accordance with GCC Common Customs Law, within 90 days of the date of the supply under an arrangement agreed by the supplier and the Overseas Customer at or before the date of supply
 - b. The Overseas Customer obtains official and commercial evidence of Export or customs suspension in accordance with GCC Common Customs Law, and provides the supplier with a copy of this.
 - c. The Goods are not used or altered in the time between supply and Export or customs suspension, except to the extent necessary to prepare the Goods for Export or customs suspension.
 - d. The Goods do not leave the State in the possession of a passenger or crew member of an aircraft or ship.
3. For the purposes of this Article, a movement of Goods into a Designated Zone from a place in the State or a supply of Goods to a Designated Zone shall not be considered an Export of those Goods.
 4. For the purposes of Clauses (1) and (2) of this Article:
 - a. "Official evidence" means Export documents issued by the local Emirate Customs Department in respect of Goods leaving the State.
 - b. "Commercial evidence" shall include any the following:
 - 1) Airway bill.
 - 2) Bill of lading.
 - 3) Consignment note.
 - 4) Certificate of shipment.
 5. The evidence obtained as proof of Export, whether official or commercial, must identify the following:
 - a. The supplier.
 - b. The consignor.
 - c. The Goods.
 - d. The value.
 - e. The Export destination.
 - f. The mode of transport and route of the export movement.
 6. The Authority may specify alternative forms of evidence according to the nature of the Export or the nature of the Goods being exported.
 7. The Authority may extend the 90-day period mentioned in Clauses (1) and (2) of this Article, if the Authority has determined, after the supplier has applied in writing that either of the following apply:
 - a. Circumstances beyond the control of the Supplier and the Recipient of Goods have prevented, or will prevent, the Export of the Goods within 90 days of the date of supply.
 - b. Due to the nature of the supply, it is not practicable for the supplier to Export the Goods, or a class of the Goods, within 90 days of the date of supply.
 8. An Indirect Export would include a supply of Goods in a departure area of an airport or port to a passenger of an aircraft or a vessel if:
 - a. The Goods are intended to leave the State in the possession of the passenger.
 - b. The supplier has obtained and retained evidence, such as the details of the boarding pass of the passenger that the passenger intends to leave for a destination outside the Implementing States.
 9. If the Person required to Export the Goods in accordance with this Article does not do so within the period of 90 days or a longer period that the Authority has allowed under Clause (7) of this Article, Tax shall be charged on the supply at the rate that would have been due on the supply if it was made in the State.

10. For the purposes of this Article a supply of Goods shall be subject to the zero rate if Goods that would otherwise have been exported are destroyed or cease to exist in circumstances beyond the control of both the supplier and the Recipient of the Goods.
11. Customs Departments shall check to confirm the type and quantity of the exported goods with its export documents.

3.2.2 Export of services:

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

i) Services performed outside Implementing States

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

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

ii) Place of Recipient of Services outside Implementing State

The Services are supplied to a Recipient of Services who does not have a Place of Residence in an Implementing State and who is outside the State at the time the Services are performed. A Person shall be considered as being “outside the State” if they only have a short-term presence in the State of less than a month, or the only presence they have in the State is not effectively connected with the supply.

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

iii) Outbound Tour Packages

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

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

1. The Export of Services shall be zero-rated in the following cases.
 - a. If the following conditions are met:
 - (1) The Services are supplied to a Recipient of Services who does not have a Place of Residence in an Implementing State and who is outside the State at the time the Services are performed;
 - (2) The Services are not supplied directly in connection with real estate situated in the State or any improvement to the real estate or directly in connection with moveable personal assets situated in the State at the time the Services are performed.
 - b. If the services are actually performed outside the Implementing States or are the arranging of services that are actually performed outside the Implementing States.
 - c. If the supply consists of the facilitation of outbound tour packages, for that part of the service.
2. For the purpose of paragraph (a) of Clause (1) of this Article, a Person shall be considered as being “outside the State” if they only have a short-term presence in the State of less than a month, or the only presence they have in the State is not effectively connected with the supply.

3. As an exception to paragraph (a) of Clause (1) of this Article, a supply of Services shall not be zero-rated, if the supply is made under an agreement that is entered into, whether directly or indirectly, with a Recipient of Services who is a Non-Resident, if all of the following conditions are met:
 - a. The performance of the Services is, or it is reasonably foreseeable that the performance of the Services will be, received in the State by another Person, including but not limited to, an employee or a director of the Non-Resident Recipient of Services.
 - b. It is reasonably foreseeable, at the time the agreement is entered into, that that other Person in the State will receive the Services in the course of making supplies for which Input Tax is not recoverable in full under Article (54) of the Decree-Law.
4. For the purposes of paragraph (c) of Clause (1) of this Article, services that consist of the “facilitation of outbound tour packages” means the services that a Taxable Person provides in packaging one or more tourism products and also services outside the Implementing States, including but not limited to such goods and services as accommodation, meals, transport, and other activities.

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

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

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

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

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

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

3.3 RATE OF TAX ON EXPORTS

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

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

3.4 PRICE EXCLUSIVE OF TAX

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

3.5 PLACE OF SUPPLY

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

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

3.5.1 Place of supply in case of export of goods

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

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

Exit and Re-entry of Goods

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

- a. Where the exit from and re-entry into the State takes place in the course of a journey between two points in the State.
- b. Where there is no significant break in transportation whilst outside of the State, and any break is limited to what is reasonably expected in the course of physically transporting Goods.
- c. Where the Goods are not unloaded from the relevant means of transport whilst outside the State.
- d. Where the Goods are not consumed, supplied, or subjected to any process whilst outside of the State;
- e. Where the nature, quantity or quality of the Goods does not change as a result of exiting and re-entering the State.

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

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

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

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

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

3.5.2 Place of supply in case of export of services

According to Article 29, the place of supply of services shall be the place of residence of the supplier. However, eight exceptions to Article 29 are carved out in Article 30 (such as where the recipient of services has a place of residence in another implementing State and is registered for tax therein, the place of supply shall be the place of residence of the recipient of services, etc.). In accordance with the aforesaid article, place of supply in case of export of services shall be the UAE State as the place of residence of exporter is in the UAE.

3.6 REGISTRATION

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

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

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

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

Article 15 of this decree law reads as below.

1. The Authority may exempt a Taxable Person from mandatory Tax Registration upon his request if his supplies are only subject to the zero rated.
2. Anyone exempted from Tax Registration according to Clause (1) of this Article shall inform the Authority of any changes to his Business that would make him subject to Tax under this Decree-Law pursuant to the time limits and procedures determined in the Executive Regulation of this Decree-Law.
3. The Authority shall have the right to collect any Due Tax and Administrative Penalties for the period of exception where that Taxable Person was not entitled to the exception.

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

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

3.7 RECOVERY OF TAX ON EXPORTED GOODS

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

3.8 REFUND OF TAX ON EXPORTED GOODS

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

3.9 RECORD KEEPING REQUIREMENTS FOR EXPORTERS

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

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

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

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

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

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

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

MODULE 4

IMPORTS

4.1 DEFINITONS

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

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

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

Services: Anything that can be supplied other than Goods.

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

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

Person: Natural or legal person.

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

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

Fixed Establishment: Any fixed place of business, other than the Place of Establishment, in which the Person conducts his business regularly or permanently and where sufficient human and technology resources exist to enable the Person to supply or acquire Goods or Services, including the Person's branches

State: United Arab Emirates

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

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

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

4.2 SCOPE OF TAX AND TAX RATE

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

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

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

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

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

1. Financial services that are specified in the Executive Regulation of this Decree-Law.
2. Supply of residential buildings through sale or lease, other than that which is zero-rated.
3. Supply of bare land.
4. Supply of local passenger transport.

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

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

4.3 VALUE OF IMPORTS

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

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

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

The Import value of Goods consists of:

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

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

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

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

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

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

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

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

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

Case 1: Import of Goods without Excise Duty

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

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

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

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

4.4 PLACE OF SUPPLY OF GOODS AND SERVICES

Place of Supply of Goods

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

If the Taxable Person imports Concerned Goods or Concerned Services for the purposes of his Business, then **he shall be treated as making a Taxable Supply to himself, and shall be responsible for all applicable Tax obligations and accounting for Due Tax in respect of these supplies.**

Place of Supply of Services

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

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

4.5 DATE OF SUPPLY

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

4.6 VAT PAYMENT ON IMPORT OF GOODS

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

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

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

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

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

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

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

As an exception to above rule, in case the final destination of the Goods when entering the State is another Implementing State, the Taxable Person shall pay the Due Tax on Import of Concerned Goods at the time or before the import of the goods as directed by the Authority. [Article 49 of Executive Regulation]

UAE VAT Reverse Charge Mechanism



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

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

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

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

4.6.2 VAT payment on import of goods by unregistered person

Where Concerned Goods are imported by a Person not registered for Tax or where the Taxable Person does not meet the conditions in Clause (1) of Article (48) of this Decision, **Tax shall be paid to the Authority by or on behalf of the Person before the Goods may be released.**

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

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

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

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

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

Process for VAT Payment on Import

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

a. Customs declaration

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

- 1. Provide the necessary details about all the goods being imported
- 2. Submit customs declaration for processing by Customs

Once the declaration is approved, it moves to ‘Pending tax payment’ status.

b. Await settlement by Customs

A customs official will validate the declaration details and approve the declaration. The importer will receive a notification that the declaration is approved.

The Customs declaration will be sent to the FTA by the Customs Authority.

c. Create an e-Services account on FTA portal

Unregistered persons should create an e-Services account on the FTA portal to pay for VAT Payment on import.

The sign-up process is as follows:

1. Sign up as a new user by entering your email ID and a unique password.
2. You will receive an email at the registered email ID asking you to verify your email ID.
3. Once your email ID is successfully verified, your e-Services account will be created and you can login to the FTA e-Services portal.

d. Login to the FTA portal and make the payment of VAT Payment

The final step is for unregistered persons to login to the FTA portal and pay the VAT due on import. Import VAT is calculated on the value of the goods + Customs duty + Excise duty.

Process for VAT Payment on Import through e-guarantee

The below process applies in scenarios 1 to 3 tabulated above. For more details, refer below Paragraph “**VAT Import Declaration User Guide**”

1. Customs Declaration

The importer shall prepare and submit the customs declaration via standard procedures and do the following:

- Provide the necessary details about all the goods being imported;
- Submit Customs Declaration for processing by Customs.

Once the declaration is approved, it moves to a “Pending Tax Payment” status.

2. Obtain e-Guarantee (Financial Security)

- Obtain an e-Guarantee equal to the value of VAT due from your Bank.
- Obtain the reference number of the e-Guarantee.

3. Create an e-Services account

Taxable persons who are not registered but are importing goods to the UAE will first have to create an e-Services account. The sign up process includes the following steps:

- Sign up as a new user;
- Verify your e-Services account; and
- Complete the verification by using your e-Services account.

4. Login to FTA portal and complete the VAT Import Declaration form

The importer shall log in to the FTA e-Services portal to submit the e-Guarantee number obtained from bank. Once the submission of e-guarantee number is processed, the customs clearance process can be completed.

4.6.3 VAT payment on import of goods by agents

The provisions regarding import of goods by agents on behalf of another person are contained in Article 50 of the Executive Regulation on VAT which stipulates as below.

- Where a Person who is not registered for Tax imports Goods is using an agent who acts on behalf of the Person for the purposes of importing the Goods into the State and who is registered for Tax in the State, the agent shall be responsible for the payment of the Tax in respect of the Import of Goods.
- The obligation on the agent to pay Tax on behalf of another Person shall be met as part of the agent's Tax Return and pay Tax as though he imported the goods himself.
- An agent who has paid tax on the behalf of another person shall not recover as Input Tax thus paid.
- Where an agent has paid Tax on behalf of another Person, it shall issue a statement to that other Person which contains, at the minimum, all of the following details:
 - i. The name, address, and Tax Registration Number of the agent.
 - ii. The date upon which the statement is issued.
 - iii. The date of Import of the relevant Goods.
 - iv. A description of the imported Goods.
 - v. The amount of Tax paid by the agent to the Authority in respect of the imported Goods.
- The statement issued by the agent to a Person in accordance with this Article shall be treated as a Tax Invoice for the purposes of the VAT Laws.

4.7 VAT PAYMENT ON IMPORT OF GOODS – EXCEPTIONS

When goods or services are imported into UAE, the VAT registered importer is liable to pay VAT on reverse charge basis. However, certain specified goods are exempted from VAT on import. When these goods are imported into UAE, VAT is not liable to be paid by the recipient. Note that these exemptions should not be confused with Customs duty exemptions on certain specified imports. These goods are only exempted from VAT. Customs duty would still need to be paid on these goods.

As per Clause 2 of Article 47 of Executive Regulation on VAT, **Tax shall not be due on any Import of Goods where they are under an exemption from Customs duty under the following categories in accordance with the GCC Common Customs Law:**

- a. **Goods imported by the military forces and internal security forces**
- b. **Personal effects and gifts accompanied by travellers**

The personal belongings and gifts brought by the tourist while visiting UAE are not subjected to VAT. No VAT is applicable on these as these are non-commercial in nature.

c. Used personal effects and household items transported by UAE nationals living abroad on return or expats moving to live in UAE for the first time

Used personal belongings and household items brought into UAE by UAE nationals returning to UAE after living abroad, are exempted from VAT. Similarly, when expatriates from other countries move to UAE for the first time, the used personal belongings and household items brought by them are exempted from VAT.

d. Returned goods

When goods exported from UAE are returned or goods which have been temporarily exported for finishing or repair have been brought back to UAE, VAT is not applicable.

4.8 GOODS UNDER CUSTOM DUTY SUSPENSION

Customs duty suspension is an arrangement under which Customs duty is not levied in certain circumstances. These goods which are under the customs duty suspension will also not attract import VAT.

Goods shall not be treated as imported into the State where they are under customs duty suspension arrangements in accordance with the GCC Common Customs Law.

Supplies covered under the customs duty suspension

The supplies which come under customs duty suspension are:

- a. Goods entering UAE under temporary admission
- b. Goods which are placed in a customs warehouse
- c. Goods entering UAE in transit
- d. Goods imported which are intended to be re-exported by the same person who imported them

Financial guarantee required for goods coming under customs duty suspension

As per Article 47 (1)(a) of the Executive Regulation, the importer would be required to provide a financial guarantee equal to the value of VAT which would be due on import, before the goods are allowed to be considered under customs duty suspension.

Consequences if the specified supplies do not meet the conditions for customs duty suspension.

If the goods imported do not meet the conditions for customs duty suspension, they will be treated as imported into UAE and VAT will become due on the goods.

What is the difference between goods kept under customs duty suspension and goods which are exempted from import VAT?

The key difference between the two is that on goods which are kept under customs duty suspension, customs duties will not be levied, whereas on goods which are exempted from VAT, customs duties could be levied.

Hence, imports which are considered under customs duty suspension are not subject to import VAT and customs duties, provided the required conditions are met.

4.9 RECORD KEEPING REQUIREMENTS

Where a Taxable Person imports concerned goods and services and accounts for Due Tax under Reverse Charge Mechanism, the Taxable Person shall keep the following documents relating to the supply:

- a. The supplier's invoice showing details and the Consideration paid for the Concerned Goods or Concerned Services.
- b. In the case of Concerned Goods, a statement from the relevant Customs Department showing details and the value of the Concerned Goods.

4.10 VAT IMPORT DECLARATION USER GUIDE

In order to help VAT registered importers understand the payment process, declaration process and steps to be followed for the purpose of importing goods into the UAE, navigate through the Federal Tax Authority (FTA) website and successfully declare goods subject to VAT, FTA has issued **VAT IMPORT DECLARATION USER GUIDE**. The same is reproduced here for quick reference of readers.



VAT IMPORT DECLARATION USER GUIDE (REGISTERED AND NON-REGISTERED USERS)

December 2017



1. Brief overview of this user guide

This guide is prepared to help VAT registered importers understand the different scenarios and steps to be followed in term of importing goods into the UAE, navigate through the Federal Tax Authority (FTA) website and successfully declare goods subject to VAT. It is designed to help you:

- **understand the process** for declaring goods at Customs
- **navigate to the VAT declarations forms** to declare goods subject to VAT
- **provide accurate answers** to the questions on the VAT Declaration Import forms by explaining what information you are required to provide
- **provide Customs with the appropriate proof** to validate the imports declaration and the VAT due; and
- **understand the icons and symbols** included in the forms.

Setting up an e-Services account is similar to setting up the other online accounts that you hold. The VAT import declaration form is also designed to be straightforward and wherever possible it will auto-complete information for you.

If you need help setting up your e-Services account or have questions on specific fields in the VAT import declaration form, please contact us.



2. Summary of Scenarios for Registered Importers for VAT

As a VAT registered importer, you shall follow specific steps for each scenario to identify the declarations you will be required to file. The guide covers the following scenarios:

1. **Scenario 1:** Importing taxable goods into UAE mainland
2. **Scenario 2:** Importing and then exporting the goods to another country

For scenarios 1-2, you must file your returns and pay the VAT due at the time of filing your VAT return. For details about the filing process for VAT, refer to the VAT returns user guide published on FTA portal.

3. **Scenario 3:** A traveler importing goods valued up to AED 3000.
4. **Scenario 4:** Importing returned goods (being certain exported goods which came back into UAE) into UAE mainland.
5. **Scenario 5:** A UAE National living abroad or expat coming into the UAE for the first time importing used personal effects and household items.
6. **Scenario 6:** The military and internal security forces Importing goods into UAE mainland.
7. **Scenario 7:** Importing goods into a VAT designated zone.
8. **Scenario 8:** Transferring goods from one VAT designated zone to another VAT designated zone.

For scenarios 3-8, VAT is not applicable. No further details are documented in this guide.

3. Summary of scenarios for Non-Registered Importers for VAT

Non-registered importers are those who import goods subject to VAT irregularly without being registered for VAT.

The document covers the following scenarios:

- **Scenario 1:** Import goods from outside UAE to UAE mainland
- **Scenario 2:** Import into UAE to export the goods outside the UAE to another country and it is not considered under customs duty suspension
- **Scenario 3:** Import to export the goods outside the UAE to a GCC Country that has implemented VAT and it is not considered under customs duty suspension

For details on steps to be followed under **Scenarios 1-3** refer to **section 4.1** in this document.



- **Scenario 4:** Transfer goods from one VAT designated zone to another VAT designated zone
- **Scenario 5:** Import goods into the UAE under duty suspension

For details on steps to be followed under **Scenarios 4-5** refer to **section 4.2** in this document.



4. VAT Scenarios details for Non-Registered Importers

Below are the steps which non-registered importers have to follow in order to prepare their customs declaration, pay their VAT and have their goods cleared at Customs.

4.1 Scenarios 1-3

The process below applies to the following scenarios:

- **Scenario 1:** Import goods into UAE mainland
- **Scenario 2:** Import goods into UAE to export the goods outside the UAE to another country and it is not considered to be under customs duty suspension
- **Scenario 3:** Import to export the goods outside the UAE to a GCC Country that has implemented VAT and it is not considered to be under customs suspension

1. Customs Declaration

The importer shall prepare and submit the customs declaration via standard procedures and do the following:

- Provide the necessary details about all the goods being imported;
- Submit Customs Declaration for processing by Customs.

Once the declaration is approved, it moves to a “Pending Tax Payment” status.

2. Await settlement by the Customs

The customs official shall validate the declaration details, settle and approve the declaration. The importer will receive the approval notification.

IMPORTANT: Once the declaration is sent to FTA, the customs system will not allow any further editing of the form. The only state that the declaration form can change to is either “approved” or “declined”.

3. Create an e-Services account

Taxable persons who are not registered but are importing goods to the UAE will first have to create an e-Services account. The sign up process includes the following steps:

- Sign up as a new user;
- Verify your e-Services account; and,
- Complete the verification by using your e-Services account.

For details on the steps above, please refer to the sign up process documented within **Appendix A**.



4. Login to FTA portal and make the Payment for VAT due

Non-registered importers have to pay the applicable taxes before clearing the goods. Import VAT is calculated on the value of the goods inclusive of any customs duty and excise tax that may also be due.

The importer shall log in to the FTA e-Services portal to proceed with and confirm the payment. To do so, go to the VAT tab as per the following screenshot and then follow the following steps:



- Click on 'VAT301 – Import Declaration Form for VAT Payment'.

• VAT301 - EGuarantor Cancellation Form
• VAT301 - Import Declaration Form for VAT Payment

- Fill in the Customs Authority, Declaration Number and Declaration Date. Then click on **Next** button that appears at the right side of the end of the page.
- The screen 'About Declaration' will open and the declaration details (TRN number, import date, destination...etc.) will be automatically retrieved. Click on '**Next**' button that appears at the right side of the end of the page.
- The screen 'Declaration Details' will open and the declaration details (e.g. HS Code, Import Value, Customs Duty, CIF Value...etc.) will be automatically retrieved. Click on '**Next**' button that appears at the right side of the end of the page to proceed to payment screen.
- Click on '**Pay VAT**' button which will direct you to the e-Dirham gateway.
- Once you are redirected to the e-Dirham gateway, you will be able to make a payment through an e-Dirham or non e-Dirham card.
- Once the payment is processed successfully, a confirmation message will appear on the screen and you will receive an email confirmation that the payments has been successfully completed. After which the customs clearance process can be completed.



4.2 Scenarios 4-5

The process below applies to the following scenarios:

- **Scenario 4:** Transfer of goods from one VAT designated zone to another VAT designated zone;
- **Scenario 5:** Import goods into the UAE under duty suspension.

1. Customs Declaration

The importer shall prepare and submit the customs declaration via standard procedures and do the following:

- Provide the necessary details about all the goods being imported;
- Submit Customs Declaration for processing by Customs.

Once the declaration is approved, it moves to a “Pending Tax Payment” status.

2. Obtain e-Guarantee (Financial Security)

- Obtain an e-Guarantee equal to the value of VAT due from your Bank.
- Obtain the reference number of the e-Guarantee.

IMPORTANT: Once the declaration is sent to the FTA, the customs system will not allow any further editing of the form. The only state that the declaration form can change to is “approved” or “declined”.

3. Create an e-Services account

Taxable persons who are not registered but are importing goods to the UAE will first have to create an e-Services account. The sign up process includes the following steps:

- Sign up as a new user;
- Verify your e-Services account; and
- Complete the verification by using your e-Services account.

For details on the steps above, please refer to the sign up process documented within **Appendix A**.

4. Login to FTA portal and complete the VAT Import Declaration form

The importer shall log in to the FTA e-Services portal to submit the e-Guarantee number. To do so, go to VAT tab as per the following screenshot and then follow the following steps:





- Click on 'VAT301 – Import Declaration Form for VAT Payment'.
- Fill in the Customs Authority, Declaration Number and Declaration Date. Then click on **Next** button that appears at the right side of the end of the page.
- The screen 'About Declaration' will open and the declaration details (TRN number, import date, destination, etc.) will be automatically retrieved. Click on '**Next**' button that appears at the right side of the end of the page.
- The screen 'Declaration Details' will open and the declaration details (e.g. HS Code, Import Value, Customs Duty, CIF Value, etc.) will be automatically retrieved. Click on '**Next**' button that appears at the right side of the end of the page to proceed to payment screen.
- Fill in the e-Guarantee number and Click on '**Verify e-Guarantee**' button.
- Once the submission of the e-Guarantee is processed successfully, a confirmation message will appear on the screen providing the transaction ID and the amount.

Further, you will receive an email confirmation that the e-Guarantee has been successfully submitted.

After which the customs clearance process can be completed.

VAT301 - Import Declaration Form for VAT Payment

Declaration ID

Customs Authority*

Declaration Number*

Declaration Date*

VAT Payment

Pay VAT through eGuarantee

eGuarantee Number: 1234567890

Verify eGuarantee

VAT Payment

Paid

Successful Payments

Payment Type	Transaction Id	Amount
EGUARANTEE	2017000000000216	11.10

4.3 Upon leaving the UAE/ exporting the goods

The importer shall log in to the FTA e-Services portal to submit the e-Guarantee cancellation request. To do so, go to VAT tab as per the following screenshot and then follow the following steps:



- Click on '**VAT701 – E-Guarantee Cancellation Form**'.
- Fill in the e-Guarantee Cancellation form and provide the following information:
 - Import Customs Authority

VAT701 - E-Guarantee Cancellation Form
VAT301 - Import Declaration Form for VAT Payment



- Import Declaration Number
 - Import Declaration Date
 - Import Customs Registration Number
 - Export Customs Authority
 - Export Declaration Number
 - Export Declaration Date
 - Export Customs Registration Number
 - E-Guarantee number
 - Amount subject to refund
 - E-Guarantee file attachment
3. Once the form is filled, click on the '**Submit**' button that appears at the right side of the end of the page.
4. Once the submission of the e-Guarantee cancelation form is done successfully, a confirmation message will appear on the screen that the request is successful and you will receive a confirmation email.

VAT701 - EGuarantee Cancellation Form

Submit Cancellation Request

Request Successful

The e-Guarantee Cancellation will be handled by the FTA Team. An FTA Official will be in touch with you with further details as needed.



Appendix A: Overview of the sign-up process

When you arrive at the FTA website, you will notice in the top right hand corner of the screen you have the option to either *Sign up* to the e-Services account service, or *Login* to an existing e-Services account.



1. Create an e-Services account (new users)

1.1. Sign up

To create an account, simply click on the *Sign up* button on the home page.

To sign up, you must enter a working email address and a unique password of 6-20 characters that includes at least:

- one number;
- one letter; and
- one special character (@, #, \$, %, &, *).

You must confirm that you are a genuine user by completing the CAPTCHA or alphanumeric verification test that you will see.

Finally, you will be asked to select a security question, provide an answer to it and a hint in order to recover your password in case you forget it.

Please read and agree to the Terms & Conditions of the FTA in relation to using e-Services and the FTA website before clicking the *Sign up* button.

1.2. Verify your e-Services account

You will receive an email at your registered email address asking you to verify your email address.

Sign up

Welcome to the Federal Tax Authority

Email address

Password

Confirm password

Enter security code:

400905

Select security question

Answer

Hint

I agree to the FTA terms and conditions of FTA.

Sign up

Already registered? [login here](#)



Do this by clicking on the *Click here to verify your email* text in the body of the email that you have received.

Please **verify your email address within 24 hours of requesting to create the e-Services account**, otherwise the verification link will expire and you will have to sign up again. Once you have successfully verified your email address, your e-Services account will be created and you will be invited to Login for the first time.

Dear Recipient,

Thank you for creating an account with the Federal Tax Authority.

Please click on the below link to verify your email address and login to the portal.

[Click here to verify your email](#)

Sincerely,
Federal Tax Authority



1.3. Using your e-Services account (registered users)

When you arrive at the FTA website having created an e-Services account, simply click on the *Login* button. Enter your registered e-Services username and password when prompted to do so. You will also be asked to complete an alphanumeric verification.

To change your e-Services account password or security question/answer, click on the *My Profile* tab.

To exit from your account, click the *Logout* button at the top right hand corner of the screen.



1.4. Services available in your e-Services account

There are a number of dedicated services available to you through your e-Services account. Currently, you will be able to access the following:

- *Dashboard* which displays key information relating to your registration;
- *My Profile* which contains a range of information about your e-Services account;
- *Downloads* which contains more detailed guidance which is designed to help you understand and manage your day-to-day obligations.



Appendix B: Important On-Screen Tips

You can change the language of the form from Arabic to English. Click on the icon at the top right hand side of the screen to do so.

For some fields you will see a small icon with an "i" next to the field. Hover the cursor over the icon to read additional information relevant to the completion of the field.

To upload a file, click the *Choose Files* button, select the file on your desktop and click the *Open* button to upload the file. To upload multiple files, repeat this process. To delete a file that has already been uploaded click the small red x.

To complete a field with a drop-down menu, click the downwards pointing arrow to the right of the field and select the option that applies. You will only be able to select one option in most cases.

To complete a field that requires a date, click the Calendar icon to the right of the field and enter the date from the calendar. The date will then appear in the field in dd/mm/yyyy form.

A trade name is a name under which a person conducts a business, other than its legal name. Sometimes, a trade name is called an "Operating Name".

Upload a scanned copy of the Certificate of incorporation*

On what basis are you applying for registration?*

Select business type

Legal person - Public Joint Stock Company (P.J.S.C)

Legal person - Incorporated (LLC, LLP, Partnership etc)

Legal person - Club, Charly or Association

Legal person - Federal UAE Government entity

Selected Trade License expiry date (dd/mm/yyyy)*

30	31	1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31	1	2
3	4	5	6	7	8	9

PART D

STATUTORY PROVISIONS

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Note: *The English translated version of Statutory Laws given in part D of the book has been taken from the website of Ministry of Finance, United Arab Emirates (www.tax.gov.ae), which states that it is unofficial translation.*

**FEDERAL LAW NO. (8) OF 2017
ON VALUE ADDED TAX**

Federal Decree-law no. (8) of 2017 On value added tax

We, Khalifa Bin Zayed Al Nahyan, President of the United Arab Emirates, having reviewed the constitution,

- Federal law no. (1) of 1972 on the competencies of the ministries and powers of the ministers and its amendments;
- Federal law no. (11) of 1981 on the imposition of a federal customs tax on imports of tobacco and its derivatives, and its amendments;
- Federal law no. (26) of 1981 regarding the commercial maritime law, and its amendments;
- Federal law no. (5) of 1985 promulgating the civil transactions law, and its amendments;
- Federal law no. (3) of 1987 promulgating the penal law, and its amendments;
- Federal law no. (10) of 1992 promulgating the law of evidence in civil and commercial transactions, and its amendments;
- Federal law no. (11) of 1992 promulgating the law on civil procedures, and its amendments;
- Federal law no. (18) of 1993 promulgating the commercial transactions law, and its amendments;
- Federal law no. (8) of 2004 on financial free zones;
- Federal law no. (1) of 2006 on electronic commerce and transactions;
- Federal law no. (2) of 2008 in respect of the national societies and associations of public welfare;
- Federal law no. (1) of 2011 on the state's public revenues;
- Federal law no. (8) of 2011 on the reorganisation of the state audit institution;
- Federal decree-law no. (8) of 2011 on the rules of the preparation of the general budget and final accounts;
- Federal law no. (4) of 2012 on the regulation of competition;
- Federal law no. (12) of 2014 on the organisation of the auditing profession;
- Federal law no. (2) of 2015 on commercial companies;
- Federal decree-law no. (13) of 2016 on the establishment of the federal tax authority;
- Federal law no. (7) of 2017 on tax procedures; and
- Pursuant to what was presented by the minister of finance and approved by the cabinet,

Have issued the following decree-law: Federal Law No. (1) of 1972 on the Competencies of the Ministries and Powers of the Ministers and its amendments

Title One

DEFINITIONS

Article (1)

Definitions

In the application of the provisions of this decree-law, the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

State: United Arab Emirates

Minister: Minister of Finance

Authority: Federal Tax Authority

Value Added Tax: A tax imposed on the import and supply of goods and services at each stage of production and distribution, including the deemed supply.

Tax: Value Added Tax (VAT).

GCC States: All countries that are full members of the cooperation council for the Arab states of the gulf pursuant to its charter.

Implementing States: The GCC states that are implementing a tax law pursuant to an issued legislation.

Goods: Physical property that can be supplied including real estate, water, and all forms of energy as specified in the executive regulation of this decree-law.

Services: Anything that can be supplied other than goods.

Import: The arrival of goods from abroad into the state or receipt of services from outside the state.

Concerned Goods: Goods that have been imported, and would not be exempt if supplied in the state.

Concerned Services: Services that have been imported, where the place of supply is in the state, and would not be exempt if supplied in the state.

Person: A natural or legal person.

Taxable Person: Any person registered or obligated to register for tax purposes under this decree-law.

Taxpayer: Any person obligated to pay tax in the state under this decree-law, whether a taxable person or end consumer.

Tax Registration: A procedure according to which the taxable person or his legal representative registers for tax purposes at the authority.

Tax Registration Number (TRN): A unique number issued by the authority for each person registered for tax purposes.

Registrant: The taxable person who has been issued with a trn.

Recipient of goods: Person to whom goods are supplied or imported.

Recipient of services: Person to whom services are supplied or imported.

Importer: With respect to importing goods, it is the person whose name is listed as the importer of the goods on the date of import for customs clearance purposes. With respect to services, it is the recipient of these services.

Taxable Trader: A taxable person in the implementing states, whose main activity is the distribution of water and all types of energy as specified in the executive regulation of this decree-law.

Tax Return: Information and data specified for tax purposes and submitted by a taxable person in accordance with a form prepared by the authority.

Consideration: All that is received or expected to be received for the supply of goods or services, whether in money or other acceptable forms of payment.

Business: Any activity conducted regularly, on an ongoing basis and independently by any person, in any location, such as industrial, commercial, agricultural, professional, service or excavation activities or anything related to the use of tangible or intangible properties.

Exempt Supply: A supply of goods or services for consideration while conducting business in the state, where no tax is due and no input tax may be recovered, except according to the provisions of this decree-law.

Taxable Supply: a supply of goods or services for a consideration by a person conducting business in the state, and does not include exempt supply.

Deemed Supply: Anything considered as a supply and treated as a taxable supply according to the instances stipulated in this decree-law.

Input Tax: Tax paid by a person or due from him when goods or services are supplied to him, or when conducting an import.

Output Tax: Tax charged on a taxable supply and any supply considered as a taxable supply.

Recoverable Tax: Amounts that were paid and may be returned by the Authority to the Taxpayer pursuant to the provisions of this Decree-Law.

Due Tax: Tax that is calculated and charged pursuant to this Decree-Law.

Payable Tax: Tax that is due for payment to the Authority.

Tax Period: A specific period of time for which the Payable Tax shall be calculated and paid.

Tax Invoice: A written or electronic document in which the occurrence of a Taxable Supply is recorded with details pertaining to it.

Tax Credit Note: A written or electronic document in which the occurrence of any amendment to a Taxable Supply that reduces or cancels the same is recorded and the details pertaining to it.

Government Entities: Federal and local ministries, government departments, government agencies, authorities and public institutions in the State.

Charities: Societies and associations of public welfare not aiming to make a profit that are listed within a Cabinet Decision issued at the suggestion of the Minister.

Mandatory Registration Threshold: An amount specified in the Executive Regulation of this Decree-Law; if exceeded by the value of Taxable Supplies or is anticipated to be exceeded, the supplier shall apply for Tax Registration.

Voluntary Registration Threshold: An amount specified in the Executive Regulation of this Decree-Law; if exceeded by the value of Taxable Supplies or taxable expenses or is anticipated to be exceeded, the supplier may apply for Tax Registration.

Transport-related Services: Shipment, packaging and securing cargo, preparation of Customs documents, container management, loading, unloading, storing and moving of Goods, or any other closely related services or services that are necessary to conduct the transportation services.

Place of Establishment: The place where a Business is legally established in a country pursuant to the decision of its establishment, or in which significant management decisions are taken and central management functions are conducted.

Fixed Establishment: Any fixed place of business, other than the Place of Establishment, in which the Person conducts his business regularly or permanently and where sufficient human and technology resources exist to enable the Person to supply or acquire Goods or Services, including the Person's branches.

Place of Residence: The place where a Person has a Place of Establishment or Fixed Establishment, in accordance with the provisions of this Decree-Law.

Non-Resident: Any person who does not own a Place of Establishment or Fixed Establishment in the State and usually does not reside in the State.

Related Parties: Two or more Persons who not separated on the economic, financial or regulatory level, where one can control the others either by Law, or through the acquisition of shares or voting rights.

Customs Legislation: Federal and local legislation that regulate customs in the State.

Designated Zone: Any area specified by a Cabinet Decision issued at the suggestion of the Minister, as a Designated Zone for the purpose of this Decree-Law.

Export: Goods departing the State or the provision of Services to a Person whose Place of Establishment or Fixed Establishment is outside the State.

Voucher: Any instrument that gives the right to receive Goods or Services against the value stated thereon or the right to receive a discount on the price of the Goods or Services. Vouchers do not include postage stamps issued by the Emirates Post Group.

Activities conducted with Sovereign Capacity: Activities conducted by Government Entities in their sole competent capacity, with or without Consideration.

Capital Assets: Business assets designated for long-term use.

Capital Assets Scheme: A scheme whereby the initially recovered Input Tax is adjusted based on the actual use during a specific period.

Administrative Penalties: Amounts imposed upon a Person by the Authority for breaching the provisions of this Decree-Law or Federal Law No. (7) of 2017 on Tax Procedures.

Administrative Penalties Assessment: A decision issued by the Authority concerning to Administrative Penalties due.

Excise Tax: A tax imposed on specific Goods.

Tax Group: Two or more Persons registered with the Authority for Tax purposes as a single taxable person in accordance with the provisions of this Decree-Law.

Title Two

TAX SCOPE AND RATE

Article (2)

Scope of Tax

Tax shall be imposed on:

1. Every Taxable Supply and Deemed Supply made by the Taxable Person.
2. Import of Concerned Goods except as specified in the Executive Regulation of this Decree-Law.

Article (3)

Tax Rate

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.

Article (4)

Responsibility for Tax

The Tax imposed shall be the responsibility of the following:

1. A Taxable Person who makes any supply stipulated in Clause (1) of Article (2) of this Decree-Law.
2. The Importer of Concerned Goods.
3. The Registrant who acquires Goods as stated in Clause (3) of Article (48) of this Decree-Law.

Title Three

SUPPLY

Chapter One

Supply of Goods and Services

Article (5)

Supply of Goods

The following shall be considered a supply of Goods:

1. Transfer of ownership of the Goods or the right to use them to another Person according to what is specified in the Executive Regulation of this Decree-Law.
2. Entry into a contract between two parties entailing the transfer of Goods at a later time, pursuant to the conditions specified in the Executive Regulation of this Decree-Law.

Article (6)

Supply of Services

A supply of Services shall be every supply that is not considered a supply of Goods, including any provision of Services specified in the Executive Regulation of this Decree-Law.

Article (7)

Supply in Special Cases

As an exception to what is stated in Articles (5) and (6) of this Decree-Law, the following shall not be considered a supply:

1. The sale or issuance of any Voucher unless the received Consideration exceeds its advertised monetary value, as specified in the Executive Regulation of this Decree-Law.
2. The transfer of whole or an independent part of a Business from a Person to a Taxable Person for the purposes of continuing the Business that was transferred.

Article (8)

Supply of more than one component

The Executive Regulation of this Decree-Law shall specify the conditions for treating a supply made of more than one component for one price, whether such components are Goods or Services or both.

Article (9)

Supply via Agent

1. The Supply of Goods and Services through an agent acting in the name of and on behalf of a principal is considered to be a supply by the principal and for his benefit.
2. The Supply of Goods and Services through an agent acting in his name is considered to be a direct supply by the agent and for his benefit.

Article (10)

Supply by Government Entities

1. A Government Entity is regarded as making a supply in the course of business in the following cases:
 - If its activities are conducted in a non-sovereign Capacity.
 - If its activities are in competition with the private sector.
2. A Cabinet Decision shall be issued at the suggestion of the Minister determining the Government Entities and their activities that are considered as conducted in a Sovereign Capacity and instances where its activities are considered not in competition with the private sector.

Chapter Two

Deemed Supply

Article (11)

The Cases of Deemed Supply

The following cases shall be considered as Deemed Supply:

1. A supply of Goods or Services, which constituted the whole assets of a Taxable Person or a part thereof, but are no longer considered to be as such, provided that the supply was made without Consideration.
2. The transfer by a Taxable Person of Goods that constituted a part of his business assets from the State to another Implementing State, or from the Taxable Person's business in an Implementing State to his Business in the State, except in the case where such transfer:
 - Is considered as temporary under the Customs Legislation.
 - Is made as part of another Taxable Supply of these Goods.
3. A supply of Goods or Services for which Input Tax may be recovered but the Goods or Services were used, in part or whole, for purposes other than Business, and such supply shall be considered as deemed only to the extent of the use for non-business purposes.
4. Goods and Services that a Taxable Person owns at the date of Tax Deregistration.

Article (12)

Exceptions for Deemed Supply

A supply is not considered as deemed in the following cases:

1. If no Input Tax was recovered for the related Goods and Services.
2. If the supply is an Exempt Supply.
3. If the recovered Input Tax has been adjusted for the Goods and Services pursuant to the Capital Assets Scheme.
4. If the value of the supply of the Goods, for each Recipient of Goods within a 12-month period, does not exceed the amount specified in the Executive Regulation of this Decree-Law, and the Goods were supplied as samples or commercial gifts.
5. If the total Output Tax due for all the Deemed Supplies per Person for a 12-month period is less than the amount specified in the Executive Regulation of this Decree-Law.

Title Four

TAX REGISTRATION AND DEREGISTRATION

Article (13)

Mandatory Tax Registration

1. Every Person, who has a Place of Residence in the State or an Implementing State and is not already registered for Tax, shall register in the following situations:
 - a. Where the total value of all supplies referred to in Article (19) exceeded the Mandatory Registration Threshold over the previous 12-month period.
 - b. Where it is anticipated that the total value of all supplies referred to in Article (19) will exceed the Mandatory Registration Threshold in the next thirty (30) days.
2. Every Person, who does not have a Place of Residence in the State or an Implementing State and is not already registered for Tax, shall register for Tax if he makes supplies of Goods or Services, and where no other Person is obligated to pay the Due Tax on these supplies in the State.
3. The Executive Regulation of this Decree-Law shall specify the time limits that a Person has to inform the Authority about his liability to register for Tax and the effective date of Tax Registration.

Article (14)

Tax Group

1. Two or more persons conducting Businesses may apply for Tax Registration as a Tax Group if all of the following conditions are met:
 - a. Each shall have a Place of Establishment or Fixed Establishment in the State.
 - b. The relevant persons shall be Related Parties.
 - c. One or more persons conducting business in a partnership shall control the others.
2. The Executive Regulation of this Decree-Law will determine the instances where the Authority may reject the application to register a Tax Group.
3. Any Person conducting Business is not allowed to have more than one Tax Registration Number, unless otherwise prescribed in the Executive Regulation.
4. If Related Parties do not apply for Tax Registration as a Tax Group under Clause (1) of this Article, the Authority may assess their relation based on their economic, financial and regulatory practices in business and register them as a Tax Group if their relation was proved thereto according to the controls and Conditions specified by the Executive Regulation of this Decree-Law.
5. The Authority may deregister the Tax Group registration in accordance with this Article as per the conditions specified in the Executive Regulation of this Decree-Law.
6. The Authority may make changes to the Persons registered as a Tax Group by adding or removing Persons as requested by the Taxable Person or in accordance with the instances mentioned in the Executive Regulation.

Article (15)

Registration Exceptions

1. The Authority may except a Taxable Person from mandatory Tax Registration upon his request if his supplies are only subject to the zero rate.
2. Anyone excepted from Tax Registration according to Clause (1) of this Article shall inform the Authority of any changes to his Business that would make him subject to Tax under this Decree-Law pursuant to the time limits and procedures determined in the Executive Regulation of this Decree-Law.
3. The Authority shall have the right to collect any Due Tax and Administrative Penalties for the period of exception where that Taxable Person was not entitled to the exception.

Article (16)

Tax Registration of Governmental Bodies

Government Entities which shall be determined in a Cabinet Decision issued under Clause (2) of Article of this Decree-Law, shall apply for Tax Registration and may not be Deregistered unless by a Cabinet Decision at the suggestion of the Minister.

Article (17)

Voluntary Registration

Any Person who is not obligated to apply for Tax Registration according to this Chapter may apply for Tax Registration in the following cases:

1. If he proves, at the end of any given month, that the total value of supplies referred to in Article (19) of this Decree-Law or the expenses which are subject to Tax and were incurred during the previous 12-month period, has exceeded the Voluntary Registration Threshold.
2. At any time that he anticipates that the total value of supplies stipulated in Article (19) of this Decree-Law or the expenses which are subject to Tax that will be incurred, will exceed the Voluntary Registration Threshold during the coming 30-day period.

Article (18)

Tax Registration for a Non-Resident

A Non-resident Person may not take the value of Goods and Services imported into the State to determine whether he is entitled to apply for Tax Registration if the calculation of Tax for such Goods or Services is the responsibility of the Importer pursuant to Clause (1) of Article (48) of this Decree-Law.

Article (19)

Calculating the Tax Registration Threshold

To determine whether a Person has exceeded the Mandatory Registration Threshold and the Voluntary Registration Threshold, the following shall be calculated:

1. The value of Taxable Goods and Services.
2. The value of Concerned Goods and Concerned Services received by the Person unless covered by Clause (1) of this Article.
3. The value of the whole or relevant part of Taxable Supplies that belong to said Person if he has, wholly or partly, acquired a Business from another Person who made the supplies.
4. The value of Taxable Supplies made by Related Parties pursuant to the cases stated in the Executive Regulation of this Decree-Law.

Article (20)

Capital Assets

The supply of Capital Assets belonging to the Person shall not be taken into account to determine whether a Person in Business exceeds the Mandatory Registration Threshold or Voluntary Registration Threshold.

Article (21)

Tax De-Registration Cases

A Registrant shall apply to the Authority for Tax Deregistration in any of the following cases:

- 1 If he stops making Taxable Supplies.
- 2 If the value of the Taxable Supplies made over a period of (12) consecutive months is less than the Voluntary Registration Threshold and said Registrant does not meet the condition stipulated in Clause (2) of Article (17) of this Decree-Law.

Article (22)

Application for Tax De-Registration

A Registrant may apply to the Authority for Tax Deregistration if the value of his Taxable Supplies during the past (12) months was less than the Mandatory Registration Threshold.

Article (23)

Voluntary Tax De-registration

A Registrant under Article (17) may not apply for Tax Deregistration within (12) months of the date of Tax Registration.

Article (24)

Procedures, Controls and Conditions of Tax Registration and De-registration

The Executive Regulation of this Decree-Law shall determine the procedures, controls and conditions for Tax Registration, Tax deregistration and rejection of applications for Tax Registration and Deregistration as stipulated in this Title.

Title Five

RULES PERTAINING TO SUPPLIES

Chapter One

Date of Supply

Article (25)

Date of Supply

Tax shall be calculated on the date of supply of Goods or Services, which shall be earlier of any of the following dates:

1. The date on which Goods were transferred, if such transfer was under the supervision of the supplier.
2. The date on which the Recipient of Goods took possession of the Goods, if the transfer was not supervised by the supplier.
3. Where goods are supplied with assembly and installation, the date on which the assembly or installation of the Goods was completed.
4. The date on which the Goods are Imported under the Customs Legislation.
5. The date on which the Recipient of Goods accepted the supply, or a date no later than (12) months after the date on which the Goods were transferred or placed under the Recipient of Goods disposal, if the supply was made on a returnable basis.
6. The date on which the Services were completed.
7. The date of receipt of payment or the date on which the Tax Invoice was issued.

Article (26)

Date of Supply in Special Cases

1. The date of supply of Goods or Services for any contract that includes periodic payments or consecutive invoices is the earliest of any of the following dates, provided that it does not exceed one year from the date of the provision of such Goods and Services:
 - a. The date of issuance of any Tax Invoice.
 - b. The date payment is due as shown on the Tax Invoice.
 - c. The date of receipt of payment.
2. The date of supply, in cases where payment is made through vending machines, shall be the date on which funds are collected from the machine.
3. The date of Deemed Supply of Goods or Services is the date of their supply, disposal, change of usage or the date of Deregistration, as the case may be.
4. The date of a supply of a voucher is the date of issuance or supply thereafter.

Chapter Two

Place of Supply

Article (27)

Place of Supply of Goods

1. The place of supply of Goods shall be in the State if the supply was made in the State, and does not include Export from or Import into the State.
2. The place of supply of installed or assembled Goods if exported from or imported into the State shall be:
 - a. In the State if assembly or installation of the Goods was done in the State.
 - b. Outside the State if assembly or installation of the Goods was done outside the State.
3. The place of supply of Goods that includes Export or Import shall be as follows:
 - a. Inside the State in the following instances:
 - i. If the supply includes exporting to a place outside the Implementing States.
 - ii. If the Recipient of Goods in an Implementing State is not registered for Tax in the state of destination, and the total exports from the same supplier to this state does not exceed the mandatory registration threshold for said state.
 - iii. The Recipient of Goods does not have a Tax Registration Number in the State, and the total exports from the same supplier in an Implementing State to the State exceeds the Mandatory Registration Threshold.
 - b. Outside the State in the following instances:
 - i. The supply includes an Export to a customer registered for Tax purposes in one of the Implementing States.
 - ii. The Recipient of Goods is not registered for Tax in the Implementing State to which export is made, and the total exports from the same supplier to this Implementing State exceeds the mandatory registration threshold for said state.
 - iii. The Recipient of Goods does not have a Tax Registration Number and the Goods are Imported from a supplier registered for Tax in any of the Implementing States from which import is made, and the total imports from the same supplier to the State do not exceed the Mandatory Registration Threshold.
4. Goods shall not be treated as exported outside the State and then reimported if such Goods are supplied in the State and this supply required that the Goods exit and then re-enter the State according to the instances specified in the Executive Regulation of this Decree-Law.

Article (28)

Place of Supply of Water and Energy

1. The supply of water and all forms of energy specified in the Executive Regulation of this Decree-Law through a distribution system, shall be considered as done in the Place of Residence of the Taxable Trader in case the distribution was conducted by a Taxable Person having a Place of Residence in the State to a Taxable Trader having a Place of Residence in an Implementing State.
2. The supply of water and all forms of energy specified in the Executive Regulation of this Decree-Law through a distribution system, shall be considered to have occurred at the place of actual consumption, if distribution was conducted by a Taxable Person to a Non-Taxable Person.

Article (29)

Place of Supply of Services

The place of supply of Services shall be the Place of Residence of the Supplier.

Article (30)

Place of Supply in Special Cases

As an exception to what is stipulated in Article (29) of this Decree-Law, the place of supply in special cases shall be as follows:

1. Where the Recipient of Services has a Place of Residence in another Implementing State and is registered for Tax therein, the place of supply shall be the Place of Residence of the Recipient of Services.
2. Where the Recipient of Services is in Business and has a Place of Residence in the State, and the Supplier does not have a Place of Residence in the State, the place of supply shall be in the State.
3. For the Supply of Services related to Goods, such as installation of Goods supplied by others, the place shall be where said Services were performed.
4. For the Supply of means of transport to a lessee who is not a Taxable Person in the State and does not have a TRN in an Implementing State, the place shall be where such means of transport were placed at the disposal of the lessee.
5. For the Supply of restaurant, hotel, and food and drink catering Services, the place shall be where such Services are actually performed.
6. For the Supply of any cultural, artistic, sporting, educational or any similar services, the place shall be where such Services were performed.
7. For the Supply of Services related to real estate as specified in the Executive Regulation of this Decree-Law, the place of supply shall be where the real estate is located.
8. For the Supply of transportation Services, the place of supply shall be where transportation starts. The Executive Regulation of this Decree-Law shall specify the place of supply for transportation Services if the trip includes more than one stop.

Article (31)

Place of Supply of Telecommunication and Electronic Services

1. For telecommunications and electronic Services specified in the Executive Regulation of the Decree-Law, the place of supply shall be:
 - a. In the State, to the extent of the use and enjoyment of the supply in the State.
 - b. Outside the State, to the extent of the use and enjoyment of the supply outside the State.
2. The actual use and enjoyment of all telecommunications and electronic Services shall be where these Services were used regardless of the place of contract or payment.

Chapter Three

Place of Residence

Article (32)

Place of Establishment

The Place of Residence of the supplier or Recipient of Services shall be as follows:

1. The state in which the Person's Place of Establishment is located or where he has a Fixed Establishment, provided that he does not have a Place of Establishment or owns a Fixed Establishment in any other state.
2. The state in which the Person's Place of Establishment is located or where he has a Fixed Establishment that is the most closely related to the supply if he has a Place of Establishment in more than one state or has Fixed Establishments in more than one state.
3. The state in which the usual Place of Residence of the Person is located if he does not have a Place of Establishment or a Fixed Establishment in any state.

Article(33)

The Agent

The Place of Residence of an agent shall be regarded as the Place of Residence of the principal in the following two cases:

1. If the agent regularly exercises the right of negotiation and enters into agreements in favor of the principal.
2. If the agent maintains a stock of Goods to fulfil supply agreements for the principal regularly.

Chapter Four

Value of Supply

Article (34)

Value of Supply

The value of supply of Goods or Services for Consideration shall be as follows:

1. If the entire Consideration is monetary, the value of the supply shall be the Consideration less the Tax.
2. If all or part of the Consideration is not monetary, the value of the supply is calculated as the overall monetary part plus the market value of the non-monetary part of the Consideration, and shall not include the Tax.
3. For Services received by the Taxable Person who is obligated to calculate the Tax in accordance with Clause (1) of Article (48) of this Decree-Law, the value of the supply shall be equal to the market value of the consideration without addition of the Tax on that supply.
4. If the Consideration is related to matters other than the supply of Goods or Services, the value of the supply shall be equal to the part of the Consideration that is related to such supply as stated in the Executive Regulation of this Decree-Law.

The Executive Regulation of this Decree-Law shall specify the rules to determine the market value.

Article (35)

Value of Import

The Import value of Goods consists of:

1. The customs value pursuant to Customs Legislation, including the value of insurance, freight and any customs fees and Excise Tax paid on the Import of the Goods. Tax shall not be included in the Value of the Supply.
2. If it is not possible to determine the value pursuant to Clause (1) of this Article, the value shall be determined based on alternate valuation rules stated in the applicable Customs Legislation..

Article (36)

Value of Supply for Related Parties

As an exception to Articles (34) and (35) of this Decree-Law, the value of the supply or Import of Goods or Services between Related Parties shall be considered equal to the market value if the following conditions are met:

1. The value of the supply is less than the market value.
2. If the supply is a Taxable Supply and the Recipient of Goods or Recipient of Services does not have the right to recover the full Tax that would have been charged to such supply as Input Tax.

Article (37)

Value of Deemed Supply

As an exception to Articles (34) and (35) of this Decree-Law, the value of the supply in the case of a Deemed Supply when the Taxable Person purchases Goods or Services to make Taxable Supplies but does not use those Goods or Services for that purpose, will be equal to the total cost incurred by the Taxable Person to make this Deemed Supply of Goods or Services.

Article (38)

Tax-Inclusive Prices

For Taxable Supplies, the advertised price shall include the Tax. Instances where prices do not include the Tax shall be determined by the Executive Regulation of this Decree-Law.

Article (39)

Value of Supply in case of Discount or Subsidies

When discounts are made before or after the Date of Supply or subsidies provided by the State to the supplier for that supply, the value of the supply shall be reduced in proportion to such discounts or subsidies.

The Executive Regulation of this Decree-Law shall specify the conditions and restrictions for calculating the Tax when the discount is made.

Article (40)

Value of Supply of Vouchers

The value of supply of a Voucher is the difference between the consideration received by the supplier of the Voucher and the advertised monetary value of the Voucher.

Article (41)

Value of Supply of Postage Stamps

The value of supply for postage stamps that allow the user to use postal services in the State shall be the amount shown on the stamp.

Article (42)

Temporary Transfer of Goods

If Goods are transferred temporarily from the domestic market into a Designated Zone or outside the State for completing the manufacturing or repair in order to re-import them into the State, the value of the supply when re-Imported shall be the value of the Services rendered.

Chapter Five

Profit Margin

Article (43)

Charging Tax based on Profit Margin

1. The Registrant may, in any Tax Period, calculate and charge Tax based on the profit margin earned on the Taxable Supplies as specified in the Executive Regulation of this Decree-Law and not based on the value of these supplies, and shall notify the Authority of the same.
2. The Executive Regulation of this Decree-Law shall specify the conditions to be met for the application of the provisions of this Article.

Title Six

ZERO RATES AND EXEMPTIONS

Chapter One

Zero Rate

Article (44)

Supply and Import Taxable at Zero Rate

The supply and Import of Goods and Services specified in this Chapter made by a Taxable Person shall be a Taxable Supply subject to the zero rate.

Article (45)

Supply of Goods and Services that is Subject to Zero Rate

The Zero rate shall apply to the following Goods and Services:

1. A direct or indirect Export to outside the Implementing States as specified in the Executive Regulation of this Decree-Law.
2. International transport of passengers and Goods which starts or ends in the State or passes through its territory, including also services related to such transport.
3. Air passenger transport in the State if it is considered an “international carriage” pursuant to Article (1) of the Warsaw Convention for the Unification of Certain Rules Relating to International Carriage by Air 1929.
4. Supply of air, sea and land means of transport for the transportation of passengers and Goods as specified in the Executive Regulations of this Decree-Law.
5. Supply of Goods and Services related to the supply of the means of transport mentioned in Clause of this Article and which are designed for the operation, repair, maintenance or conversion of these means of transport.
6. Supply of aircrafts or vessels designated for rescue and assistance by air or sea.
7. Supply of Goods and Services related to the transfer of Goods or passengers aboard land, air or sea means of transport pursuant to Clauses (2) and (3) of this Article, designated for consumption on board; or anything consumed by any means of transport, any installations or addition thereto or any other use during transportation.
8. The supply or Import of investment precious metals. The Executive Regulation of this Decree-Law shall specify the precious metals and the standards based on which they are classified as being for investment purposes.
9. The first supply of residential buildings within (3) years of its completion, either through sale or lease in whole or in part, according to the controls specified in the Executive Regulation of this Decree-Law.
10. The first supply of buildings specifically designed to be used by Charities through sale or lease according to the controls specified in the Executive Regulation of this Decree-Law.
11. The first supply of buildings converted from non-residential to residential through sale or lease according to the conditions specified in the Executive Regulation of this Decree-Law.

12. The supply of crude oil and natural gas.
13. The supply of educational services and related Goods and Services for nurseries, preschool, elementary education, and higher educational institutions owned or funded by Federal or local Government, as specified in the Executive Regulation of this Decree-Law.
14. The supply of preventive and basic healthcare Services and related Goods and Services according to what is specified in the Executive Regulation of this Decree-Law.

Chapter Two

Exemptions

Article (46)

Supply Exempt from Tax

The following supplies shall be exempt from Tax:

1. Financial services that are specified in the Executive Regulation of this Decree-Law.
2. Supply of residential buildings through sale or lease, other than that which is zero-rated according to Clauses (9) and (11) of Article (45) of this Decree-Law.
3. Supply of bare land.
4. Supply of local passenger transport.

The Executive Regulation of this Decree-Law shall specify the conditions and controls for exempting the supplies mentioned in the preceding clauses of this Article.

Chapter Three

Single and Mixed Supplies

Article (47)

Supply of More Than One Component

The Executive Regulation of this Decree-Law will specify the controls to determine the tax treatment of any supply composed of more than one component for a single price, where each component is subject to a different tax treatment.

Chapter Four

Specific Obligations to Account for Tax

Article (48)

Reverse Charge

1. If the Taxable Person imports Concerned Goods or Concerned Services for the purposes of his Business, then he shall be treated as making a Taxable Supply to himself, and shall be responsible for all applicable Tax obligations and accounting for Due Tax in respect of these supplies.
2. As an exception to Clause (1) of this Article, in case the final destination of the Goods when entering the State is another Implementing State, the Taxable Person shall pay the Due Tax on Import of Concerned Goods pursuant to the mechanism specified by the Executive Regulation of this Decree-Law.

3. If a Registrant makes a Taxable Supply in the State to another Registrant of any crude or refined oil, unprocessed or processed natural gas, or any hydrocarbons, and the Recipient of these Goods intends to either resell the purchased Goods as crude or refined oil, unprocessed or processed natural gas, or any hydrocarbons, or use these Goods to produce or distribute any form of energy, the following rules shall apply:
 - a. The Registrant making the Supply shall not charge Tax on the value of the supply of the Goods referred to in this paragraph.
 - b. The Recipient of the Goods shall calculate the Tax on the value of the Goods supplied thereto and shall be responsible for all applicable Tax obligations and for calculating the Due Tax in respect of such supplies.
4. The provisions of Clause (3) of this Article shall not apply in any of the following situations:
 - a. Where, before the Date of Supply, the Recipient of Goods has not provided a written confirmation to the supplier that his acquisition of the Goods is for the purpose of resale.
 - b. Where, before the Date of Supply, the Recipient of Goods has not provided a written confirmation to the supplier that he is a Registrant and the supplier has not verified the Tax Registration of the Recipient of Goods by means approved by the Authority.
 - c. Where the Taxable Supply would be subject to Tax at the rate of 0% in accordance with Clause (1) of Article (45) of this Decree-Law.
 - d. Where the Taxable Supply includes a supply of Goods or Services other than the Goods referred to in Clause (3) of this Article.
5. Where a Recipient of Goods of any crude or refined oil, unprocessed or processed natural gas, or any hydrocarbons confirms in writing to the supplier that he is a Registrant for the purposes of applying Clause (3) of this Article, the following shall apply:
 - a. The supplier shall not be liable for calculating the Tax in relation to the supply unless he was aware or supposed to be aware, that the Recipient was not a Registrant at the Date of Supply.
 - b. The Recipient shall be liable for the calculation of any Due Tax in respect of the supply.
6. If the supplier mentioned in paragraph (a) of Clause (5) of this Article is supposed to be aware that the Recipient of Goods was not registered at the Date of Supply, the supplier and the Recipient of Goods shall be jointly and severely liable for any Due Tax and relevant penalties in respect of the supply.
7. The Executive Regulation of this Decree-Law shall specify:
 - a. Conditions and instances where the mechanism in Clause (1) of this Article applies.
 - b. Additional obligations related to record keeping for Tax calculated according to the mechanism in Clause (1) of this Article.

Article (49)

Import of Concerned Goods

A person not registered for Tax shall pay Due Tax on Import of Concerned Goods from outside the Implementing States on the date of Import pursuant to the payment mechanism specified by the Executive Regulation of this Decree-Law.

Chapter Five

Designated Zones

Article (50)

Designated Zone

A “Designated Zone” that meets the conditions specified in the Executive Regulation of this Decree-Law shall be treated as being outside the State.

Article (51)

Transfer of Goods in Designated Zones

1. Goods may be transferred from one Designated Zone to another Designated Zone without any Tax becoming due.
2. The Executive Regulation of this Decree-Law shall specify the procedures and conditions for the transfer of Goods from and to a Designated Zone as well as the method of keeping, storing and processing such Goods therein.

Article (52)

Exceptions for Designated Zone

As an exception to Article (50) of this Decree-Law, the Executive Regulation of this Decree-Law shall specify the conditions under which the Business conducted within the Designated Zones will be regarded as being conducted in the State.

Title Seven

CALCULATION OF DUE TAX

Chapter One

Due Tax for a Tax Period

Article (53)

The Payable Tax for any Tax Period shall be calculated as being equal to the total Output Tax payable pursuant to this Decree-Law and which has been done in the Tax Period less the total Recoverable Tax by said Taxable Person over the same Tax Period.

Article (54)

Recoverable Input Tax

1. The Input Tax that is recoverable by a Taxable Person for any Tax Period is the total of Input Tax paid for Goods and Services which are used or intended to be used for making any of the following:
 - a. Taxable Supplies.
 - b. Supplies that are made outside the State which would have been Taxable Supplies had they been made in the State.
 - c. Supplies specified in the Executive Regulation of this Decree-Law that are made outside the State, which would have been treated as exempt had they been made inside the State.
2. Where Goods are imported by a Taxable Person through another Implementing State and the intended final destination of those Goods was the State at the time of Import, then the Taxable Person shall be entitled to treat the Tax paid in respect of Import of Goods into the Implementing State as Recoverable Tax subject to conditions specified the Executive Regulation of this Decree-Law.
3. Where Goods were acquired by a Taxable Person in another Implementing State and then moved into the State, the Taxable Person shall be entitled to treat the Tax paid in respect of the Goods in the Implementing State as Recoverable Tax subject to the conditions specified in the Executive Regulation of this Decree-Law.
4. A Taxable Person shall not be entitled to recover any Input Tax in respect of Tax paid in accordance with Clause (2) of Article (48) of this Decree-Law.
5. The Executive Regulation of this Decree-Law shall specify the instances where Input Tax is excepted from being recovered.

Article (55)

Recovery of Recoverable Input Tax in the Tax Period

1. Taking into consideration the provisions of Article (56) of this Decree-Law, the Recoverable Input Tax may be deducted through the Tax Return relating to the first Tax Period in which the following conditions have been satisfied:
 - a. The Taxable Person receives and keeps the Tax Invoice as per the provisions of this Decree-Law, provided that the Tax Invoice includes the details of the supply related to such Input Tax, or keeps any other document

pursuant to Clause (3) of Article (65) of this Decree-Law in relation to the Supply or Import on which Input Tax was paid.

- b. The Taxable Person pays the Consideration for the Supply or any part thereof, as specified in the Executive Regulation of this Decree-Law.
2. If the Taxable Person entitled to recover the Input Tax fails to do so during the Tax Period in which the conditions stated in Clause (1) of this Article have been satisfied, he may include the Recoverable Tax in the Tax Return for the subsequent Tax Period.

Article (56)

Input Tax Paid before Tax Registration

1. A Registrant may recover Recoverable Tax incurred before Tax Registration on the Tax Return submitted for the first Tax Period following Tax Registration, which has been paid for any of the following:
 - a) Supply of Goods and Services made to him prior to the date of Tax Registration.
 - b) Import of Goods by him prior to the date of Tax Registration.Provided that these Goods and Services were used to make supplies that give the right to Input Tax recovery upon Tax Registration.
2. As an exception to the provisions of Clause (1) of this Article, Input Tax may not be recovered in any of the following instances:
 - a) The receipt of Goods and Services for purposes other than making Taxable Supplies.
 - b) Input Tax related to the part of the Capital Assets that depreciated before the date of Tax Registration.
 - c) If the Services were received more than five years prior to the date of Tax Registration.
 - d) Where a Person has moved the Goods to another Implementing State prior to the Tax Registration in the State.

Article (57)

Recovery of Tax by Government Entities and Charities

A Cabinet Decision shall be issued at the suggestion of the Minister determining the Government Entities and Charities entitled to recover the full amount of Input Tax paid by them, except for:

1. Tax excluded from recovery as specified in the Executive Regulation of this Decree-Law.
2. Tax paid for Goods and Services used to perform exempt supplies.

Chapter Two

Apportionment and Adjustment of Input Tax

Article (58)

Calculating the Input Tax that may be Recovered

The Executive Regulation of this Decree-Law shall specify the method in which the Input Tax that may be recovered is calculated, if Input Tax is paid for Goods or Services during a specific Tax Period to make supplies that allow recovery under Article (54) and others that do not allow recovery, or for activities conducted that are not in the course of doing the Business.

Article (59)

Conditions and Mechanism of Input Tax Adjustment

The Executive Regulation of this Decree-Law shall specify the conditions and mechanism for adjusting

Input Tax in the following cases:

1. If the Taxable Person attributes the Input Tax, either fully or partially, to make Taxable Supplies, but changed the use, or the intended use, of those Goods or Services prior to making the Taxable Supplies.
2. If the Taxable Person attributes the Input Tax, either fully or partially, to make Exempt Supplies, or for activities that do not fall within the conduct of Business, but changed the use or the intended use of the those Goods or Services related to the Input Tax prior to making Exempt Supplies.

Chapter Three

Capital Assets Scheme

Article (60)

Capital Assets Scheme

1. If a Capital Asset is supplied or imported by a Taxable Person, the latter shall assess the period of use of such asset and make the necessary adjustments to the Input Tax paid pursuant to the Capital Assets Scheme.
2. A Taxable Person shall keep the records related to Capital Assets for at least ten years.
3. The Executive Regulation of this Decree-Law shall specify the following:
 - a. Capital Assets subject to the provisions of this Decree-Law and their estimated useful life.
 - b. The method of adjusting Capital Assets and the periods for which adjustments should be made.
 - c. Instances where the period for keeping records of Capital Asset records is extended.

Chapter Four

Adjustment of Tax after the Supply Date

Article (61)

Instances and Conditions for Output Tax Adjustments

1. A Registrant shall adjust Output Tax after the date of supply in any of the following instances:
 - a. If the supply was cancelled.
 - b. If the Tax treatment of the supply has changed due to a change in the nature of the supply.
 - c. If the previously agreed Consideration for the supply was altered for any reason.
 - d. If the Recipient of Goods or Recipient of Services returned them to the Registrant in full or in part and the Consideration was returned in full or in part.
 - e. If the Tax was charged in error.
2. Paragraph (e) of Clause (1) of this Article shall not apply where the place of supply was treated by the supplier at the Date of Supply as being subject to Clause (1) of Article (27), but, as a result of a movement of the Goods, it turned out that it should have been treated as a supply under paragraph (b)(1) of Clause (3) of the same.
3. In order to adjust the Output Tax any of the following conditions shall be met:

- a. If the Output Tax amount charged on the supply stated in the Tax Invoice does not match the Tax that should actually be charged on the supply as a result of any of the events mentioned in Clause (1) of this Article.
- b. If the Registrant submits a Tax Return for the Tax Period during which the supply occurred and an amount was incorrectly calculated as being the amount of Output Tax due for this supply as the result of any of the events mentioned in Clause (1) of this Article.

Article (62)

Mechanism for Output Tax Adjustment

The Output Tax shall be adjusted according to the following:

1. If the Output Tax due for the supply exceeds the Output Tax calculated by the Registrant, the Registrant shall issue a new Tax Invoice for the additional amount of Tax and calculate the additional Tax due for the Tax Period during which such an increase was identified.
2. If the Output Tax calculated by the Registrant exceeds the Output Tax which should have been charged on the supply, the Registrant shall issue a Tax Credit Note according to the provisions of this Decree-Law.

Article (63)

Adjustment due to the Issuance of Tax Credit Notes

Without prejudice to Clause (2) of Article (62) of this Decree-Law, if the Registrant issues a Tax Credit Note to correct Output Tax charged to the Recipient of Goods or Recipient of Services, the Tax stated in the Tax Credit Note shall be considered as:

1. A reduction of the Output Tax for the Registrant of this Tax Credit Note.
2. A reduction of the Input Tax by the Recipient of Goods or Recipient of Services for the Tax Period during which the Tax Credit Note was received.

Article (64)

Adjustment for Bad Debts

1. A Registrant supplier may reduce the Output Tax in a current Tax Period to adjust the Output Tax paid for any previous Tax Period if all of the following conditions are met:
 - a. Goods and Services have been supplied and the Due Tax has been charged and paid.
 - b. Consideration for the supply has been written off in full or part as a bad debt in the accounts of the supplier.
 - c. More than six (6) months has passed from the date of the supply.
 - d. The Registrant supplier has notified the Recipient of Goods and the Recipient of Services of the amount of Consideration for the supply that has been written off.
2. The registered Recipient of Goods or Recipient of Services shall reduce the Recoverable Input Tax for the current Tax Period related to a supply received during any previous Tax Period where the Consideration has not been paid and all of the following conditions are met:
 - a. The registered supplier reduced the Output Tax as stated in Clause (1) of this Article and the Recipient of Goods and the Recipient of Services has received a notification from the supplier of the Consideration being written off.
 - b. The Recipient of Goods and Recipient of Services received the Goods and Services and the relevant Input Tax was deducted.
 - c. The Consideration was not paid in full or in part for the supply for over (6) six months.
3. The reduction stated in Clause (1) and (2) shall be equal to the Tax related to the Consideration which has been written off according to paragraph (b) of Clause (1) of this Article.

Chapter Five

Tax Invoices

Article (65)

Conditions and Requirements for Issuing Tax Invoices

1. A Registrant making a Taxable Supply shall issue an original Tax Invoice and deliver it to the Recipient of Goods or Recipient of Services.
2. A Registrant making a Deemed Supply shall issue an original Tax Invoice and deliver it to a Recipient of Goods or Recipient of Services if available or keep it in his records if there is no Recipient of Goods or Recipient of Services.
3. The Executive Regulation of this Decree-Law shall specify the following:
 - a. Data to be included in the Tax Invoice.
 - b. The conditions and procedures required to issue an electronic Tax Invoice.
 - c. Instances where the Registrant is not required to issue and deliver a Tax Invoice to the Recipient of Goods or the Recipient of Services.
 - d. Instances where other documents may be issued in place of the Tax Invoice as well as the conditions thereof and the data to be included therein.
 - e. Instances where another Person may issue a Tax Invoice on behalf of the registered supplier.
4. Any Person who receives an amount as Tax pursuant to any document issued by him shall pay this amount to the Authority even if it is not due.

Article (66)

Document of Supplies to an Implementing States

Without prejudice to Article (65) of this Decree-Law, each Registrant who supplies Goods or Services considered as supplied in any of the Implementing States, shall provide the Recipient of Goods and Recipient of Services with a document that includes all the information that must be included in the Tax Invoice and any other information as specified in the Executive Regulation of this Decree-Law, provided that this document is not labelled "Tax Invoice" and does not include any Tax charged.

Article (67)

Date of Issuance of Tax Invoice

The Registrant shall issue a Tax Invoice within 14 days as of the date of supply as stated in Article (25) of this Decree-Law.

Article (68)

Rounding on Tax Invoices

For the purpose of stating the Tax due on a Tax Invoice, the Executive Regulation of this Decree-Law shall specify the method of calculation and stating the total amount to be paid if the Tax is less than one fils of a UAE Dirham.

Article (69)

Currency Used on Tax Invoices

If the supply is in a currency other than the UAE Dirham, then for the purposes of the Tax Invoice, the amount stated in the Tax Invoice shall be converted into the UAE Dirham according to the exchange rate approved by the Central Bank at the date of supply.

Chapter Six

Tax Credit Notes

Article (70)

Conditions and Requirements for Issuing Tax Credit Note

1. The Registrant shall issue an original Tax Credit Note when a reduction of Output Tax occurs in relation to any supply made by him according to Clause (2) of Article (62) of this Decree-Law and deliver the same to the Recipient of Goods or Recipient of Services.
2. When making a Deemed Supply, the Registrant shall issue an original Tax Credit Note when a reduction occurs to the Output Tax in relation to such supply according to Article (61) of this Decree-Law and shall keep the same in his records.
3. The Executive Regulation of this Decree-Law shall specify the following:
 - a. Basic data that should be included in the Tax Credit Note in instances where the Taxable Person is required to issue this Note.
 - b. The conditions and procedures required for the issuance of an electronic Tax Credit Note.
 - c. Instances where the Registrant is not required to issue and deliver a Tax Credit Note to the Recipient of Goods or the Recipient of Services.
 - d. Instances where other documents may be issued in place of the Tax Credit Note as well as conditions for the issuance of such document and the data to be included therein.
 - e. Instances where another Person may issue a Tax Credit Note on behalf of the registered supplier.

Title Eight

TAX PERIOD, TAX RETURNS, PAYMENT AND RECLAIMING OF TAX

Chapter One

Tax Period

Article (71)

Duration of Tax Period

The Executive Regulation of this Decree-Law shall specify the Tax Period for which the Taxable Person shall calculate and pay Tax as well as the exceptional circumstances in which the Authority may amend the Tax Period.

Chapter Two

Tax Returns and Tax Payment

Article (72)

Submission of Tax Returns

1. The Taxable Person shall submit the Tax Return to the Authority at the end of each Tax Period within the time limits and according to the procedures specified in the Executive Regulation of this Decree-Law declaring all supplies made and received during that Tax Period.
2. A Cabinet Decision shall be issued upon the recommendation of the Minister, determining the Government Entities that may submit simplified Tax Returns to the Authority.

Article (73)

Payment of Tax

The Executive Regulation of this Decree-Law shall specify the time limits and procedures for payment of Tax stated as payable in the Tax Return according to the provisions of this Decree-Law.

Chapter Three

Carrying forward the Excess of Recoverable Tax and Tax Recovery

Article (74)

Excess Recoverable Tax

1. With the exception of what will be stipulated in the Executive Regulation of this Decree-Law, the Taxable Person shall carry forward any excess of Recoverable Tax to the subsequent Tax Periods and offset such excess against Payable Tax or any Administrative Penalties imposed under this Decree-Law or Federal Law No. (7) of 2017 on Tax Procedures in subsequent Tax Periods until such excess is fully utilised, in the following cases:

- a. If the Taxable Person's Recoverable Input Tax set forth in this Decree-Law exceeds the Output Tax payable for the same Tax Period.
- b. If the Tax paid to the Authority by the Taxable Person exceeds the Payable Tax according to the provisions of this Decree-Law, other than in the instance mentioned in paragraph (a) of Clause (1) of this Article.
2. If there remains any excess for any Tax Period after being carried forward for a period of time, the Taxable Person may apply to the Authority to reclaim the remaining excess. The Executive Regulation of this Decree-Law shall specify the time limits, procedures and mechanisms of returning any remaining excess to the Taxable Person.

Chapter Four

Other Provisions on Recovery of Tax

Article (75)

Tax Recovery in Special Cases

The Authority may according to the conditions, restrictions and procedures specified in the Executive Regulations of this Decree-Law, return Tax paid for any supply received by or Import carried out by anyone of 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.

Title Nine

VIOLATIONS AND PENALTIES

Article (76)

Administrative Penalties Assessment

Without prejudice to the provisions of Federal Law No. (7) of 2017 on Tax Procedures, the Authority shall issue an Administrative Penalty Assessment to the Person and notify the Person of the same within five business days as of the date of issuance in any of the following cases:

1. Failure by the Taxable Person to display prices inclusive of Tax according to Article (38) of this Decree-Law.
2. Failure by the Taxable Person to notify the Authority of applying Tax based on the margin according to Article (43) of this Decree-Law.
3. Failure to comply with the conditions and procedures related to keeping the Goods in a Designated Zone or moving them to another Designated Zone.
4. Failure by the Taxable Person to issue the Tax invoice or an alternative document when making any Supply.
5. Failure by the Taxable Person to issue a Tax Credit Note or an alternative document.
6. Failure by the Taxable Person to comply with the conditions and procedures regarding the issuance of electronic Tax Invoices and electronic Tax Credit Notes.

Article (77)

Tax Evasion

If it is proven that a Person who is not a Registrant acquires Goods referred to in Clause (3) of Article 48 of this Decree-Law, claiming that he is a Registrant, he shall be considered as having committed Tax Evasion and shall be subject to the penalties provided for in Federal Law No. (7) of 2017 on Tax Procedures.

Title Ten

GENERAL PROVISIONS

Article (78)

Record-keeping

1. Without prejudice to the provisions related to record-keeping stated in any other law, the Taxable Person shall keep the following records:
 - a. Records of all supplies and Imports of Goods and Services.
 - b. All Tax Invoices and alternative documents related to receiving Goods or Services.
 - c. All Tax Credit Notes and alternative documents received.
 - d. All Tax Invoices and alternative documents issued.
 - e. All Tax Credit Notes and alternative documents issued.
 - f. Records of Goods and Services that have been disposed of or used for matters not related to Business, showing Taxes paid for the same.
 - g. Records of Goods and Services purchased and for which the Input Tax was not deducted.
 - h. Records of exported Goods and Services.
 - i. Records of adjustments or corrections made to accounts or Tax Invoices.
 - j. Records of any Taxable Supplies made or received in accordance with Clause (3) of Article 48 of this Decree-Law, including any declarations provided or received in respect of those Taxable Supplies.
 - k. A Tax Record that includes the following information:
 - 1) Due Tax on Taxable Supplies.
 - 2) Due Tax on Taxable Supplies pursuant to the mechanism in Clause (1) of Article (48) of this Decree-Law.
 - 3) Due Tax after the error correction or adjustment.
 - 4) Recoverable Tax for supplies or Imports.
 - 5) Recoverable Tax after the error correction or adjustment.
2. The Executive Regulation of this Decree-Law shall specify the following:
 - a) Time limits, restrictions and conditions for keeping the records listed in Clause (1) of this Article.
 - b) Restrictions and procedures regarding the maintenance of the confidentiality of the records that may be accessed by the Authority in the case of Government Entities mentioned under Clause (2) of Article (72) of this Decree-Law.

Articles (79)

Stating the Tax Registration Number

The Taxable Person or any other Person authorised in writing by him shall state the Tax Registration Number on each Tax Return, notification, Tax Invoice, Tax Credit Note, and any other document related to Tax or correspondence as required under this Decree-Law or said Federal Law No. (7) of 2017 on Tax Procedures.

Title Eleven

CLOSING PROVISIONS

Article (80)

Transitional Rules

1. If the supplier receives Consideration or part thereof or issues an invoice for Goods or Services before the Decree-Law comes into effect, the date of supply shall be the same as the effective date of the Decree-Law in the following instances if they occur after the effective date of the Decree-Law:
 - a. Transfer of Goods under the supervision of the supplier.
 - b. Placing the Goods at the recipient's disposal.
 - c. The completion of assembly or installation of the Goods.
 - d. The issuance of the customs declaration.
 - e. The acceptance by the Recipient of Goods of the supply.
2. If a contract has been concluded prior to the enforcement of this Decree-Law, regarding a supply to be wholly or partly made after the effective date of this Decree-Law, but such contract does not contain clauses related to Tax on the supply, it shall be treated as per the following:
 - a. The Consideration shall be considered inclusive of Tax if chargeable according to this Decree-Law.
 - b. Tax shall be calculated on the supply regardless of whether it has been taken into account when determining the Consideration for the supply.
3. The Executive Regulation of this Decree-Law shall set forth special provisions related to the implementation of this Decree-Law where a contract has been concluded before the effective date of the Decree-Law but the supply under the contract is wholly or partly made after the effective date of this Decree-Law.

Article (81)

Revenue Sharing

Tax revenues and Administrative Penalties set forth in the provisions of this Decree-Law shall be subject to sharing between the Federal Government and the Emirates Governments based on the provisions of Federal Decree-Law No. (13) of 2016 On the Establishment of the Federal Tax Authority.

Article (82)

Executive Regulation

The Cabinet shall issue the Executive Regulation of this Decree-Law at the suggestion of the Minister.

Article (83)

In case of absence of a special provision in this Decree-Law, the provisions of Federal Law No. (7) of 2017 on Tax Procedures shall be applied.

Article (84)

Cancellation of Conflicting Provisions

Any text or provisions contrary to or inconsistent with the provisions of this Decree-Law shall be abrogated.

Article (85)

Effective Date of this Decree-Law and its Application

This Decree-Law shall be published in the Official Gazette and shall come into effect as of January 1, 2018.

Khalifa bin Zayed Al Nahyan

President of the United Arab Emirates

Issued by us at the Presidential Palace in Abu Dhabi

On: 1 /12/1438 H.

Corresponding to: 23/ 8 /2017

**CABINET DECISION NO. (52) OF 2017 ON THE
EXECUTIVE REGULATIONS OF THE FEDERAL
DECREE-LAW NO (8) OF 2017 ON VALUE
ADDED TAX**

Cabinet Decision No. (52) of 2017 on the Executive Regulations of the Federal Decree-Law No (8) of 2017 on Value Added Tax

The Cabinet:

Having reviewed the Constitution,
Federal Law No. (1) of 1972 on the Competencies of the Ministries and Powers of the Ministers and its amendments,
Federal Decree-Law No. (13) of 2016 on the Establishment of the Federal Tax Authority,
Federal Law No. (7) of 2017 on Tax Procedures,
Federal Decree-Law No. (8) of 2017 on Value Added Tax, and
Pursuant to the presentation of the Minister of Finance,

Has decided:

Title One

DEFINITIONS

Article (1)

In the application of the provisions of this Decision, the following words and expressions shall have the meanings assigned against each, unless the context requires otherwise:

State: United Arab Emirates.

Minister: Minister of Finance.

Authority: Federal Tax Authority.

Value Added Tax: A tax imposed on the import and supply of Goods and Services at each stage of production and distribution, including the Deemed Supply.

Tax: Value Added Tax (VAT).

GCC States: All countries that are full members of The Cooperation Council for the Arab States of the Gulf pursuant to its Charter.

Implementing States: GCC States that are implementing a Tax law pursuant to an issued legislation.

Goods: Physical property that can be supplied including but not limited to real estate, water, and all forms of energy as specified in this Decision.

Services: Anything that can be supplied other than Goods.

Standard rate: The Tax rate specified in Article (3) of the Decree-Law.

Import: The arrival of Goods from abroad into the State or receiving Services from outside the State.

Concerned Goods: Goods that have been imported, and would not be exempt if supplied in the State.

Concerned Services: Services that have been imported where the place of supply is in the State, and would not be exempt if supplied in the State.

Person: Natural or legal person.

Taxable Person: Any Person registered or obligated to register for Tax purposes under the Decree-Law.

Taxpayer: Any person obligated to pay Tax in the State under the Decree-Law, whether a Taxable Person or end consumer.

Legal Representative: The manager of a company or a guardian or custodian of a minor or incapacitated person, or any other Person appointed legally to represent another Person.

Tax Registration: A procedure according to which the Taxable Person or his Legal Representative registers for Tax purposes at the Authority.

Tax Registration Number (TRN): A unique number issued by the Authority for each Person registered for Tax purposes.

Registrant: The Taxable Person issued with a TRN.

Recipient of Goods: Person to whom Goods are supplied or imported.

Recipient of Services: Person to whom Services are supplied or imported.

Tax Return: Information and data specified for Tax purposes and submitted by a Taxable Person in accordance with a form prepared by the Authority.

Consideration: All that is received or expected to be received for the supply of Goods or Services, whether in money or other acceptable forms of payment.

Business: Any activity conducted regularly, on an ongoing basis and independently by any Person, in any location, such as industrial, commercial, agricultural, professional, service or excavation activities or anything related to the use of tangible or intangible property.

Exempt Supply: A supply of Goods or Services for Consideration while conducting Business in the State, where no Tax is due and no Input Tax may be recovered except according to the provisions of the Decree-Law.

Taxable Supply: A supply of Goods or Services for a Consideration by a Person conducting Business in the State, and does not include Exempt Supplies.

Deemed Supply: Anything considered a supply and treated as a Taxable Supply according to the instances stated in the Decree-Law.

Input Tax: Tax paid by a Person or due from him when Goods or Services are supplied to him, or when conducting an Import.

Output Tax: Tax charged on a Taxable Supply and any supply considered to be a Taxable Supply.

Recoverable Tax: Amounts that were paid and can be repaid by the Authority to the Taxpayer pursuant to the provisions of the Decree-Law.

Due Tax: Tax that is calculated and charged pursuant to the Decree-Law.

Payable Tax: Tax that is due for payment to the Authority.

Tax Period: The specified timeframe, for which Payable Tax shall be calculated and paid.

Tax Invoice: A written or electronic document in which the occurrence of a Taxable Supply is recorded with details pertaining to it.

Tax Credit Note: A written or electronic document in which the occurrence of any amendment to a Taxable Supply that reduces or cancels it is recorded and the details pertaining to it.

Government Entities: Federal and local ministries, government departments, government agencies, authorities and public institutions in the State.

Charities: Societies and associations of public welfare not aiming to make a profit that are listed within a decision issued by the Cabinet upon the recommendation of the Minister.

Mandatory Registration Threshold: An amount specified in this Decision that if exceeded by the value of Taxable Supplies or is anticipated to be exceeded, the supplier must apply for Tax Registration.

Voluntary Registration Threshold: An amount specified in this Decision that if exceeded by the value of Taxable Supplies or taxable expenses or is anticipated to be exceeded, the supplier may apply for Tax Registration.

Transport-related Services: Shipment, packaging and securing cargo, preparation of Customs documents, container management, loading, unloading, storing and moving of Goods, or any other closely related services or services that are necessary to conduct the transportation services.

Place of Establishment: The place where a Business is legally established in a country pursuant to its decision of establishment, in which significant management decisions are taken or central management functions are conducted.

Fixed Establishment: Any fixed place of business, other than the Place of Establishment, in which the Person conducts his business regularly or permanently and where sufficient human and technology resources exist to enable the Person to supply or acquire Goods or Services, including the Person's branches.

Place of Residence: The place where a Person has a Place of Establishment or Fixed Establishment, in accordance with the provisions of the Decree-Law.

Non-Resident: Any person who does not own a Place of Establishment or Fixed Establishment in the State and usually does not reside in the State.

Related Parties: Two or more Persons who are not separated in economic, financial or regulatory aspects, where one can control the others either by Law, or through the acquisition of shares or voting rights.

Designated Zone: Any area specified by a decision of the Cabinet upon the recommendation of the Minister, as a Designated Zone for the purpose of the Decree-Law.

Export: Goods departing the State or the provision of Services to a Person whose Place of Establishment or Fixed Establishment is outside the State, including Direct and Indirect Export.

Direct Export: An Export of Goods to a destination outside of the Implementing States, where the supplier is responsible for arranging transport or appointing an agent to do so on his behalf.

Indirect Export: An Export of Goods to a destination outside of the Implementing States, where the overseas customer is responsible for arranging the collection of the Goods from the supplier in the State and who exports the Goods himself, or has appointed an agent to do so on his behalf;

Overseas Customer: A Recipient of Goods who does not have a Place of Establishment or Fixed Establishment in the State, does not reside in the State, and does not have a Tax Registration Number.

Voucher: Any instrument that gives the right to receive Goods or Services against the value stated thereon or the right to receive a discount on the price of the Goods or Services. Vouchers do not include postage stamps issued by the Emirates Post Group.

Capital Assets: Business assets designated for long-term use.

Capital Assets Scheme: A scheme by which initially recovered Input Tax is adjusted based on actual use during a specified time.

Administrative Penalties: Amounts charged to a Person by the Authority for a breach of the provisions of the Decree-Law and the Federal Law No. (7) of 2017 on Tax Procedures.

Tax Group: Two or more Persons registered with the Authority for Tax purposes as a single Taxable Person in accordance with the provisions of the Decree-Law.

Notification: Notification to the concerned Person or his Tax Agent or Legal Representative of decisions issued by the Authority through the means stated in the Federal Law No. (7) of 2017 on the Tax Procedures.

Tax Evasion: The use of illegal means by a Person resulting in lowering the amount of Due Tax, non-payment of the Due Tax or a refund of Tax that he does not have the right to have refunded under the Decree-Law.

Decree-Law: Federal Decree Law no. (8) of 2017 on Value Added Tax.

Title Two

SUPPLY

Article (2)

Supply of Goods

1. A transfer of ownership of Goods or of the right to use them from one Person to another Person shall include for instance the following:
 - a. A transfer of ownership of Goods under a written or verbal agreement for any sale;
 - b. A transfer of ownership for a Consideration in a compulsory manner pursuant to the applicable legislations.
2. For the purposes of Clause (1) of this Article, a transfer of the right to use any assets shall not be treated as a supply of Goods unless the other Person is able to dispose of them as owner.
3. Entry into a contract between two parties causing the transfer of Goods at a later time shall be considered a supply of Goods where the agreement mentions a transfer or intention to transfer the ownership of Goods or a future transfer of ownership of Goods.
4. The following shall be considered a supply of Goods:
 - a. A supply of water.
 - b. A supply of real estate including sale and tenancy contracts.
 - c. A supply of all forms of energy, which includes electricity and gas, including biogas, coal gas, liquefied petroleum gas, natural gas, oil gas, producer gas, refinery gas, reformed natural gas, and tempered liquefied petroleum gas, and any mixture of gases, whether used for lighting, or heating, or cooling, or air conditioning or any other purpose.

Article (3)

Supply of Services

The supply of anything other than the supply of Goods shall be regarded as a supply of Services including any of the following:

1. The granting, assignment, cessation, or surrender of a right.
2. Making available a facility or advantage.
3. Not to participate in any activity, or not to allow its occurrence, or agree to perform any activity.
4. The transfer of an indivisible share in a good.
5. The transfer or licensing of intangible rights, for example rights of authors, inventors, artists, and rights in trademarks, and rights which the legislation of the State deems to be within such category.

Article (4)

Supply of More Than One Component

1. Where a Person made a supply consisting of more than one component for one price, the Person shall determine whether the supply constitutes a single composite supply or multiple supplies.

2. The phrase "single composite supply" means a supply of Goods or Services, where there is more than one component to the supply, and taking into account the contract and the wider circumstance of the supply.
3. A single composite supply shall exist in the following cases:
 - a. Where there is supply of all of the following:
 - 1) A principal component.
 - 2) A component or components which either are necessary or essential to the making of the supply, including incidental elements which normally accompany the supply but are not a significant part of it; or do not constitute an aim in itself, but are instead a means of better enjoying the principal supply.
 - b. Where there is a supply which has two or more elements so closely linked as to form a single supply which it would be impossible or unnatural to split.
4. A single composite supply may exist under Clause (2) of this Article if all of the following conditions are met:
 - a. The price of the different components of the supply is not separately identified or charged by the supplier.
 - b. All components of the supply are supplied by a single supplier;
5. Where a Taxable Person supplies more than one component for one price and the supply is not a single composite supply, then the supply of the components shall be treated as multiple supplies.

Article (5)

Exceptions related to Deemed Supply

1. The supply shall not be regarded as a Deemed Supply in any of the following instances:
 - a. Where the Input Tax on the relevant Goods or Services is not recovered.
 - b. Where the supply is exempted.
 - c. Where the refunded Input Tax on Goods and Services is amended according to the Capital Assets Scheme.
 - d. Where the value of the supply of Goods for each recipient, within a 12-month period, does not exceed AED 500, and the supply made is to be used as samples or commercial gifts.
 - e. Where the total of Output Tax payable on all Deemed Supplies for each Person for a 12-month period is less than AED 2,000.
2. For the purposes of Paragraphs (d) and (e) of Clause (1) of this Article, the 12-month period is a period preceding the end of the month in which the Person makes a supply referred to in either of those Clauses.

Title Three

REGISTRATION

Article (6)

Application for Registration

For the purposes of mandatory or voluntary registration, the application for Tax Registration must contain such information as required by the Authority, and be submitted through the means specified by the Authority.

Article (7)

Mandatory Registration

1. The Mandatory Registration Threshold shall be AED 375,000 (three hundred and seventy-five thousand dirhams).
2. The Person required to register for Tax pursuant to the provisions of the Decree-Law must file a Tax Registration application with the Authority within (30) days of being required to register.
3. Where a Person does not file his Tax Registration application despite being required to, the Authority shall register that Person with effect from the date on which the Person first became liable to be registered for Tax and impose the necessary penalties in accordance with the Federal Law No. (7) of 2017 on Tax Procedures.
4. Where supplies made by a Person exceed, in accordance with the Decree-Law, the Mandatory Registration Threshold during the previous 12-months period, the Authority shall register the Person with effect from the first day of the month following the month in which the Person is required to register, whether or not he applies for Tax registration, or from such earlier date as agreed between the Authority and the Person.
5. Where a Person expects that his supplies, in accordance with the Decree-Law, will exceed the Mandatory Registration Threshold during the next (30) days, the Authority shall register him with effect from the date on which there are reasonable grounds for believing the Person will be required to register as specified in that Clause, whether or not he so notifies them of the liability to register for Tax, or from such earlier date as agreed between the Authority and the Person.
6. Where a Person is not a resident of the State and is required to register in accordance with the provisions of the Decree-Law, the Authority shall register him with effect from the date on which he started making supplies in the State, whether or not he so notifies them of the liability to register for Tax, or from such earlier date as agreed between the Authority and the Person.
7. A Taxable Person who has been late in registering for Tax according to the provisions of this Article is liable to account for and pay to the Authority the Due Tax on all Taxable Supplies and Imports made by him before registering.

Article (8)

Voluntary Registration

1. The Voluntary Registration Threshold shall be AED 187,500 (one hundred eighty-seven thousand five hundred dirhams).
2. Where a Person applied to register voluntarily in accordance with the provisions of the Decree-Law, the Authority shall register a Person with effect from the first day of the month following the month in which the application is made, or from such earlier date as may be requested by the Person and agreed by the Authority.

3. Where a Person applied to register voluntarily due to his expectation that his supplies under the provisions of the Decree-Law will exceed the Voluntary Registration Threshold during the next 30 days, he should be able to provide evidence of an intention to make Taxable Supplies or incur expenses which are subject to Tax in excess of the Voluntary Registration Threshold.
4. The Authority shall determine the evidence it may deem necessary to demonstrate eligibility for voluntary Tax Registration.
5. For the purpose of voluntary registration, the phrase “Taxable Expenses” means expenses which are subject to the standard rate and which are incurred in the State by a Person who has a Place of Residence in the State.
6. A Person may not register voluntarily unless he satisfies the Authority that he is carrying on a Business in the State.

Article (9)

Related Parties

1. For the purposes of Tax Group provisions, the definition of Related Parties shall relate to any two legal persons in instances such as:
 - a. One Person or more acting in a partnership and having any of the following:
 - 1) Voting interests in each of those legal Persons of 50% or more;
 - 2) Market value interest in each of those legal Persons of 50% or more;
 - 3) Control of each of those legal Persons by any other means.
 - b. Each of Persons is a Related Party with a third Person.
2. Two or more Persons shall be considered Related Parties if they are associated in economic, financial and regulatory aspects, taking into account the following:
 - a. Economic practices, which shall include at least one of the following:
 - 1) Achieving a common commercial objective;
 - 2) One Person’s Business benefiting another Person’s Business;
 - 3) Supplying of Goods or Services by different Businesses to the same customers.
 - b. Financial practices, which shall include at least one of the following:
 - 1) Financial support given by one Person’s Business to another Person’s Business.
 - 2) One Person’s Business not being financially viable without another Person’s Business.
 - 3) Common financial interest in the proceeds.
 - c. Regulatory practices, which shall include any of the following:
 - 1) Common management.
 - 2) Common employees whether or not jointly employed.
 - 3) Common shareholders or economic ownership.
3. For the purposes of this Article:
 - a. “Market value interest” in a legal Person shall be calculated as the percentage of the market value of shares and options a Person owns over total market value of all shares in the legal Person.
 - b. Any shareholding will be disregarded if there exists another agreement, which contradicts it. In that case, the shareholding will be treated as the adjusted value under that other agreement.

Article (10)

Registration as a Tax Group

1. A Tax Group shall select one of its registered members to act as the representative member of this Tax Group.
2. A request to register a Tax Group shall be made by the representative member of that Tax Group.
3. The Authority should make a decision regarding any application submitted for registration of two or more Persons as a Tax Group within the period of 20 business days starting with the day on which it was received by the Authority.
4. Where a request to form a new Tax Group is approved, the Tax Group registration shall be in effect according to the following:
 - a. From the first day of the Tax Period following the Tax Period in which the application is received;
 - b. From any date as determined by the Authority.
5. The Authority may refuse the application for registration as a Tax Group, in any of the following cases:
 - a. The Persons do not meet the requirements for Tax Group registration in accordance with the provisions of the Decree-Law and Article (9) of this Decision.
 - b. Where there are serious grounds for believing that if the registration as a Tax Group is permitted, it would enable Tax Evasion or significantly decrease Tax revenues of the Authority or increase the administrative burden on the Authority significantly;
 - c. Where any of the Persons included in the application is not a legal Person.
 - d. Where one of the Persons is a Government Entity specified under Article (10) and (57) of the Decree-Law and the other is not.
 - e. Where one of the Person is a Charity under Article (57) of the Decree-Law and the other is not.
6. The Authority may reject adding a Person to a Tax Group where that Person does not meet the requirements for Tax Group registration in accordance with the provisions of the Decree-Law or for the reasons mentioned under Clause (5) of this Article.
7. Where the Authority establishes that two or more Persons are in association as a result of their economic, financial and regulatory practices in Business, the Authority may register them as a Tax Group after considering the individual circumstance of each case, including the presence of the factors mentioned in Clause (2) of Article (9) of this Decision.
8. The Authority may only register a Person as part of a Tax Group under Clause (7) of this Article if the two following conditions are met:
 - a. The Person's Business includes making Taxable Supplies or importing Concerned Goods or Concerned Services.
 - b. If all the Taxable Supplies or imports of Concerned Goods or Concerned Services of the Business by Persons carrying on the Business would have exceeded the Mandatory Registration Threshold.
9. The Authority may reject the application of registration as a Tax Group if there are serious grounds for believing that registering the Related Parties would significantly decrease Tax revenue.

Article (11)

Amendments to a Tax Group

1. The representative member appointed under Article (10) of this Decision may apply to the Authority to do any of the following:
 - a. Add another Person to become a member of the Tax Group.

- b. Remove one of the members of that Tax Group.
 - c. Nominate another member of the Tax Group to be the representative member with the consent of the other member.
 - d. Deregister that Tax Group.
2. For the purposes of Clause (1) of this Article, the Authority may accept the request mentioned in the application from either:
- a. The first day of the Tax Period following the Tax Period in which the application is received;
 - b. Any date as determined by the Authority.
3. Any Notification by the Authority, which is addressed to the representative member of any Tax Group shall be deemed to be served on the representative member and all other members of that Tax Group.

Article (12)

Effect of registration as a Tax Group

- 1. Registration of Persons as a Tax Group shall result in the following:
 - a. Any Business carried on by a member of the Tax Group shall be deemed to be carried on by the representative member and not by any other member of the Tax Group.
 - b. Any supply made by a member of the Tax Group to another member of the same Tax Group may be disregarded.
 - c. Any supply, taxable or otherwise, by a member of the Tax Group shall be deemed to be made by the representative member.
 - d. Any Import of Concerned Goods or Concerned Services by a member of the Tax Group shall be deemed to be an import by the representative member.
 - e. Any supply of Goods or Services to a member of the Tax Group from a Person who is not a member of the Tax Group is a supply to the representative member.
 - f. Any Output Tax charged by a member of the Tax Group shall be deemed to be charged by the representative member.
 - g. Any Input Tax incurred by a member of the Tax Group shall be deemed to be incurred by the representative member.
- 2. For the purposes of Clause (1) of this Article, all members of the Tax Group shall remain personally and jointly liable for any Payable Tax of the representative member.

Article (13)

Aggregation of Related Parties

- 1. Where two or more Persons are in association as a result of their economic, financial and regulatory practices in Business in accordance with Clause (2) of Article (9) of this Decision, and these Persons are not registered as a Tax Group and have artificially segregated their business, then the Taxable Supplies of each of the Persons shall be treated as aggregated for determining whether they both have exceeded the Mandatory Registration Threshold and Voluntary Registration Threshold.
- 2. Where the Business was not segregated artificially but the Authority considers that there is a Tax revenue loss due to segregation, the Authority may treat Taxable Supplies of each of the Persons as aggregated to determine whether the total of their taxable supplies exceeded the Mandatory Registration Threshold and Voluntary Registration Threshold.

3. Where any of the cases mentioned in Clause (1) and (2) of this Article applies, each of the Persons shall be treated as making Taxable Supplies made by the other Person and shall apply for Tax Registration if the Mandatory Registration Threshold has been exceeded pursuant to the provisions of the Decree-Law.

Article (14)

Tax Deregistration

1. The Registrant must apply to the Authority for de-registration in accordance with the cases mentioned in the Decree-Law, within (20) business days of the occurrence of any of them.
2. The Authority shall accept a Registrant's application for deregistration where the two following conditions are met:
 - a. The Registrant stops making supplies referred to in Article (19) of the Decree-Law and does not expect to make any such supplies over the next 12-month period;
 - b. The value of supplies referred to in Article (19) of the Decree-Law made, or taxable expenses incurred, by the Registrant over the previous 12-months is less than the Voluntary Registration Threshold and the Authority is satisfied that his supplies, according to the provisions of the Decree-Law, or taxable expenses, expected over the next 30 days, are not expected to exceed the Voluntary Registration Threshold.
3. If the deregistration application is approved, the Authority shall cancel the Tax Registration of the Registrant with effect from the last day of the Tax Period during which the Registrant has met the conditions for deregistration or from such other date as may be determined by the Authority.
4. Where the Authority is satisfied that the conditions in Clause (2) above are met, and the Registrant has not applied for deregistration, the Authority shall deregister the Registrant with effect from the last day of the Tax Period in which the Authority became satisfied that the conditions have been met or from any other date determined by the Authority.
5. A Registrant shall not be deregistered unless he has paid all Tax and Administrative Penalties due and filed all Tax Returns as due under the Decree-Law and the Federal Law No. (7) of 2017 on Tax Procedures.
6. For the purposes of Clause (5) of this Article, any Goods and Services forming part of the assets of Business carried on by a Registrant shall be deemed to be supplied by him at a time immediately before ceasing to be Registrant and any tax payable shall be included in the final tax return, unless the Business is carried on by an appointed trustee in bankruptcy pursuant to the Federal Law No (7) of 2017 on Tax Procedures.
7. Where a Registrant requests to be deregistered from Tax due to the reduction of his Taxable Supplies to less than the Mandatory Registration Threshold, the Authority will, if in agreement with the Registrant, cancel the Tax Registration with effect from:
 - a. The date requested by the Registrant in the application; or
 - b. The date on which the request is made if the Registrant did not indicate the preferred deregistration date.
8. Where the Authority has deregistered a Registrant from Tax, it shall notify that Registrant of the date on which deregistration takes effect within (10) business days of making the decision.

Article (15)

Deregistration of a Tax Group Registration or Amendment Thereof

1. The Authority must deregister a Tax Group if the following conditions are met:
 - a. If the Persons who are registered as a Tax Group no longer meet the requirements for registration as a Tax Group in accordance with the Decree-Law.
 - b. If there is no longer an association based on economic, financial and regulatory practices.

- c. If there are serious grounds for believing that if the registration as a Tax Group is permitted to continue, it would enable Tax Evasion or would significantly decrease Tax paid to the Authority.
- 2. The Authority shall amend the composition of a Tax Group in any of the following circumstances:
 - a. A Person shall be removed from a Tax Group where the conditions in Clause (1) are met for that Person.
 - b. A Person shall be added to a Tax Group where the Authority establishes that a Person's activities should be regarded as part of the Business carried out by a Tax Group in accordance with Clause (7) of Article (10) of this Decision.
- 3. The representative member of a Tax Group shall notify the Authority if any member of the Tax Group is no longer eligible to be part of the Tax Group, within 20 business days of the ceasing to be eligible.
- 4. Where the Authority decided to either deregister a Tax Group or amend a Tax Group registration, it shall give Notification of that decision and its effective date to the representative member within 10 business days of making such decision.
- 5. Where a Taxable Person is no longer a member of a Tax Group, the Authority shall issue it with a new individual Tax Registration Number or re-activate a Tax Registration Number that was assigned to it prior to joining a Tax Group, and it shall be treated as a Registrant immediately following the time when it left the Tax Group.

Article (16)

Exception from registration

- 1. A Taxable Person that wants to apply for an exception from Tax Registration on the basis that all of his supplies are zero rated, shall apply to the Authority in a manner and by means specified by the Authority.
- 2. The Authority shall review the exception from registration application and either accept the exception from Tax Registration or notify the Taxable Person that his application is rejected.
- 3. A Person excepted from Tax Registration must notify the Authority if he makes any supplies or Imports of Goods or Services that are subject to Tax at the standard rate.
- 4. A Person shall give the notice referred to in Clause (3) of this Article within not more than 10 business days of making the supply or import which is taxable at the standard rate.
- 5. Where the Person ceases to satisfy the requirement of being excepted from Tax Registration, he shall be required to register for Tax.

Article (17)

Registration when the Decree-Law Comes into Force

- 1. A Person who will be a Taxable Person on the date the Decree-Law comes into force, must apply for Tax Registration prior to the Decree-Law coming into effect as per the timelines as announced by the Authority.
- 2. The effective date of registration of the Taxable Person is 1 January 2018, if he so notifies them of the liability to Tax Registration under Clause (1) of this Article.
- 3. Where a Person has registered for Tax prior to the Decree-Law coming into effect, the Person shall be subject to the same rights and obligations as if the Tax Registration was processed after the Decree-Law has come into effect.

Article (18)

Liabilities due before Deregistration

Deregistration does not exempt the Person from his obligations and liabilities that were applicable under the Decree-Law while he was still a Registrant.

Title Four

RULES RELATING TO SUPPLIES

Article (19)

Due Tax at Date of Supply

For the purposes of Articles (25), (26) and (80) of the Decree-Law, where Tax is due because a payment is made or a Tax Invoice is issued in respect of a supply of Goods or Services, the Tax shall be due to the extent of the payment made or stated in the Tax Invoice, and the remainder of Due Tax on that supply shall be payable according to the provisions of the Decree-Law.

Article (20)

Place of Supply of Goods Delivered within the State

Where as part of a supply of Goods, those Goods are required to exit and re-enter the State in the course of being delivered from one location in the State to another location in the State, the Goods shall not be treated as exported or imported where all of the following conditions are met:

1. Where the exit from and re-entry into the State takes place in the course of a journey between two points in the State.
2. Where there is no significant break in transportation whilst outside of the State, and any break is limited to what is reasonably expected in the course of physically transporting Goods.
3. Where the Goods are not unloaded from the relevant means of transport whilst outside the State.
4. Where the Goods are not consumed, supplied, or subjected to any process whilst outside of the State;
5. Where the nature, quantity or quality of the Goods does not change as a result of exiting and re-entering the State.

Article (21)

Place of Supply of Services Related to Real Estate

1. For the purposes of the Decree-Law and this Decision, “real estate” includes as an example:
 - a. Any area of land over which rights or interests or services can be created.
 - b. Any building, structure or engineering work permanently attached to the land.
 - c. Any fixture or equipment which makes up a permanent part of the land or is permanently attached to the building, structure or engineering work.
2. A supply of Services is deemed to relate to a real estate where the supply of Services is directly connected with the real estate, or where it is the grant of a right to use the real estate.
3. A supply of Services directly connected with real estate includes:
 - a. The grant, assignment or surrender of any interest in or right over real estate.
 - b. The grant, assignment or surrender of a personal right to be granted any interest in or right over real estate.
 - c. The grant, assignment or surrender of a licence to occupy land or any other contractual right exercisable over or in relation to real estate, including the provision, lease and rental of sleeping accommodation in a hotel or similar establishment.

- d. A supply of Services by real estate experts or estate agents.
- e. A supply of Services involving the preparation, coordination and performance of construction, destruction, maintenance, conversion and similar work.

Article (22)

Place of Supply of Certain Transport Services

- 1. The place of the supply of each transportation service is the place where the supply of that transportation service commences, where a trip includes more than one stop and consists of multiple supplies in accordance with Clause (5) of Article (4) of this Decision.
- 2. The place of supply of Transport-Related Services shall be the same as the place of supply of the transportation service to which they relate.

Article (23)

Telecommunication and electronic services

- 1. “Telecommunication services” means delivering, broadcasting, converting or receiving any of the services specified below by using any communications equipment or devices that transmit, broadcast, convert, or receive such service by electrical, magnetic, electromagnetic, electrochemical or electromechanical means or other means of communication, including:
 - a. Wired and wireless communications.
 - b. Voice, music and other audio material.
 - c. Viewable images.
 - d. Signals used for transmission with the exception of public broadcasts.
 - e. Signals used to operate and control any machinery or equipment;
 - f. Services of an equivalent type which have a similar purpose and function.
- 2. “Electronic services” means Services which are automatically delivered over the internet, or an electronic network, or an electronic marketplace, including:
 - a. Supply of domain names, web-hosting and remote maintenance of programs and equipment;
 - b. The supply and updating of software;
 - c. The supply of images, text, and information provided electronically such as photos, screensavers, electronic books and other digitized documents and files;
 - d. The supply of music, films and games on demand;
 - e. The supply of online magazines;
 - f. The supply of advertising space on a website and any rights associated with such advertising;
 - g. The supply of political, cultural, artistic, sporting, scientific, educational or entertainment broadcasts, including broadcasts of events;
 - h. Live streaming via the internet;
 - i. The supply of distance learning;
 - j. Services of an equivalent type which have a similar purpose and function.
- 3. “Electronic marketplace” means a distribution service which is operated by electronic means, including by a website, internet portal, gateway, store, or distribution platform, and meets the following conditions:
 - a. Which allows suppliers to make supplies of electronic services to customers.
 - b. The supplies made by the marketplace must be made by electronic means.

Article (24)

Evidence for Certain Supplies Between the Implementing States

1. Where a Taxable Person makes a supply of Goods from the State to a Person who has a Place of Residence in another Implementing State, and the supply requires the Goods to be physically moved to that other Implementing State, the Taxable Person shall retain official and commercial evidence of Export of those Goods to that other Implementing State.
2. The Authority may require a Taxable Person who make supplies of Goods or Services to another Implementing State to collect, retain and provide any evidential information other than required under Clause (1) of this Article, by the means determined by the Authority.
3. The Customs Departments shall confirm the type and quantity of the exported goods with its exported documents.

Article (25)

Market Value

1. The phrase "similar supply", in relation to a supply of Goods or Services, means any other supply of Goods or Services that, in respect of the characteristics, quality, quantity, functional components, materials, and reputation, is the same as, or closely or substantially resembles, that supply of Goods or Services.
2. The market value of a supply of Goods or Services at a given date is the Consideration in money which the supply would generally achieve if supplied in similar circumstances at that date in the State, being a supply freely offered and made between Persons who are not connected in any manner.
3. Where the market value of a supply of Goods or Services at a given date cannot be determined as mentioned under Clause (2) of this Article, the market value is the Consideration in money which a similar supply would achieve if supplied in similar circumstances at that date in the State, being a supply freely offered and made between Persons who are not connected in any manner.
4. Where the market value of any supply of Goods or Services cannot be determined as mentioned under Clauses (2) and (3) of this Article, the market value shall be determined by reference to the replacement cost of identical Goods or Services, with such supply being offered by a supplier who is not connected to the Recipient of Goods or Recipient of Services in any manner.

Article (26)

Apportionment of Single Consideration

For the purposes of Clause (4) of Article (34) and Article (47) of the Decree-Law, where the Consideration payable to the Taxable Person relates to both a supply of Goods or Services and matters other than the supply of Goods or Services, or to two different supplies of Goods or Services, then the Taxable Person must identify the portion of the Consideration that is the market value of each part according to the provisions of Article (25) of this Decision.

Article (27)

Price Excluding Tax

1. In the case of a Taxable Supply, the published prices shall be inclusive of Tax.
2. As an exception to Clause (1) above, the Taxable Person may declare prices as being exclusive of Tax in the following cases:
 - a. The supply of Goods or Services for Export.
 - b. Where the customer is a Registrant.

3. Where the declaration of prices as being exclusive of Tax applies according to Clause (2) of this Article, the price should be clearly identified as being exclusive of Tax.
4. As an exception of Clause (1) above, the Taxable Person shall declare the price as being exclusive of Tax in the following cases:
 - a. The supply of Concerned Goods or Concerned Services, which is subject to Clause (1) of Article (48) of the Decree-Law.
 - b. The supply of Goods subject to Tax in accordance with Clause (3) of Article (48) of the Decree-Law.

Article (28)

Discounts, Subsidies and Vouchers

1. The State shall not be treated as providing a subsidy to the supplier if the subsidy or part of it is a Consideration for a supply of Goods or Services to the State.
2. The value of supply may be reduced in the case of a discount if the following conditions are met:
 - a. The customer has benefited from the reduction in price.
 - b. The supplier funded the discount.
3. The value of a discount shall be the amount by which the Consideration is reduced.
4. The value of a discount shall not include the value of any Voucher used, and any such reduction will be ignored unless that Voucher was provided for no Consideration.
5. Where the Voucher was issued and sold by the Supplier for Consideration that is less than the value stated on the Voucher, the value of a discount shall be the difference between the value of the Voucher and the Consideration paid for that Voucher.
6. “Voucher” shall not include an instrument that gives the right to receive Goods or Services or the right to receive a discount on the price of the Goods or Services unless the monetary value for which the Voucher may be redeemed is identifiable at the time the Voucher is issued.

Title Five

PROFIT MARGIN SCHEME

Article (29)

Accounting for Tax on the Margin

1. The Taxable Person may calculate Tax on any supply of Goods by reference to the profit margin in the following situations:
 - a. Where he made a supply of Goods mentioned in Clause (2) of this Article which were purchased from either:
 - 1) A Person who is not a Registrant.
 - 2) A Taxable Person who calculated the Tax on the supply by reference to the profit margin.
 - b. Where he made a supply of Goods for which Input Tax was not recovered in accordance with Article (53) of this Decision.
2. The Goods to which Clause (1) of this Article refers are Goods which have been subject to Tax before the supply which shall be subject to the profit margin scheme and those Goods are:
 - a. Second-hand Goods, meaning tangible moveable property that is suitable for further use as it is or after repair.
 - b. Antiques, meaning goods that are over 50 years old.
 - c. Collectors' items, meaning stamps, coins and currency and other pieces of scientific, historical or archaeological interest.
3. A Taxable Person may not elect to calculate Tax by reference to the profit margin in respect of Goods referred to in paragraph (a) of Clause (1) of this Article if a Tax Invoice or other document is issued for that supply mentioning an amount of Tax chargeable on the supply.
4. The profit margin is the difference between the purchase price of the Goods and the selling price of the Goods, and the profit margin shall be deemed to be inclusive of Tax.
5. The Taxable Person must keep the following records in respect of supplies made in accordance with this Article:
 - a. A stock book or a similar record showing details of each Good purchased and sold under the profit margin scheme.
 - b. Purchase invoices showing details of the Goods purchased under the profit margin scheme. Where the Goods are purchased from Persons who are not Registrants, the Taxable Person must issue an invoice showing details of the Goods himself, including at least the following information:
 - 1) The name, address and Tax Registration Number of the Taxable Person.
 - 2) The name and address of the Person selling the Good.
 - 3) The date of the purchase.
 - 4) Details of the Goods purchased.
 - 5) The Consideration payable in respect of the Goods.
 - 6) Signature of the Person selling the Good or authorized signatory.

6. Where a Taxable Person has charged Tax in respect of a supply with reference to the profit margin, the Taxable Person shall issue a Tax Invoice that clearly states that the Tax was charged with reference to the profit margin, in addition to all other information required to be stated in a Tax Invoice except the amount of Tax.

Title Six

SUPPLIES SUBJECT TO THE ZERO RATE

Article (30)

Zero-rating the export of goods

1. The Direct Export shall be subject to the zero rate if the following conditions are met:
 - a. The Goods are physically exported to a place outside the Implementing States or are put into a customs suspension regime in accordance with GCC Common Customs Law within 90 days of the date of the supply.
 - b. Official and commercial evidence of Export or customs suspension is retained by the exporter.
2. An Indirect Export shall be subject to the zero rate if the following conditions are met:
 - a. The Goods are physically exported to a place outside the Implementing States or are put into a customs suspension regime in accordance with GCC Common Customs Law, within 90 days of the date of the supply under an arrangement agreed by the supplier and the Overseas Customer at or before the date of supply
 - b. The Overseas Customer obtains official and commercial evidence of Export or customs suspension in accordance with GCC Common Customs Law, and provides the supplier with a copy of this.
 - c. The Goods are not used or altered in the time between supply and Export or customs suspension, except to the extent necessary to prepare the Goods for Export or customs suspension.
 - d. The Goods do not leave the State in the possession of a passenger or crew member of an aircraft or ship.
3. For the purposes of this Article, a movement of Goods into a Designated Zone from a place in the State or a supply of Goods to a Designated Zone shall not be considered an Export of those Goods.
4. For the purposes of Clauses (1) and (2) of this Article:
 - a. "Official evidence" means Export documents issued by the local Emirate Customs Department in respect of Goods leaving the State.
 - b. "Commercial evidence" shall include any the following:
 - 1) Airway bill.
 - 2) Bill of lading.
 - 3) Consignment note.
 - 4) Certificate of shipment.
5. The evidence obtained as proof of Export, whether official or commercial, must identify the following:
 - a. The supplier.
 - b. The consignor.
 - c. The Goods.
 - d. The value.
 - e. The Export destination.
 - f. The mode of transport and route of the export movement.

6. The Authority may specify alternative forms of evidence according to the nature of the Export or the nature of the Goods being exported.
7. The Authority may extend the 90-day period mentioned in Clauses (1) and (2) of this Article, if the Authority has determined, after the supplier has applied in writing, that either of the following apply:
 - a. Circumstances beyond the control of the Supplier and the Recipient of Goods have prevented, or will prevent, the Export of the Goods within 90 days of the date of supply.
 - b. Due to the nature of the supply, it is not practicable for the supplier to Export the Goods, or a class of the Goods, within 90 days of the date of supply.
8. An Indirect Export would include a supply of Goods in a departure area of an airport or port to a passenger of an aircraft or a vessel if:
 - a. The Goods are intended to leave the State in the possession of the passenger.
 - b. The supplier has obtained and retained evidence, such as the details of the boarding pass of the passenger, that the passenger intends to leave for a destination outside the Implementing States.
9. If the Person required to Export the Goods in accordance with this Article does not do so within the period of 90 days or a longer period that the Authority has allowed under Clause (7) of this Article, Tax shall be charged on the supply at the rate that would have been due on the supply if it was made in the State.
10. For the purposes of this Article a supply of Goods shall be subject to the zero rate if Goods that would otherwise have been exported are destroyed or cease to exist in circumstances beyond the control of both the supplier and the Recipient of the Goods.
11. Customs Departments shall check to confirm the type and quantity of the exported goods with its export documents.

Article (31)

Zero-rating the Export of Services

1. The Export of Services shall be zero-rated in the following cases.
 - a. If the following conditions are met:
 - 1) The Services are supplied to a Recipient of Services who does not have a Place of Residence in an Implementing State and who is outside the State at the time the Services are performed;
 - 2) The Services are not supplied directly in connection with real estate situated in the State or any improvement to the real estate or directly in connection with moveable personal assets situated in the State at the time the Services are performed.
 - b. If the services are actually performed outside the Implementing States or are the arranging of services that are actually performed outside the Implementing States.
 - c. If the supply consists of the facilitation of outbound tour packages, for that part of the service.
2. For the purpose of paragraph (a) of Clause (1) of this Article, a Person shall be considered as being “outside the State” if they only have a short-term presence in the State of less than a month, or the only presence they have in the State is not effectively connected with the supply.
3. As an exception to paragraph (a) of Clause (1) of this Article, a supply of Services shall not be zero-rated, if the supply is made under an agreement that is entered into, whether directly or indirectly, with a Recipient of Services who is a Non-Resident, if all of the following conditions are met:
 - a) The performance of the Services is, or it is reasonably foreseeable that the performance of the Services will be, received in the State by another Person, including but not limited to, an employee or a director of the Non-Resident Recipient of Services.

- b) It is reasonably foreseeable, at the time the agreement is entered into, that that other Person in the State will receive the Services in the course of making supplies for which Input Tax is not recoverable in full under Article (54) of the Decree-Law.
- 4. For the purposes of paragraph (c) of Clause (1) of this Article, services that consist of the “facilitation of outbound tour packages” means the services that a Taxable Person provides in packaging one or more tourism products and also services outside the Implementing States, including but not limited to such goods and services as accommodation, meals, transport, and other activities.

Article (32)

Zero-Rating Exported Telecommunications Services

- 1. The export of telecommunications services shall be subject to the zero rate in the following situations:
 - a. A supply of telecommunications services by a telecommunications supplier who has a Place of Residence in the State to a telecommunications supplier who has Place of Residence outside the Implementing States.
 - b. A supply of telecommunications services by a telecommunications supplier who has a Place of Residence in the State to a Person who is not a telecommunications supplier and who has Place of Residence outside the State for a telecommunications service that is initiated outside the Implementing States.
- 2. For the purposes of paragraph (b) of Clause (1) of this Article, the place where a supply is initiated shall be identified according to the following:
 - a. The place of the Person who commences the supply.
 - b. If paragraph (a) of this Clause does not apply, the Person who pays in return for the services.
 - c. If paragraphs (a) and (b) of this Clause do not apply, the Person who contracts for the purposes of the supply.
- 3. For the purposes of this Article, a “telecommunications supplier” means a Person whose main activity is the supply of telecommunications services.

Article (33)

Zero-rating international transportation services for Passengers and Goods

- 1. The supply of international transportation Services for Passengers and Goods and Transport-related Services shall be subject to the zero rate in the following cases:
 - a. Transporting passengers or Goods from a place in the State to a place outside the State.
 - b. Transporting passengers or Goods from a place outside the State to a place in the State.
 - c. Transporting passengers from a place in the State to another place in the State by sea or air or land as part of a supply of an international transport of those passengers if either or both the first place of departure, or the final place of destination, is outside the State.
 - d. Transporting Goods from a place in the State to another place in the State if the Services are supplied as part, or for the purpose, of the supply of Services of transporting Goods either from a place in the State to a place outside the State or from a place outside the State to a place in the State.
- 2. The following Goods and Services shall be zero-rated if they are supplied in respect of the transportation services of passengers or Goods to which either Clause (1) of this Article applies or which are treated as taking place outside the State:
 - a. The Goods which are supplied for use or consumption or sale by or on an aircraft or a ship.
 - b. The Services supplied during the supply of transportation services.
 - c. The Service of insuring, or the arranging of the insurance, or the arranging of the transport of passengers or Goods.

3. A supply of a postage stamp issued by Emirates Post Group shall be zero-rated where the postage stamp may only be redeemed for transportation of Goods to a place outside the State.

Article (34)

Zero-rating certain means of transport

The supply of the means of transport shall be subject to the zero rate in the following cases:

1. A supply of an aircraft that is designed or adapted to be used for commercial transportation of passengers or Goods and which is not designed or adapted for recreation, pleasure or sports.
2. A supply of a ship, boat or floating structure that is designed or adapted for use for commercial purposes and which is not designed or adapted for recreation, pleasure or sports.
3. A supply of bus or train that is designed or adapted to be used for public transportation of (10) or more passengers.

Article (35)

Zero-rating Goods and Services Supplied in Connection with Means of Transport

1. The Goods and Services related to the supply of the means of transport mentioned in Article (34) of this Decision shall be subject to the zero rate if they are any of the following:
 - a. Goods, except fuel or other oil or gas products, that are supplied in the course of operating, repairing, maintaining or converting means of transport in any of the following cases:
 - 1) The Goods shall be incorporated into, affixed to, attached to or form part of those means of transport.
 - 2) The Goods are consumable Goods that become unusable or worthless as a direct result of being used in the operation, repair, maintenance, or conversion process.
 - b. Services which are supplied directly in connection with means of transport referred to in Article (34) of this Decision for the purposes of operating, repairing, maintaining or converting those means of transport.
 - c. Services which are supplied directly in connection with parts and equipment of a means of transport referred to in Article (34) of this Decision for the purpose of repairing and maintaining those parts and equipment, provided that any of the following applies:
 - 1) The services are carried out on board of the means of transport.
 - 2) The part or equipment is removed for repair or maintenance, and is subsequently replaced in the same means of transport.
 - 3) The part or equipment is removed for repair or maintenance, and is subsequently held in stock for the future use as spares in the same means of transport or another means of transport.
 - 4) The part or equipment cannot be repaired and is exchanged for an identical part or equipment.

Article (36)

Zero-rating of precious metals

1. The supply or import of investment precious metals shall be zero-rated.
2. The phrase "investment precious metals" means gold, silver and platinum that meet the following standards:
 - a. The metal is of a purity of 99 percent or more.
 - b. The metal is in a form tradeable in global bullion markets.

Article (37)

Residential buildings

1. The phrase “residential building” means a building intended and designed for human occupation, including:
 - a. Any building or part of a building that the person occupies, or that it can be foreseen that a person will occupy, as their principal place of residence.
 - b. Residential accommodation for students or school pupils.
 - c. Residential accommodation for armed forces and police.
 - d. Orphanages, nursing homes, and rest homes.
2. A “Residential building” does not include any of the following:
 - a. Any place that is not a building fixed to the ground and can be moved without being damaged.
 - b. Any building that is used as a hotel, motel, bed and breakfast establishment, or hospital or the like.
 - c. A serviced apartment for which services in addition to the supply of accommodation are provided.
 - d. Any building constructed or converted without lawful authority.
3. A building shall be considered as a residential building if a small proportion of it is used as an office or workspace by the occupants, if it includes garages and gardens used in conjunction with it, or it includes any other features that may be said to comprise part of the residential building.

Article (38)

Zero-rating of Buildings Specifically Designed to be Used by Charities

1. The first sale or a lease of a building, or any part of a building, shall be zero-rated if the building was specifically designed to be used by a Charity and solely for a relevant charitable activity.
2. In Clause (1) of this Article, “relevant charitable activity” means an activity for the purpose other than for the purpose of profit or benefit to any proprietor, member, or shareholder of the Charity, and one which is undertaken by the Charity in the course or furtherance of its charitable purpose or objectives to carry out a charitable activity in the State as approved by the Ministry of Community Development, or under the conditions of its establishment as a charity under Federal or Emirate Decree, or as otherwise licensed to operate as a Charity by an agency of the Federal or Emirate Governments authorised to grant such licences. Such charitable purposes and objectives include, for instance, advancing health, education, public welfare, religion, culture, science and similar activities.

Article (39)

Zero-rating Converted Residential Building

1. The first supply of a building, or any part of a building, which is converted to a residential building shall be subject to the zero rate provided that the supply takes place within 3 years of the completion of the conversion and the original building, or any part of it, was not used as a residential building and did not comprise part of a residential building within (5) five years prior to the conversion work commencing.
2. The presence of shared or common facilities, or dividing walls or similar features in a residential building should not cause the residential building to be considered or any part thereon as part of a pre-existing residential building.

Article (40)

Zero-rating Education Services

1. The supply of educational services shall be subject to the zero rate if the following conditions are met:

- a. The supply of educational services is provided in accordance with the curriculum recognised by the federal or local competent government entity regulating the education sector where the course is delivered.
 - b. The supplier of the educational services is an educational institution which is recognised by the federal or local competent government entity regulating the education sector where the course is delivered.
 - c. Where the Supplier of educational services is a higher education institution, the institution is either owned by the federal or local government or receives more than 50% of its annual funding directly from the federal or local government.
2. A supply of Goods or Services made by educational institutions identified in Clause (1) of this Article shall be zero-rated where the supply is directly related to the provision of a zero-rated educational service.
3. Printed and digital reading material provided by educational institutions identified in Clause (1) of this Article and which are related to the curriculum of an education shall be zero-rated.
4. As an exception to Clause (2) of this Article, the following supplies shall not be zero-rated:
- a. Goods and Services supplied by the educational institution referred to in Clause (1) that are made available to Persons who are not enrolled in the educational institution.
 - b. Any Goods other than educational materials provided by the educational institution referred to in Clause (1) that are consumed or transformed by the students undertaking the educational service for the purposes of education.
 - c. Uniforms or any other clothing which are required to be worn by the educational institution referred to in Clause (1), irrespective of whether or not supplied by the educational institutions as part of the supply of educational services.
 - d. Electronic devices in relation to educational services, irrespective of whether or not supplied by the educational institution referred to in Clause (1) as part of the supply of educational services.
 - e. Food and beverages supplied at the educational institution referred to in Clause (1), including supplies from vending machines or vouchers in respect of food and beverages.
 - f. Field trips, unless these are directly related to the curriculum of an education service and are not predominantly recreational.
 - g. Extracurricular activities provided by or through the educational institution referred to in Clause (1) for a fee additional to the fee for the education service.
 - h. A supply of membership in a student organisation.

Article (41)

Zero-rating Healthcare Services

- 1. The phrase “healthcare services” means any Service supplied that is generally accepted in the medical profession as being necessary for the treatment of the Recipient of the supply including preventive treatment.
- 2. A supply of healthcare services shall be zero rated on the condition that the supply shall:
 - a. Be made by a healthcare body or institution, doctor, nurse, technician, dentist, or pharmacy, licensed by the Ministry of Health or by any other competent authority.
 - b. Relate to the wellbeing of a human being.
- 3. “Healthcare services” do not include any of the following:
 - a. Any part of a supply that relates to staying in or attending an establishment the principal purpose of which is to provide holiday accommodation or entertainment such that any healthcare service is incidental to the provision of the accommodation or entertainment.

- b. Elective treatment for cosmetic reasons other than prescribed by a doctor or medical professional for treating or prevention of a medical condition.
- 4. A supply of Goods is zero-rated if it is a supply of:
 - a. Any pharmaceutical products identified in a decision issued by the Cabinet.
 - b. Any medical equipment identified in a decision issued by the Cabinet.
 - c. Any other Goods not covered by paragraphs (a) and (b) of this Clause which are supplied in the course of supplying a Person with zero-rated healthcare services that are necessary for the supply of such healthcare services.

Title Seven

EXEMPT SUPPLIES

Article (42)

Tax Treatment of Financial Services

1. For the purposes of this Article:
 - a. The phrase "debt security" means any interest in or right to be paid money that is, or is to be, owing by any Person, or any option to acquire any such interest or right;
 - b. The phrase "equity security" means any interest in or right to a share in the capital of a legal person, or any option to acquire any such interest or right;
 - c. The phrase "life insurance contract" means a contract lawfully entered into to the extent that it places a sum or sums at risk upon the contingency of the termination or continuance of human life, marriage, similar relationships permitted under applicable law, or the birth of a child.
 - d. The phrase "Islamic financial arrangement" means a written contract which relates to a supply of financing in accordance with the principles of Shariah.
2. Financial services are services connected to dealings in money (or its equivalent) and the provision of credit and include for instance the following:
 - a. The exchange of currency, whether effected by the exchange of bank notes or coin, by crediting or debiting accounts, or otherwise.
 - b. The issue, payment, collection, or transfer of ownership of a cheque or letter of credit.
 - c. The issue, allotment, drawing, acceptance, endorsement, or transfer of ownership of a debt security.
 - d. The provision of any loan, advance or credit.
 - e. The renewal or variation of a debt security, equity security, or credit contract.
 - f. The provision, taking, variation, or release of a guarantee, indemnity, security, or bond in respect of the performance of obligations under a cheque, credit, equity security, debt security, or in respect of the activities specified in paragraphs (b) to (e) of this Article.
 - g. The operation of any current, deposit or savings account.
 - h. The provision or transfer of ownership of financial instruments such as derivatives, options, swaps, credit default swaps, and futures.
 - i. The payment or collection of any amount of interest, principal, dividend, or other amount whatever in respect of any debt security, equity security, credit, and contract of life insurance.
 - j. Agreeing to do, or arranging, any of the activities specified in paragraphs (a) to (i) of this Clause, other than advising thereon.
3. The following financial services shall be exempted:
 - a. Activities under Clause (2) of this Article where they are not conducted in return for an explicit fee, discount, commission, and rebate or similar.
 - b. The issue, allotment, or transfer of ownership of an equity security or a debt security;
 - c. The provision or transfer of ownership of a life insurance contract or the provision of re-insurance in respect of any such contract.

4. Activities under Clause (2) of this Article shall be subject to tax where the consideration payable in respect of a supply of Services is an explicit fee, commission, discount, and rebate or similar.
5. Islamic finance products, being financial products under contract which are certified as Islamic Shariah compliant, which simulate the intention and achieve effectively the same result as a non-Shariah compliant financial product, will be treated in a similar manner as the equivalent non-Shariah financial product for the purpose of applying exemption from Tax.
6. Any supply made under an Islamic financial arrangement shall be treated in such a way as to give an outcome for the purposes of the Decree-Law and the decisions issued by the Authority, comparable to that which would be the case for their non-Islamic counterparts.
7. Where Article (31) of this Decision applies in respect of a supply of financial services, this supply should be treated as zero-rated.

Article (43)

Exemption of Residential Buildings

1. The supply of residential buildings is exempt, unless it is zero-rated, where the lease is more than (6) six months or the tenant of the property is a holder of an ID card issued by Federal Authority for Identity and Citizenship.
2. The period of tenancy referred to in Clause (1) of this Article shall be identified with reference to the contractual period of tenancy and shall not take into account any period arising from a right or option to extend the period of tenancy or renew the tenancy.
3. For the purposes of Clause (1) of this Article, a right of any party to terminate the lease early shall be ignored.

Article (44)

Exemption of Bare Land

The phrase “bare land” means land that is not covered by completed, partially completed buildings or civil engineering works.

Article (45)

Exemption of Local Passenger Transport Services

1. The supply of local passenger transport Services in a qualifying means of transport by land, water or air from a place in the State to another place in the State shall be exempt.
2. The phrase “qualifying means of transport” means:
 - a. A motor vehicle, including a taxi, bus, railway train, tram, mono-rail or similar means of transport, designed or adapted for transport of passengers.
 - b. A ferry boat, abra or other similar vessel designed or adapted for transport of passengers.
 - c. A helicopter or airplane designed or adapted for transport of passengers and approved for transport of passengers in accordance with Federal Law No. (20) of 1991 on Civil Aviation.
3. As an exception to Clause (1) of this Article, the Service of transporting of passengers from a place in the State to another place in the State shall not be considered a local passenger transport Service where the transport is by aircraft and constitutes “international carriage” as defined in the Warsaw International Convention for the Unification of Certain Rules Relating to International Carriage by Air 1929.
4. As an exception to Clause (1) of this Article, the transport of passengers shall not constitute a supply of local passenger transport Services where it is undertaken in the context of a pleasure trip where the manner in which the trip is held out indicates that its principal objective may reasonably be said to be sightseeing, or the enjoyment of catering services, or other forms of pleasure or entertainment.

Title Eight

ACCOUNTING FOR TAX ON CERTAIN SUPPLIES

Article (46)

Tax on Supplies of More Than One Component

For the purposes of the supply consisting of more than one component:

1. Where a supply is a single composite supply as provided in Article (4) of this Decision, the Tax treatment of the supply shall follow the Tax treatment of the principal component of the supply.
2. Where a supply consisting of multiple components is not a single composite supply, the supply of each component is to be treated as a separate supply.

Article (47)

General rules regarding Import of Goods

1. Without prejudice to the provisions of the Decree-Law and this Decision, Goods shall not be treated as imported into the State according to the following:
 - a. Where they are under customs duty suspension arrangements in accordance with the GCC Common Customs Law, and subject to providing a financial guarantee or a cash deposit equal to the value of the Due Tax if and when requested by the Authority, in the following cases:
 - 1) Temporary admission
 - 2) Goods placed in a customs warehouse.
 - 3) Goods in transit.
 - 4) imported Goods intended to be re-exported by the same Person.
 - b. Imported into a Designated Zone from a place outside the State.
2. Tax shall not be due on any Import of Goods where they are under an exemption from Customs duty under the following categories in accordance with the GCC Common Customs Law:
 - a. Goods imported by the military forces, and internal security forces.
 - b. Personal effects and gifts accompanied by travellers.
 - c. Used personal effect and household items transported by UAE nationals living abroad on return or expats moving to live in the UAE for first time.
 - d. Returned Goods.
3. Where a Person imported Goods to the State through another Implementing State the Tax will not be due on that Import, if the Authority establishes that Tax is due on the supply or transfer of Goods in that other Implementing State.
4. The Authority may specify procedures to be followed by Importers and Customs Departments in respect of the Import of Goods.

Article (48)

Calculation of Tax under the Reverse Charge Mechanism on import of Concerned Goods or Concerned Services

1. For the purposes of import of Concerned Goods, Clause (1) of Article (48) of the Decree-Law shall apply if the following conditions are met:
 - a. At the time of Import, the Taxable Person can demonstrate that they are registered for Tax.
 - b. The Taxable Person has sufficient details for the Authority to verify the Import and the Tax which shall be due on the Import and is able to provide these as required.
 - c. The Taxable Person has provided the Authority with its own Customs registration number issued by the competent Customs Department for that Import, such Customs Departments to verify the Import subject to the rules set by the Authority.
 - d. The Taxable Person has cooperated with, and complied with any rules imposed by, the Authority in respect of the Import.
2. Where the conditions mentioned in Clause (1) of this Article are not met, the Taxable Person shall account for Tax in respect of the Import in accordance with Clause (1) of Article 50 of this Decision.
3. Where a Taxable Person who has a Place of Residence in the State receives a supply of Goods or Services with a Place of Supply in the State, from a supplier who does not have a Place of Residence in the State and does not charge Tax on that supply, the supply shall be treated as being of Concerned Goods or Concerned Services subject to Clause (1) of Article (48) of the Decree-Law.
4. Where Clause (1) of Article (48) of the Decree-Law applies, the Taxable Person must:
 - a. Account for Tax on the value of the Concerned Goods or Concerned Services at the rate which would be applicable if the supply of the Concerned Goods or Concerned Services was made by a Taxable Person within the State.
 - b. Declare and pay the Due Tax in the Tax Return which relates to the Tax Period in which the Date of Supply for the Concerned Goods or Concerned Services took place.
5. Where a Taxable Person accounts for Due Tax in accordance Clause (1) of Article (48) of the Decree-Law, the Taxable Person shall keep the following documents relating to the supply:
 - a. The supplier's invoice showing details and the Consideration paid for the Concerned Goods or Concerned Services.
 - b. In the case of Concerned Goods, a statement from the relevant Customs Department showing details and the value of the Concerned Goods.

Article (49)

Payments for Goods Transferred to another Implementing States

1. For the purposes of Clause (2) of Article (48) of the Decree-Law, the Taxable Person must make a payment of the Due Tax by using the payment method specified by the Authority.
2. Unless expressly approved by the Authority to defer the payment of Due Tax, the payment referred to in Clause (1) of this Article shall be made at the time or before the Import of the Goods as directed by the Authority.

Article (50)

Imports by Unregistered Persons

1. Where Concerned Goods are imported by a Person not registered for Tax or where the Taxable Person does not meet the conditions in Clause (1) of Article (48) of this Decision, Tax shall be paid to the Authority by or on behalf of the Person before the Goods may be released.

2. The Customs Departments shall cooperate with the Authority to ensure that Payable Tax on Import has been settled before releasing of Goods.
3. Tax referred to in Clause (1) of this Article must be settled using the payment method specified by the Authority.
4. For the purposes of Clause (1) of this Article, where a Person who is not registered for Tax imports Goods is using an agent who acts on behalf of the Person for the purposes of importing the Goods into the State and who is registered for Tax in the State, the agent shall be responsible for the payment of the Tax in respect of the Import of Goods.
5. The obligation on the agent under Clause (4) of this Article to pay Tax on behalf of another Person shall be met as part of the agent's Tax Return and pay Tax as though he imported the goods himself.
6. An agent who has paid tax in accordance with Clause (4) of this Article shall not recover as Input Tax any Tax paid on behalf of another Person in accordance with obligations set out in this Article.
7. Where an agent has paid Tax on behalf of another Person in accordance with this Article, it shall issue a statement to that other Person which contains, at the minimum, all of the following details:
 - a. The name, address, and Tax Registration Number of the agent.
 - b. The date upon which the statement is issued.
 - c. The date of Import of the relevant Goods.
 - d. A description of the imported Goods.
 - e. The amount of Tax paid by the agent to the Authority in respect of the imported Goods.
8. The statement issued by the agent to a Person in accordance with this Article shall be treated as a Tax Invoice for the purposes of the documentation requirements in paragraph (a) of Clause (1) of Article (55) of the Decree-Law.

Title Nine

DESIGNATED ZONES

Article (51)

Designated zones

1. Any Designated Zone specified by a decision of the Cabinet shall be treated as being outside the State and outside the Implementing States, subject to the following conditions:
 - a. The Designated Zone is a specific fenced geographic area and has security measures and Customs controls in place to monitor entry and exit of individuals and movement of goods to and from the area.
 - b. The Designated Zone shall have internal procedures regarding the method of keeping, storing and processing of Goods therein.
 - c. The operator of the Designated Zone complies with the procedures set by the Authority.
2. Where the Designated Zone changes the manner of operating or no longer meets any of the conditions imposed on it that led to it being specified as a Designated Zone under the Cabinet Decision, it shall be treated as if being inside the State.
3. The transfer of Goods between Designated Zones shall not be subject to Tax if the following two conditions are met:
 - a. Where the Goods, or part thereof, are not released, and are not in any way used or altered during the transfer between the Designated Zones.
 - b. Where the transfer is undertaken in accordance with the rules for customs suspension according to GCC Common Customs Law.
4. Where Goods are moved between Designated Zones, the Authority may require the owner of the Goods to provide a financial guarantee for the payment of Tax, which that Person may become liable for should the conditions for movement of Goods not be met.
5. Where a supply of Goods is made within a Designated Zone to a Person to be used by him or a third person, then the place of supply shall be the State unless the Goods are to be incorporated into, attached to or otherwise form part of or are used in the production or sale of another Good located in the same Designated Zone which itself is not consumed.
6. The Place of supply of Services is considered to be inside the State if the place of supply is in the Designated Zone.
7. The Place of supply of water or any form of energy shall be considered to be inside the State if the place of supply is in a Designated Zone.
8. Goods located in a Designated Zone which the owner has not paid Tax on will be treated as Imported into the State by the owner if:
 - a. The Goods are consumed by the owner unless the Goods are incorporated into, attached to or otherwise form part of or are used in the production of another Good located in a Designated Zone which itself is not consumed.
 - b. The Goods are unaccounted for.
9. Any Person established, registered or which has a Place of Residence in a Designated Zone shall be deemed to have a Place of Residence in the State for the purposes of the Decree-Law.

Title Ten

CALCULATION OF DUE TAX

Article (52)

Input Tax Recovery in Respect of Exempt Supplies

1. Supplies referred to in paragraph (c) of Clause (1) of Article (54) of the Decree-Law are the supplies of financial Services, where the place of supply of these Services is treated as outside the State and the Recipient of Services is outside the State at the time when the Services are performed.
2. For the purpose of Clause (1) of this Article a Person is “outside the State” even if they are present in the State, provided it is only a short-term presence in the State of less than a month, or that his presence is not effectively connected with the supply.
3. Any Tax paid by a Person in another Implementing State on the Import of Goods to the State through that Implementing State or on the supply of Goods to this Person in that Implementing State where the Goods are then transferred to the State, is recoverable in the State if the relevant Goods will be used or are intended to be used in accordance with Clause (1) of Article 54 of the Decree-Law and the following conditions are satisfied:
 - a. The Taxable Person keeps evidence that he has paid Tax in another Implementing State in respect of the relevant Goods.
 - b. The Taxable Person has not recovered the Tax paid in any other Implementing State.
 - c. The Taxable Person has complied with any additional reporting requirement that the Authority may specify.
4. Where the first supply of a residential building by a Taxable Person is by way of lease which is zero-rated in accordance with provisions of the Decree-Law, the Taxable Person may recover Input Tax in full in respect of that supply regardless of any future intention to make later exempt supplies in respect of that residential building.

Article (53)

Non-recoverable Input Tax

1. Input Tax shall be non-recoverable if it is incurred by a Person in respect of the following Taxable Supplies:
 - a. Where the Person is not a Government Entity as specified in a Cabinet Decision in accordance with Article (10) and (57) of the Decree-Law, and there is provision of entertainment services to anyone not employed by the Person, including customers, potential customers, officials, or shareholder or other owners or investors.
 - b. Where a motor vehicle was purchased, rented or leased for use in the Business and is available for personal use by any Person.
 - c. Where Goods or Services were purchased to be used by employees for no charge to them and for their personal benefit including the provision of entertainment services, except in the following cases:
 - 1) where it is a legal obligation to provide those Services or Goods to those employees under any applicable labour law in the State or Designated Zone.
 - 2) it is a contractual obligation or documented policy to provide those services or goods to those employees in order that they may perform their role and it can be proven to be normal business practice in the course of employing those people;
 - 3) where the provision of goods or services is a deemed supply under the provisions of the Decree-Law.

2. For the purposes of this Article:
 - a. The phrase "entertainment services" shall mean hospitality of any kind, including the provision of accommodation, food and drinks which are not provided in a normal course of a meeting, access to shows or events, or trips provided for the purposes of pleasure or entertainment.
 - b. The phrase "motor vehicle" shall mean a road vehicle which is designed or adapted for the conveyance of no more than 10 people including the driver. A motor vehicle shall exclude a truck, forklift, hoist or other similar vehicle.
3. Provision of catering and accommodation services shall not be treated as entertainment services where it is provided by a transportation service operator, such as an airline, to passengers who have been delayed.
4. A motor vehicle shall not be treated as being available for private use if it is within any of the following categories:
 - a. a taxi licensed by the competent authority within the State;
 - b. a motor vehicle registered as, and used for purposes of an emergency vehicle, including by police, fire, ambulance, or similar emergency service;
 - c. a vehicle which is used in a vehicle rental business where it is rented to a customer.

Article (54)

Special cases of Input tax

1. The amount of Recoverable Tax that can be reclaimed by a Taxable Person in the Tax Period in relation to the supply of Goods or Services made to him, is the amount of Input Tax that relates to the portion of Consideration in respect of the supply that has been paid during that Tax Period.
2. For the purposes of paragraph (b) of Clause (1) of Article (55) of the Decree-Law, a Taxable Person shall be treated as having made a payment of Consideration for a supply to the extent that the Taxable Person intends to make the payment before the expiration of six months after the agreed date for the payment for the supply.

Title Eleven

APPORTIONMENT OF INPUT TAX

Article (55)

Apportionment of Input Tax

1. Where there are quarterly Tax Periods, the Tax year shall be as follows:
 - a. Where a Taxable Person's Tax Period ends on 31 January and quarterly thereafter, the Taxable Person's Tax year shall end on 31 January of every year.
 - b. Where a Taxable Person's Tax Period ends on last day of February and quarterly thereafter, the Taxable Person's Tax year shall end on the last day of February of every year.
 - c. Where a Taxable Person's Tax Period ends on 31 March and quarterly thereafter, the Taxable Person's Tax year shall end on 31 March of every year.
2. Where the Tax Period is 12 months, the Tax year shall be the same as the Tax Period.
3. Where the Tax Period is 1 month, the Tax year shall be the total Tax Periods in the year ending on last day of the calendar year.
4. In any other case where Clauses (2) and (3) do not apply, the Authority shall specify the Tax year.
5. To determine the Input Tax that could be recoverable, the Taxable Person shall apportion Input Tax as follows:
 - a. Input Tax on supplies that wholly relate to supplies as specified in Clause (1) of Article (54) of the Decree-Law made by the Taxable Person shall be recoverable in full.
 - b. Input Tax that does not relate to supplies as specified in Clause (1) of Article (54) of the Decree-Law made by the Taxable Person shall not be recoverable unless provisions allow otherwise.
 - c. Input Tax that partly relates to supplies as specified in Clause (1) of Article (54) of the Decree-Law and partly not, shall be apportioned in accordance with Clause (6) of this Article and only that part that relates to supplies as specified in Clause (1) of Article (54) of the Decree-Law shall be recoverable.
6. The Input Tax that could be recoverable shall be calculated as follows:
 - a. The Taxable Person shall calculate the percentage of Recoverable Tax calculated by reference to Article (54) of the Decree-Law to the sum of Recoverable Tax and non-Recoverable Tax for the Tax Period.
 - b. The percentage calculated under paragraph (a) of this Clause shall be rounded to the nearest whole number.
 - c. The percentage calculated under paragraph (b) of this Clause shall be multiplied by the amount of Input Tax referred to in paragraph (c) of Clause (5) of this Article to establish the recoverable portion of that Input Tax.
7. The calculations referred to above shall be undertaken in respect of each Tax Period where Input Tax incurred relates to making Exempt Supplies or to activities that are not in the course of Business.
8. At the end of each Tax year the Taxable Person shall undertake the calculation mentioned in Clause (6) of this Article, but in respect of the entire Tax year just ended in the first Tax Period of its subsequent Tax year.
9. The Input Tax properly recoverable for the Tax year just ended as described in Clause (8) of this Article shall be compared to the Input Tax amount actually recovered in all the Tax Periods making up the Tax year, and an adjustment to the Recoverable Tax shall be made in the Tax Period mentioned in Clause (8).

10. If the difference in any Tax year between the Recoverable Tax as calculated under this Article and the Recoverable Tax which would arise if a calculation was made which reflects the actual use of the Goods and Services to which the Input Tax relates, exceeds AED 250,000 (two hundred fifty thousand dirhams), the Taxable Person shall, in the Tax Period referred to in Clause (8) of this Article, make an adjustment to the Input Tax in respect of the difference.
11. Where the application of the calculations mentioned in this Article would give a result which the Taxable Person considers would not reflect the actual extent to which the Input Tax relates to making Taxable Supplies, he may apply to the Authority to authorise the use of an alternative basis of calculation based on the list of accepted mechanisms issued by the Authority.
12. The Authority may accept that the Taxable Person may use an alternative mechanism of apportionment of input tax than that referred to in this Article from such future date and as per any further conditions as determined by the Authority.
13. The Taxable Person may only apply to change the alternative mechanism with effect from at least two Tax years after he was first approved to use it.
14. The Authority may request such information from the Taxable Person as it believes is necessary to make a decision regarding application made under Clause (11) of this Article.
15. If the Authority accepts the application made under Clause (11) of this Article, it shall issue a Notification to the Taxable Person setting out the alternative calculation method and conditions for using of such method.

Article (56)

Adjustment of Input Tax Post-Recovery

1. If Input Tax has been recovered because it was attributed to supplies as specified in Clause (1) of Article (54) of the Decree-Law but, before the consumption of the Goods or Services upon which that Input Tax was incurred the Input Tax became not so attributable, then the Taxable Person shall be required to repay that Input Tax.
2. If Input Tax has not been recovered because it was not attributed to supplies specified in Clause (1) of Article (54) of the Decree-Law but, before the consumption of the Goods or Services upon which that Input Tax was incurred, the Input Tax became attributable to supplies as specified in Clause (1) of Article (54) of the Decree-Law, then the Taxable Person shall be able to recover Input Tax attributable to the use of the Goods or Services for making such supplies.
3. If Input Tax has been treated as subject to apportionment to calculate the Input Tax that could be recovered, but before the consumption of the Goods or Services upon which that Input Tax was incurred, the use of that Input Tax changes, then it shall be adjusted as follows:
 - a. If it becomes attributable to supplies as specified in Clause (1) of Article (54) of the Decree-Law then the Taxable Person shall be able to recover Input Tax not previously recovered to the extent that it is attributable to the use of the Goods or Services for making such supplies.
 - b. If it ceases to be attributable to any supplies specified in Clause (1) of Article (54) of the Decree-Law then the Taxable Person shall be required to repay that Input Tax.
4. The adjustments for change in use of Goods or Services under this Article shall be made only if all of the following conditions are met:
 - a. The change in use occurred within five years of the Date of Supply of the relevant Goods and Services.
 - b. The Taxable Person is not required to adjust the same Input Tax under mechanisms provided in Articles (55) and (57) of this Decision in which case those mechanisms will apply.

Title Twelve

CAPITAL ASSET SCHEME

Article (57)

Assets Considered Capital Assets

1. A Capital Asset is a single item of expenditure of the Business amounting to AED 5,000,000 or more excluding Tax, on which Tax is payable and which has estimated useful life equal or longer than:
 - a. 10 years in case of a building or a part thereof.
 - b. 5 years for all Capital Assets other than buildings or parts thereof.
2. Items of stock, which are for resale, shall not be treated as Capital Assets.
3. Expenditure consisting of smaller sums which collectively amount to AED 5,000,000 or more shall be treated as a single item of expenditure of AED 5,000,000 or more for the purposes of this Article where the sums are staged payments for any of the following:
 - a. For the purchase of a building.
 - b. For the construction of a building.
 - c. In relation to an extension, refurbishment, renewal, fitting out, or other work undertaken to a building, except that where there is a distinct break between any such works being undertaken they shall be taken to be separate items of expenditure.
 - d. For the purchase, construction, assembly or installation of any goods or immovable property where components are supplied separately for assembly.

Article (58)

Adjustments under the Capital Assets Scheme

1. A Capital Asset eligible for the Capital Asset Scheme shall be monitored and the Input Tax incurred shall be adjusted, as required in accordance with the provisions of this Article, over a period of either (10) ten consecutive years for buildings or parts thereof or (5) five consecutive years for other Capital Assets, commencing on the day on which the owner first uses the Capital Asset for the purposes of its Business.
2. Notwithstanding Clause (1) of this Article, if a Capital Asset is destroyed, sold, or otherwise disposed of before the end of the period referred to in Clause (1) of this Article, the Capital Asset Scheme shall cease in respect of the asset in the Tax year in which the asset was destroyed, sold or disposed of.
3. The Tax year in which the Capital Asset is acquired shall be treated as Year 1 for the purposes of the Capital Asset Scheme.
4. A Taxable Person shall keep a Capital Asset register and record therein the Input Tax incurred on the Capital Asset in Year 1 (represented by "W" in this Article) as well as details of any adjustments made to the Input Tax calculations under this Article.
5. The Input Tax recovered on the Capital Asset in Year 1 after any adjustment that may be due under Article (58) of the Decree-Law shall be recorded together with the percentage that gave rise to that recovery (referred to as "X" in this Article).

6. At the end of each year from Year 2 onwards, the Taxable Person shall calculate the percentage of Recoverable Tax for that Capital Asset for that year in accordance with Article (58) of the Decree-Law (referred to as "Q" in this Article).
7. If Q is not equal to X, the Taxable Person shall perform the calculation described in Clauses (8) to (11) of this Article, and shall make an adjustment to his Input Tax.
8. The Taxable Person shall calculate an amount (referred to as "R" in this Article) as:
 - a. One tenth of W multiplied by Q if the Capital Asset is a building or a part thereof; or
 - b. One fifth of W multiplied by Q if the Capital Asset is not a buildings or a part thereof.
9. The Taxable Person shall calculate an amount (referred to as "Z" in this Article) as:
 - a. One tenth of W multiplied by X if the Capital Asset is a building or a part thereof.
 - b. One fifth of W multiplied by X if the Capital Asset is not a buildings or a part thereof.
10. Where R is more than Z, the Taxable Person shall increase his Input Tax by the difference.
11. Where R is less than Z, the Taxable Person shall reduce his Input Tax by the difference.
12. If the Capital Asset is disposed of by the Taxable Person in any year other than the final year or the Taxable Person deregisters from Tax and is required to account for tax on the asset as a Deemed Supply, the use to which the Capital Asset is deemed to have been put in any remaining years will be:
 - a. For making Taxable Supplies, where it is disposed of by way of a supply or Deemed Supply that is subject to Tax or would be subject to Tax were it to be made in the State.
 - b. For making Exempt Supplies, where it is disposed of by way of a supply that is exempt or would be exempt were it to be made in the State.
 - c. Not in the course of conducting Business, where is it disposed of by way of a transaction that is not deemed as supply in the course of Business, unless it is deemed as a supply according to the meaning provided in Clause (2) of Article (7) of the Decree-Law.
13. Where a Taxable Person transfers his Capital Assets as part of a transfer of his Business or a part thereof according to Clause (2) of Article (7) of the Decree-Law, or to become a member of a Tax Group, or to leave a Tax Group and immediately become a Taxable Person on a stand-alone basis, then the Tax year then applying shall end on the day the Taxable Person transfers the Business or part of the Business, or becomes or ceases to be part of a Tax Group. On the next day, the next Tax year shall commence with the owner of the Capital Assets.
14. Where a Person who registers for Tax has already owned a Capital Asset for the purpose of his Business before registration for Tax, Year 1 shall be deemed to have commenced on the date of first use by that Person.
15. For the purposes of Clauses (12) and (13) of this Article, any adjustments that may be required in respect of any such remaining years shall be included in the Tax Return relating to the Tax Period in which the Capital Asset is disposed of.
16. Any adjustments other than required under Clauses (12) and (13) of this Article shall be made in the Tax Period mentioned in Clause (8) of Article (55) of this Decision.

Title Thirteen

TAX INVOICES AND TAX CREDIT NOTES

Article (59)

Tax invoices

1. A Tax Invoice shall contain all of the following particulars:
 - a. The words "Tax Invoice" 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. A sequential Tax Invoice number or a unique number which enables identification of the Tax Invoice and the order of the Tax Invoice in any sequence of invoices.
 - e. The date of issuing the Tax Invoice.
 - f. The date of supply if different from the date the Tax Invoice was issued.
 - g. A description of the Goods or Services supplied.
 - h. For each Good or Service, the unit price, the quantity or volume supplied, the rate of Tax and the amount payable expressed in AED.
 - i. The amount of any discount offered.
 - j. The gross amount payable expressed in AED.
 - k. The Tax amount payable expressed in AED together with the rate of exchange applied where the currency is converted from a currency other than the UAE dirham.
 - l. Where the invoice relates to a supply under which the Recipient of Goods or Recipient of Services is required to account for Tax, a statement that the Recipient is required to account for Tax, and a reference to the relevant provision of the Decree-Law.
2. A simplified Tax Invoice shall contain all of the following particulars:
 - a. The words "Tax Invoice" clearly displayed on the invoice.
 - b. The name, address, and Tax Registration Number of the Registrant making the supply.
 - c. The date of issuing the Tax Invoice.
 - d. A description of the Goods or Services supplied.
 - e. The total Consideration and the Tax amount charged.
3. If there are or will be sufficient records available to establish the particulars of a supply, a Taxable Person is not required to issue a Tax Invoice for the supply where the supply is a wholly zero-rated supply.
4. Where a Taxable Person is required to issue a Tax Invoice, the Tax Invoice must meet the requirements of Clause (1) of this Article.

5. As an exception to Clause (4) of this Article, the Taxable Person may issue a Tax Invoice that meets the requirements of Clause (2) of this Article in either of the following situations:
 - a. Where the Recipient of Goods or Recipient of Services is not a Registrant.
 - b. Where the Recipient of Goods or Recipient of Services is a Registrant and the Consideration for the supply does not exceed AED 10,000
6. A Taxable Person shall not issue separate Tax Invoices in respect of supplies where he makes more than one supply of Goods or Services to the same Person and those supplies are included on a summary Tax Invoice issued to the Recipient of Goods or Recipient of Services in the same calendar month as the Date of Supply of those supplies.
7. Where the Authority considers that there are or will be sufficient records available to establish the particulars of any supply or class of supplies, and that it would be impractical to require that a Tax Invoice be issued by the Taxable Person, the Authority may determine that, subject to any conditions that the Authority may consider necessary:
 - a. Any of the particulars specified in Clauses (1) or (2) of this Article shall not be contained on a Tax Invoice.
 - b. A Tax Invoice is not required to be issued in certain cases.
8. The Taxable Person may issue a Tax Invoice by electronic means provided that:
 - a. The Taxable Person must be capable of securely storing a copy of the electronic Tax Invoice in compliance with the record keeping requirements.
 - b. The authenticity of origin and integrity of content of the electronic Tax Invoice should be guaranteed.
9. Where a Recipient agrees to raise a Tax Invoice on behalf of a Registrant Supplier in respect of a supply of Goods or Services, that document shall be treated as if it had been issued by the supplier if the following conditions are met:
 - a. The Recipient of the Goods or Services is a Registrant.
 - b. The supplier and the Recipient agree in writing that the supplier shall not issue a Tax Invoice in respect of any supply to which this Clause applies.
 - c. The Tax Invoice shall contain the particulars required under Clause (1) of this Article.
 - d. The words "Tax Invoice raised by buyer" are clearly displayed on the Tax Invoice.
10. Where a Tax Invoice is issued pursuant to Clause (9) of this Article, any invoice issued by the Supplier in respect of that supply shall be deemed not to be a Tax Invoice.
11. Where an agent who is a Registrant makes a supply of Goods and Services for and on behalf of the principal of that agent, that agent may issue a Tax Invoice in relation to that supply as if that agent had made the supply, and provided that the principal shall not issue a Tax Invoice.
12. Where the Supply of Goods or Services is considered as supplied in an Implementing State, the Taxable Person must include the following additional particulars in the document issued:
 - a. The tax registration number of the Recipient of Goods or Services issued to him by the competent authority of the Implementing State in which the supply is treated as taking place.
 - b. A statement identifying the supply as between the State and an Implementing State.
 - c. Any other information specified by the Authority.

Article (60)

Tax Credit Note

1. The Tax Credit Note shall contain the following:
 - 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.
2. Where, on application by a Taxable Person, the Authority considers that there are or will be sufficient records available to establish the particulars of any supply or class of supplies, and that it would be impractical to require that a Tax Credit Note be issued by the Taxable Person, the Authority may determine any of the following, subject to any conditions that the Authority may consider necessary:
- a. Any one or more of the particulars specified in Clause (1) of this Article shall not be contained on a Tax Credit Note.
 - b. A Tax Credit Note is not required to be issued.
3. The Taxable Person may issue a Tax Credit Note by electronic means provided that:
- a. The Taxable Person must be capable of securely storing a copy of the electronic Tax Credit Note in compliance with the record keeping requirements.
 - b. The authenticity of origin and integrity of content of the electronic Tax Credit Note should be guaranteed.
4. Where a Recipient of Goods or Recipient of Services agrees to raise a Tax Credit Note on behalf of a Registrant Supplier in respect of a supply of Goods or Services, that document shall be treated as if it had been issued by the supplier if the following conditions are met:
- a. The Recipient of Goods or Recipient of Services is a Registrant.
 - b. The Supplier and the Recipient of Goods or Recipient of Services agree that the Supplier shall not issue a Tax Credit Note in respect of any supply to which this Clause applies.
 - c. The Tax Credit Note shall contain the particulars required under Clause (1) of this Article.
 - d. The words "Tax Credit Note created by buyer" are clearly displayed on the Tax Credit Note.
5. Where a Tax Credit Note is issued pursuant to Clause (4) of this Article, any tax credit note issued by the supplier in respect of that supply shall be deemed not to be a Tax Credit Note.
6. Where an agent who is a Registrant makes a supply of Goods and Services for and on behalf of the principal of that agent, that agent may issue a Tax Credit Note in relation to that supply as if that agent had made the supply, and provided that the principal shall not issue a Tax Credit Note.
7. Where approval has been granted by the Authority under Clause (2) of this Article, that approval may be withdrawn at any time where the Authority considers that the conditions of that approval have not been met.

Article (61)

Fractions of Fils

Where the Tax chargeable on a supply is calculated to a fraction of a Fils, the Taxable Person is permitted to round the amount to the nearest Fils on a mathematical rounding.

Title Fourteen

TAX RETURNS AND TAX PERIODS

Article (62)

Length of tax period

1. The standard Tax Period applicable to a Taxable Person shall be a period of three calendar months ending on the date that the Authority determines.
2. As an exception to Clause (1) of this Article, the Authority may assign a Person or class of Persons a shorter or longer Tax Period where it considers that a non-standard Tax Period length is necessary or beneficial to:
 - a. Reduce the risk of Tax Evasion.
 - b. Enable the Authority to improve the monitoring of compliance or collection of Tax revenues.
 - c. Reduce the administrative burden on the Authority or the compliance burden on a Person or class of Persons.
3. Where a Taxable Person is assigned the standard Tax Period, he may request that the Tax Period ends with the month as requested by him, and the Authority may accept such request at its discretion.

Article (63)

Tax Periods in the Case of Loss of Capacity

1. Where a Person becomes an incapacitated Person, his current Tax Period will end on the day before the Person became incapacitated Person. A new Tax Period will commence on the day the Person became incapacitated Person in the name of the Legal Representative.
2. For the purposes of Clause (1) of this Article “incapacitated Person” means a Registrant who dies, or goes into liquidation or receivership, or becomes bankrupt or incapacitated.
3. The Legal Representative will, for the purposes of the new Tax Period referred to in Clause (1) and subsequent Tax Periods, be treated as the Registrant himself for the purposes of the Decree-Law and this Decision for the period of incapacitation.

Article (64)

Tax Return and Payment

1. A Tax Return must be 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.
2. A Person whose registration has been cancelled must provide a final Tax Return for the last Tax Period for which he was registered.
3. 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 date specified in Clause (1) of this Article.
4. Where Recoverable Tax for a Tax Period exceeds Due Tax for the Tax Period, the excess Recoverable Tax may be repaid to the Taxable Person in accordance with the relevant provisions in the Decree-Law and the Federal Law No. (7) of 2017.

5. A Tax Return must contain such details as the Authority may require and, at the minimum, allow for the following information to be included:
 - a. The name, address and the TRN of the Registrant;
 - b. The Tax Period to which the Tax Return relates.
 - c. The date of submission.
 - d. The value of Taxable Supplies made by the Person in the Tax Period and the Output Tax charged.
 - e. The value of Taxable Supplies subject to the zero rate made by the Person in the Tax Period.
 - f. The value of Exempt Supplies made by the Person in the Tax Period.
 - g. The value of any supplies subject to Clauses (1) and (3) of Article (48) of the Decree-Law.
 - h. The value of expenses incurred in respect of which the Person seeks to recover Input Tax and the amount of Recoverable Tax.
 - i. The total value of Due Tax and Recoverable Tax for the Tax Period.
 - j. The Payable Tax for the Tax Period.

Title Fifteen

RECOVERY OF EXCESS TAX

Article (65)

Recovery of Excess Tax

If the Taxable Person has excess Recoverable Tax for a Tax Period and has made a request to the Authority by the means specified by the Authority to be repaid the amount of the excess, then the Authority shall repay the amount to the Taxable Person within the timelines and according to the procedures specified in the Federal Law No. (7) of 2017 on Tax Procedures.

Title Sixteen

OTHER PROVISIONS RELATING TO RECOVERY

Article (66)

New residence

1. Where a Person owns or acquires land in the State on which he builds, or commissions the construction of, his own residence, he shall be entitled to make a claim to the Authority to repay the Tax on the expenses of constructing the residence.
2. For the purposes of Clause (1) of this Article:
 - a. The claim may only be made by a natural Person who is a national of the State.
 - b. The claim must relate to a newly constructed building to be used solely as residence of the Person or the Person's family.
 - c. The claim may not be made in connection with a building that will not be used solely as a residence by the Person or the Person's family, for example if it is to be used as a hotel, guest house, hospital or for any other purpose not consistent with it being used as a residence.
3. The refund claim under this Article must be lodged within 6 months from the date of completion of the newly built residence. For the purposes of this Clause, a newly built residence is considered completed at the earlier of the date the residence becomes occupied, or the date when it is certified as completed by a competent authority in the State, or as may otherwise be stipulated by the Authority.
4. A refund claim must be submitted to the Authority in such manner and containing such details as the Authority may stipulate.
5. Where the Authority has repaid Tax in accordance with this Article, and following the receipt of such repayment the Person breached the condition in paragraph (c) of Clause (2) of this Article, the Authority may require the Person to repay the amount of Tax that was recovered by him.
6. The categories of expenses on which the Person may claim a repayment of Tax under this Article are:
 - a. Services provided by contractors, including services of builders, architects, engineers, and other similar services necessary for the successful construction of residence.
 - b. Building materials, being goods of a type normally incorporated by builders in a residential building or its site, but not including furniture or electrical appliances.

Article (67)

Business visitors

1. The Authority shall implement a Businesses VAT Refund Scheme for Foreign Businesses to allow the repayment of Tax on expenses incurred in the State by a foreign entity which has no Place of Establishment or Fixed Establishment in the State or the Implementing State, and is not a Taxable Person.
2. For the purpose of this Article, a "foreign entity" is any Person that carries on a Business as defined in this Decision and is registered as an establishment with a competent authority in the jurisdiction in which he is established.

3. A foreign entity is not entitled to make a claim under the VAT Refunds for Foreign Businesses Scheme in the following cases:
 - a. If it makes supplies which have a place of supply in the State, unless the Recipient of Goods or Recipient of Services is obliged to account for the Tax on those supplies in accordance with Clause (1) of Article (48) of the Decree-Law.
 - b. If the Input Tax relates to Goods or Services for which the Tax is not recoverable in accordance with Article (53) of this Decision.
 - c. If the foreign entity is from a country that does not in similar circumstances provide refunds of value added tax to entities that belong to the State.
4. A foreign tour operator is not entitled to make a claim under the VAT Refunds for Foreign Businesses Scheme in connection with undertaking activities as a tour operator.
5. The claim for any refund shall be made on an electronic form as will be provided for the purpose by the Authority.
6. The claim form shall contain such particulars as may be required by the Authority including:
 - a. Name and address of the foreign entity.
 - b. Nature of activities of the foreign entity.
 - c. Details of the registration of the foreign entity with the competent authority in the country where it is established.
 - d. Description of reasons for incurring expenses in the State.
 - e. Description of activities undertaken in the State.
 - f. Details of expenses incurred in the State during the period of the claim.
7. The claim shall be accompanied by such documents or other evidence as may be required by the Authority.
8. The period of the claim shall be 12 calendar months.
9. The minimum claim amount of Tax that may be submitted under VAT Refunds for Foreign Businesses Scheme shall be AED 2,000.
10. As an exception to Clause (1) and Paragraph (c) of Clause (3) and Clause (8) of this Article, Businesses resident in any GCC State that is not considered to be an Implementing State according to the Decree-Law and this Decision, may submit an application for refund of Tax incurred on Goods and Services supplied to them in the State.

Article (68)

Tourist visitors

1. The Cabinet may issue a decision introducing the Tax Refunds for Tourists Scheme specifying the following:
 - a. The date on which the Scheme comes into effect.
 - b. The mechanism for tax refunds.
 - c. Limitations on claiming tax refunds.
 - d. Processes for any verifications to be undertaken under the Scheme.
 - e. Any other conditions or procedures that the Cabinet considers necessary for operation of the Scheme.
2. The following conditions shall apply to the Tax Refunds for Tourists Scheme:
 - a. The Goods which are subject to the Tax Refunds for Tourists Scheme must be supplied to an overseas tourist who is in the State during the purchase of the Goods from the supplier.
 - b. At the Date of Supply, the overseas tourist intends to depart from the State within 90 days from that date, accompanied by the Goods.

- c. The relevant Goods are exported by the overseas tourist to a place outside the Implementing States within 3 months from the Date of Supply, subject to such conditions and verifications as may be imposed by the Authority.
3. The phrase "overseas tourist" means any natural Person who is not resident in any of the Implementing States and who is not a crew member on a flight or aircraft leaving an Implementing State.
4. The Authority may publish a list of Goods that shall not be subject to Tax Refunds for Tourists Scheme.

Article (69)

Foreign Governments

1. Where Tax is incurred by foreign governments, international organisations, diplomatic bodies and missions, or by an official thereof, the foreign governments, international organisations, diplomatic bodies and missions may submit a claim on a form issued by the Authority requesting repayment of the Tax charged.
2. The application of Clause (1) of this Article is subject to the following conditions:
 - a. Goods and Services are acquired exclusively for official use.
 - b. The country in which the relevant foreign government, international organisation, diplomatic body or mission is established or has its official seat excludes the same type of entities that belong to the State from the burden of any Tax in that country.
 - c. The refund claim is consistent with the terms of any international treaty or other agreement concerning the liability to tax of such a foreign government, international organisation, diplomatic body or mission.
 - d. The official of a foreign government, international organisation, diplomatic body or mission who benefits from the refund should not hold UAE Nationality or have a residence visa under the sponsorship of an entity other than the foreign government, international organisation, diplomatic body or mission itself, and should not carry out any Business in the State.

Title Seventeen

TRANSITIONAL RULES

Article (70)

Transitional rules

1. For the purposes of paragraph (e) of Clause (1) of Article (80) of the Decree-Law, “acceptance by the Recipient of Goods” means the point at which the Recipient of Goods considers that the Supplier has completed his obligations to him.
2. Where Clause (1) of Article (80) of the Decree-Law applies, the Date of Supply shall be the effective date of the Decree-Law only in respect of the amounts of Consideration received or specified in the invoice issued before the Decree-Law came into effect.
3. In the case of Clause (3) of Article (80) of the Decree-Law, a supply shall be considered to have taken place in accordance with the following provisions:
 - a. For supplies to which Article (25) of the Decree-Law applies, the Date of Supply shall be determined in accordance with Clauses (1) to (6) of that Article.
 - b. For supplies to which Article (26) of the Decree-Law applies, the supply shall be treated as taking place in accordance with the rules in that Article.
4. For the purpose of Clause (3) of this Article, where the Date of Supply has been triggered in respect of a supply of a Good or a Service and the part of the supply of such Good or Service was before the Decree-Law coming into effect and partly after, the Date of Supply shall be treated as taking place after the Decree-Law comes into effect for that part of the supply actually taking place after that date.
5. A payment of Consideration before the date the Decree-Law comes into effect shall be disregarded in determining whether a supply takes place before that date if, or to the extent that, it appears to the Authority that it would not have been so made but for the Tax.
6. In the case of Clause (3) of Article (80) of the Decree-Law, the Consideration shall be treated as exclusive of Tax and the Recipient of Goods or Recipient of Services shall be obligated to pay the VAT in addition to the Consideration if all of the following conditions are met:
 - a. Where the Recipient of Goods or Recipient of Services is a Registrant.
 - b. Where the Recipient of Goods or Recipient of Services has the right to recover Input Tax incurred on the supply either in full or in part.
7. Clause (6) of this Article shall only apply if, before the date the Decree-Law comes into effect, the supplier requests from the Recipient of Goods or Recipient of Services to confirm the following:
 - a. Whether the Recipient of Goods or Recipient of Services is or expects to be a Registrant at the time the Decree-Law comes into effect.
 - b. The extent to which the Recipient of Goods or Recipient of Services expects to be able to recover Tax incurred on the supply.

8. Within 20 business days of receiving an information request under Clause (7) of this Article, the Recipient of Goods or Recipient of Services shall reply to the supplier in writing with the information requested.
9. The supplier may rely on the information provided as required by Clause (8) of this Article in determining the tax treatment of the supply. If the Recipient of Goods or Recipient of Services knowingly provides incorrect information that results in the Supplier having to treat the Consideration as inclusive of Tax, then the Recipient of Goods or Recipient of Services shall not be entitled to reclaim the Input Tax on that supply.
10. Where the Recipient of Goods or Recipient of Services has failed to provide the information in accordance with Clause (8) of this Article, the supplier may treat Consideration in respect of the supply as exclusive of Tax, and request the Recipient of Goods or Recipient of Services to pay Tax.
11. The supplier and the Recipient of Goods or Recipient of Services shall both retain the records of the request made under Clause (7) of this Article and the information provided under Clause (8) of this Article.
12. For the purposes of Clause (6) of this Article, where the Recipient of Goods or Recipient of Services ascertained that he can only recover Input Tax in part, the consideration for the supplies under the contract shall be treated as exclusive of Tax only to the extent of the Input Tax recovery percentage that the Recipient of Goods or Recipient of Services discloses to the Supplier under Clause (8), and the remaining portion of the consideration relating to the Supply should be treated as Tax inclusive.
13. In all cases, the Supplier shall remain responsible for calculation of Tax and payment to the Authority.
14. Where a Taxable Supply is treated as periodically or successively supplied, Tax shall not be charged on the portion of the Consideration that relates to a supply made before the date the Decree-Law comes into effect.
15. A GCC State shall be treated as an Implementing State according to the provisions of the Decree-Law and this Decision if the following conditions are met:
 - a. Where the GCC State treats the State similarly as an Implementing State in its published legislation.
 - b. Full compliance with the provisions of the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC).

Article (71)

Record-keeping Requirements

1. Subject to Clause (2) of this Article, any records required to be kept in accordance with the provisions of the Decree-Law must comply with timeframes, limitations and conditions for retention of records as specified in the Federal Law No. (7) of 2017 on Tax Procedures and its Executive Regulations.
2. Any records related to a real estate required to be kept shall be held for a period of 15 years after the end of the Tax Period to which they relate.
3. In the case of a Government Entity that is listed by the Cabinet under Clause (2) of Article (72) of the Decree-Law, the Government Entity may:
 - a. Refuse the Authority's request to take any records or a copy of the same from the premises of the Government Entity.
 - b. Put controls for the access of employees of the Authority to the records and the premises of the Government Entity.
4. Where the Authority holds any records that belong to a Government Entity listed by the Cabinet under Clause (2) of Article (72) of the Decree-Law, the records shall be held in such manner that they can only be accessed by the employees of the Authority that are specifically authorised to view the records of that Government Entity.

Article (72)

Record Keeping of the Supplies Made

1. The records of all Goods and Services supplied by the Taxable Person or on his behalf showing the Goods and Services, suppliers and their agents, shall be kept and retained in sufficient detail to enable the Authority to readily identify Goods and Services, suppliers, and agents.
2. Without prejudice to Article (78) of the Decree-Law, the Taxable Person who makes a Taxable Supply of Goods or Services in the State must keep records of the transaction to prove the Emirate in which the Fixed Establishment related to this supply is located.
3. As an exception to Clause (2) above, if the Taxable Person who makes a Taxable Supply of Goods or Services does not have a Fixed Establishment in the State, the Taxable Person must keep records of the transaction to prove the Emirate in which the Supply is received.

Title Eighteen

CLOSING PROVISIONS

Article (73)

The Authority shall have jurisdiction over the issuing of clarifications and guidance regarding the implementation of the provisions of this Decision.

Article (74)

Repeal of Conflicting Provisions

Any provision violating or conflicting with the provisions of this Decision shall be abrogated.

Article (75)

Publication and Coming into Force of the Decision

This Decision shall be published in the Official Gazette and shall come into effect on 1 January 2018 at the earlier of:

1. The time of opening of the business on 1 January 2018.
2. 7 am on 1 January 2018.

Mohammad bin Rashid Al Maktoum

Prime Minister

Issued by us:

On: 7 Rabi' Alawal 1439 H.

Corresponding to: 26 November 2017

**CABINET DECISION NO. (56) OF 2017 ON
MEDICATIONS AND MEDICAL EQUIPMENT
SUBJECT TO TAX AT ZERO RATE**

Cabinet Decision No. (56) of 2017 on Medications and Medical Equipment Subject to Tax at Zero Rate

The Cabinet,

Having reviewed the Constitution,

Federal Law No. (1) of 1972 on the Competencies of the Ministries and Powers of the Ministers and its amendments,

Federal Decree-Law No. (8) of 2017 on Value Added Tax,

Cabinet Decision No. (52) of 2017 on the Executive Regulation of the Federal Decree-Law No. (8) of 2017 on Value Added Tax, and

Pursuant to the presentation of the Minister of Finance and the approval of the Cabinet, **Has decided:**

Article (1)

Definitions

In the application of the provisions of this Decision, the following words and expressions shall have the meanings assigned against each, unless the context requires otherwise:

Medications:

Every product containing a substance(s) which achieves the intended objective in or on the human body via biological effect, which is produced, sold or offered for use in cases relating to diagnosing, treating, healing, relieving or preventing diseases, or renewing, correcting or rehabilitating the function of body organs.

Medical equipment:

A medical product containing a substance, device, instrument, motor, implant, detector or system, including its accessories and operating software, which achieves the intended objective in or on the human body without medicinal, immunological or metabolic effect, which is produced, sold or offered for use in cases relating to diagnosing, treating, relieving, controlling or preventing diseases, injury or disability.

Article (2)

Supplies Subject to Tax at Zero Rate

The supply of Medications and Medical Equipment registered with the Ministry of Health and Prevention, or imported with its permission or approval, shall be subject to tax at zero rate.

Article (3)

Issuance of Executive Decisions

The Minister of Finance shall issue the required decisions to implement the provisions of this decision.

Article (4)

Repeal of Conflicting Provisions

Any provision violating or conflicting with the provisions of this Decision shall be abrogated.

Article (5)

Implementation of the Decision

This decision shall be implemented as of 1 January 2018.

Mohammad bin Rashid Al Maktoum

Prime Minister

Issued by us:

On: 28 December 2017.

Corresponding to: 9 Rabi' Alakher 1439 H

**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**

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

The Cabinet,

Having reviewed the Constitution,
Federal Law No. (1) of 1972 on the Competencies of the Ministries and Powers of the Ministers and its amendments,
Federal Decree-Law No. (8) of 2017 on Value Added Tax,
Cabinet Decision No. (52) of 2017 on the Executive Regulation of the Federal Decree-Law No. (8) of 2017 on Value Added Tax, and
Pursuant to the presentation of the Minister of Finance and the approval of the Cabinet, **Has decided:**

Article (1)

Designated Zones

The Designated Zones in the annex to this Decision, which meet the conditions stipulated in the Cabinet Decision No. (52) of 2017 on the Executive Regulation of the Federal Decree-Law No (8) of 2017 on Value Added Tax, shall be considered as Designated Zones for the purposes of implementing the Federal Decree-Law No. (8) of 2017 on Value Added Tax.

Article (2)

Amending the list of Designated Zones

The Cabinet has the authority to amend the list of Designated Zones annexed to this Decision, by addition, deletion or amendment.

Article (3)

Issuance of Executive Decisions

The Minister of Finance shall issue the required decisions to implement the provisions of this decision.

Article (4)

Repeal of Conflicting Provisions

Any provision violating or conflicting with the provisions of this Decision shall be abrogated.

Article (5)

Implementation of the Decision

This decision shall be implemented as of 1 January 2018.

Mohammad bin Rashid Al Maktoum
Prime Minister

Issued by us:

On: 28 December 2017.

Corresponding to: 9 Rabi' Alakher 1439 H.

List of Designated Zones

Annex to the Cabinet Decision No (59) of 2017

No.	Designated Zones (Abu Dhabi)
1	Free Trade Zone of Khalifa Port
2	Abu Dhabi Airport Free Zone
3	Khalifa Industrial Zone
No.	Designated Zones (Dubai)
1	Jebel Ali Free Zone (North-South)
2	Dubai Cars and Automotive Zone (DUCAMZ)
3	Dubai Textile City
4	Free Zone Area in Al Quoz
5	Free Zone Area in Al Qusais
6	Dubai Aviation City
7	Dubai Airport Free Zone
No.	Designated Zones (Sharjah)
1	Hamriyah Free Zone
2	Sharjah Airport International Free Zone
No.	Designated Zones (Ajman)
1	Ajman Free Zone
No.	Designated Zones (Umm Al Quwain)
1	Umm Al Quwain Free Trade Zone in Ahmed Bin Rashid Port
2	Umm Al Quwain Free Trade Zone on Sheikh Monhammed Bin Zayed Road
No.	Designated Zones (Ras Al Khaimah)
1	RAK Free Trade Zone
2	RAK Maritime City Free Zone
3	RAK Airport Free Zone
No.	Designated Zones (Fujairah)
1	Fujairah Free Zone
2	FOIZ (Fujairah Oil Industry Zone)

**CABINET DECISION NO. (25) OF 2018 ON THE
MECHANISM OF APPLYING VALUE ADDED
TAX ON GOLD AND DIAMONDS BETWEEN
REGISTRANTS IN THE STATE**

Cabinet Decision No. (25) of 2018 on the Mechanism of Applying Value Added Tax on Gold and Diamonds between Registrants in the State

The Cabinet,

Having reviewed the Constitution,

Federal Law No. (1) of 1972 on the Competencies of the Ministries and Powers of the Ministers and its amendments,

Federal Decree-Law No. (8) of 2017 on Value Added Tax,

Cabinet Decision No. (52) of 2017 on the Executive Regulation of Federal Decree-Law No. (8) of 2017 on Value Added Tax, and

Pursuant to the presentation of the Minister of Finance and the approval of the Cabinet, **Has decided:**

Article (1)

Definitions

In the application of the provisions of this Decision, the following words and expressions shall have the meanings assigned against each, unless the context requires otherwise: **Authority:** Federal Tax Authority.

Tax: Value Added Tax.

Taxable Person: Any natural or legal person registered or obligated to register for Tax purposes under the referenced Federal Decree-Law No. (8) of 2017.

Tax Registration: A procedure according to which the Taxable Person or his legal representative registers for Tax purposes at the Authority.

Tax Registration Number: A unique number issued by the Authority for each person registered for Tax purposes.

Goods: Gold, diamonds and any products where the principal component is of gold or diamonds. **Registrant:** The Taxable Person who has been issued with a Tax Registration Number and is licensed to conduct any activity related to the Goods by the competent government entity.

Supplier: The Registrant who is supplying Goods in the State.

Recipient: Person to whom Goods are supplied.

Due Tax: Tax that is calculated and charged pursuant to the referenced Federal Decree-Law No. (8) of 2017.

Article (2)

1. Where a Supplier makes a supply of Goods to a Registrant Recipient in the State, and the Recipient intends to either resell such Goods or use them to produce or manufacture any of the Goods, the following rules shall apply:
 - a. The supplier shall not be liable for calculating the Tax in relation to the supply of the Goods and shall not include it in his Tax Return, in cases where the Registrant Recipient declares in writing the following:
 - 1) The acquisition of the Goods is for the purpose of resale or use to produce or manufacture any of the Goods
 - 2) The Recipient is registered on the date of supply.
 - 3) The Recipient shall calculate Tax on the value of the Goods supplied to him.

- b. The Recipient of the Goods shall calculate the Tax on the value of the Goods supplied to him and shall be responsible for all applicable Tax obligations related to the supply and for calculating the Due Tax in respect of such supplies.
2. The provisions of Clause (1) of this Article shall not apply in any of the following situations:
 - a. Where the Supplier was aware or was supposed to be aware that the Recipient was not a Registrant at the Date of Supply.
 - b. Where the Supplier has not verified that the Recipient is registered at the Authority, in accordance with the written declaration, according to the means approved by the Authority.
 - c. Where the Taxable Supply is subject to Tax at the zero rate in accordance with Clauses (1) or (8) of Article (45) of the referenced Federal Decree-Law No. (8) of 2017.
3. Where the Supplier was aware or was supposed to be aware that the Recipient was not registered for tax purposes at the date of supply, the Supplier and the Recipient shall be jointly and severely liable for any Due Tax and relevant penalties in respect of the supply.

Article (3)

Issuance of Executive Decisions

The Minister of Finance shall issue the required decisions to implement the provisions of this Decision.

Article (4)

Implementation and Publication

This Decision shall be implemented as of 1/06/2018 and shall be published in the official Gazette.

Mohammad bin Rashid Al Maktoum

Prime Minister

Issued by us:

On: 6 Ramadan 1439H

Corresponding to: 22 May 2018

**CABINET DECISION NO. (26) OF 2018 ON THE
REFUND OF VALUE ADDED TAX PAID ON
SERVICES PROVIDED IN EXHIBITIONS AND
CONFERENCES**

**Cabinet Decision No. (26) of 2018 on the Refund
of Value Added Tax Paid on Services Provided in
Exhibitions and Conferences**

The Cabinet,

Having reviewed the Constitution,

Federal Law No. (1) of 1972 on the Competencies of the Ministries and Powers of the Ministers and its amendments,

Federal Decree-Law No. (8) of 2017 on Value Added Tax,

Cabinet Decision No. (52) of 2017 on the Executive Regulation of Federal Decree-Law No. (8) of 2017 on Value Added Tax, and Pursuant to the presentation of the Minister of Finance and the approval of the Cabinet, **Has decided:**

Article (1)

Definitions

In the application of the provisions of this Decision, the following words and expressions shall have the meanings assigned against each, unless the context requires otherwise: **State:** United Arab Emirates.

Authority: Federal Tax Authority.

Tax: Value Added Tax.

Person: A natural or legal person.

Goods: Physical property that can be supplied including but not limited to real estate, water, and all forms of energy as specified in the Cabinet Decision No. (52) of 2017. **Services:** Anything that can be supplied other than Goods.

Exhibition and Conference Services: Grant of the right to access, attend or participate in an Exhibition or Conference or the grant of the right to occupy space for the purposes of conducting an Exhibition or Conference.

Exhibition: Any event held, for no longer than 7 days, to display, show or present Goods or Services, in accordance with a permit issued from the competent government entity.

Conference: Any formal meeting held, for no longer than 7 days, attended by people with a shared interest, in accordance with a permit issued from the competent government entity.

Supplier: Licensee by the Authority to provide Exhibition and Conference Services in accordance with the procedures and conditions specified by the Authority.

Recipient: Person to whom Exhibition and Conference Services are supplied or imported.

Registrant: The Taxable Person who has been issued with a Tax Registration Number.

Tax Period: The specified timeframe, for which Payable Tax shall be calculated and paid.

Tax Return: Information and data specified for Tax purposes and submitted by a Taxable Person in accordance with a form prepared by the Authority.

Place of Establishment: The place where a Business is legally established in a country pursuant to its decision of establishment, in which significant management decisions are taken or central management functions are conducted.

Fixed Establishment: Any fixed place of business, other than the Place of Establishment, in which the Person conducts his business regularly or permanently and where sufficient human and technology resources exist to enable the Person to supply or acquire Goods or Services, including the Person's branches.

Article (2)

Refund of Tax

The Authority may return Tax to the Supplier of Exhibition and Conference Services provided that all of the following conditions are met:

1. The Supplier requests the refund of Tax related to the provision of Exhibition and Conference Services on his Tax Return and in respect of the same Tax Period during which the date of supply of such services occurred.
2. The refund request shall be equal or less than the Tax charged on the supply of Exhibition and Conference Services.

3. The Recipient of the Exhibition and Conference Services does not have a Place of Establishment or a Fixed Establishment in the State.
4. The Recipient of the Exhibition and Conference Services is not a Registrant or required to register in the State.
5. The Recipient of the Exhibition and Conference Services has not paid the amount of Tax to the Supplier.
6. The Supplier shall obtain a written declaration from the Recipient of the Exhibition and Conference Services confirming that the Recipient does not have a Place of Establishment or a Fixed Establishment in the State, and is not a Registrant or required to register for Tax in the State.

Article (3)

Issuance of Executive Decisions

The Minister of Finance shall issue the required decisions to implement the provisions of this Decision.

Article (4)

Cancellations

Any provision violating or conflicting with the provisions of this Decision shall be abrogated.

Article (5)

Publication and Implementation

This Decision shall be implemented as of date of issuance and shall be published in the official Gazette.

Mohammad bin Rashid Al Maktoum

Prime Minister

Issued by us:

On: 6 Ramadan 1439H

Corresponding to: 22 May 2018

FEDERAL LAW NO. (7) OF 2017 ON TAX PROCEDURES

**Federal Law No. (7) of 2017
on Tax Procedures**

We, Khalifa bin Zayed Al Nahyan – President of the United Arab Emirates, Having reviewed the Constitution,

- Federal Law No. (1) of 1972 on the Competencies of the Ministries and Powers of the Ministers and its amendments,
- Federal Law No. (5) of 1975 on Commercial Records,
- Federal Law No. (11) of 1981 on the Imposition of a Federal Customs Tax on Imports of Tobacco and its derivatives and its amendments,
- Federal Law No. (5) of 1985 promulgating the Civil Transactions Law and its amendments,
- Federal Law No. (3) of 1987 promulgating the Penal Law and its amendments,
- Federal Law No. (10) of 1992 promulgating the Law of Evidence in Civil and Commercial Transactions and its amendments,
- Federal Law No. (11) of 1992 promulgating the Law on Civil Procedures and its amendments,
- Federal Law No. (35) of 1992 promulgating the Penal Procedures Law and its amendments,
- Federal Law No. (18) of 1993 promulgating the Commercial Transactions Law,
- Federal Law No. (17) of 2004 on the combat of Commercial Concealment,
- Federal Law No. (1) of 2006 on Electronic Transactions and Trading,
- Federal Decree-Law No. (11) of 2008 on Human Resources in the Federal Government and its amendments,
- Federal Law No. (1) of 2011 on the State's Public Revenues,
- Federal Law No. (6) of 2012 on the Organization of the Translation Profession,
- Federal Law No. (12) of 2014 on the Organisation of the Auditing Profession,
- Federal Law No. (2) of 2015 on Commercial Companies;
- Federal Decree-Law No. (9) of 2016 on Bankruptcy,
- Federal Decree-Law No. (13) of 2016 on the Establishment of the Federal Tax Authority,
- Pursuant to the presentation of the Minister of Finance and the approval of the Cabinet, Federal National Council and Federal Supreme Council,

We hereby issue the following Law:

CHAPTER ONE

DEFINITIONS AND SCOPE OF APPLICATION OF THE LAW

Article (1)

Definitions

In the application of the provisions of this law, the following words and phrases shall have the meanings set out against each of them, unless the context otherwise requires:

State: United Arab Emirates

Minister: Minister of Finance.

Authority: Federal Tax Authority.

Director General: Director General of the Authority.

Committee: Tax Disputes Resolution Committee.

Competent Court: the federal court within whose jurisdiction the Authority's Head Office or Branch is located.

Tax: any federal tax administered, collected and enforced by the Authority.

Tax Law: any federal law pursuant to which a Federal Tax is imposed.

Person: a natural or legal person.

Business: any activity conducted in an ongoing, regular and independent manner by any Person and in any location, such as industrial, commercial, agricultural, professional, vocational or service activity, drilling activities or anything related to the use of material or non-material property.

Taxable Person: a Person who is subject to Tax under the provisions of the relevant Tax Law.

Taxpayer: any Person who is obligated to pay Tax in the State under the Tax Law whether a Taxable Person or an end consumer.

Tax Return: information and data specified for Tax purposes, submitted by a Taxable Person in accordance with the form prepared by the Authority.

Tax Period: a specified period of time in respect of which Payable Tax must be calculated and paid.

Tax Registration: a procedure by which a Taxable Person or his Legal Representative registers for Tax purposes with the Authority.

Tax Registration No. (TRN): a unique number issued by the Authority for each Person registered for Tax purposes.

Registrant: a Taxable Person holding a TRN.

Legal Representative: the manager of a company or a guardian or custodian of a minor or incapacitated person, or the bankruptcy trustee appointed by court for a company that is in bankruptcy, or any other Person appointed legally to represent another Person.

Due Tax: Tax that is calculated and charged under the provisions of any Tax Law.

Payable Tax: Tax that has become due for payment to the Authority.

Administrative Penalties: monetary amounts imposed on a Person by the Authority for a breaching provisions of this Law or the Tax Law.

Refundable Tax: amounts that have been paid and that the Authority can refund in whole or in part to the Taxpayer pursuant to the relevant Tax Law, require to use for the payment of amounts due or Administrative Penalties or require to carry forward to future Tax Periods depending on the nature of the refund, according to the Tax Law.

Tax Assessment: a decision issued by the Authority relating to Payable Tax or Refundable Tax.

Administrative Penalties Assessment: a decision issued by the Authority concerning Administrative Penalties due.

Notification: notification to the concerned Person or his Tax Agent or Legal Representative of decisions issued by the Authority through the means stated in this Law and its Executive Regulations.

Voluntary Disclosure: a form prepared by the Authority pursuant to which the Taxpayer notifies the Authority of an error or omission in the Tax Return, Tax Assessment or Tax refund application in accordance with the provisions of the Tax Law.

Register: the Register of Tax Agents.

Tax Agent: any Person registered with the Authority in the Register, who is appointed on behalf of another Person to represent him before the Authority and assist him in the fulfilment of his Tax obligations and the exercise of his associated tax rights.

Tax Audit: a procedure undertaken by the Authority to inspect the commercial records or any information or data related to a Person carrying on Business.

Tax Auditor: any member of the Authority's staff appointed as a Tax Auditor.

Tax Evasion: the use of illegal means resulting in lowering the amount of tax due, non-payment of the tax due or a refund of tax that he does not have the right to have refunded under any Tax Law.

Article (2)

Scope of Application of the Law

The provisions of this Law apply to tax procedures related to the administration, collection and enforcement of Tax by the Authority.

Article (3)

Objectives of the Law

This Law aims to achieve the following:

1. regulation of the rights and obligations between the Authority and the Taxpayer and any other Person dealing with the Authority;
2. regulation of the common procedures and rules applicable to all Tax Laws in the State.

CHAPTER TWO

TAX OBLIGATIONS

Part One

Keeping of Accounting Records and Commercial Books

Article (4)

Record Keeping

Any Person conducting any Business must keep Accounting Records and Commercial Books of his Business and any Tax related information as determined by Tax Law and maintain the same according to the controls that will be specified by the Executive Regulations of this Law.

Article (5)

Language

1. Each Person must submit the Tax Return, data, information, records and documents related to Tax that he is required to submit to the Authority in Arabic as determined by the provisions of the Tax Law.
2. The Authority may accept data, information, records, and documents related to Tax in any other language, provided that the Person provides the Authority with a translated copy of any of them into Arabic at his expense and responsibility if so requested, and in accordance with the Executive Regulations to this Law.

Part Two

Tax Registration

Article (6)

Tax Registration, Tax De-registration and Amendments of Data related to Tax Registration

1. A non-registered Taxable Person or any other Person who has the right to register must apply for registration under the relevant provisions of the Tax Law.
2. A Registrant must:
 - a. Include his TRN in all correspondence and transactions with the Authority or with others in accordance with the provisions of the Tax Law.
 - b. Inform the Authority, in the form prepared by it, of the occurrence of any circumstance that might require the amendment of information related to his Tax record kept by the Authority, within 20 business days from the occurrence of such circumstance.
 - c. Apply for de-registration in accordance with the relevant provisions of the Tax Law.
3. The Executive Regulations of this Law will specify the procedures for Tax Registration, de-registration, and amending Tax registration data with the Authority.
4. Government bodies that licence businesses shall notify the Authority within a time limit of (20) business days from the date of issuing any licence of the fact and according to the provisions of the Executive Regulations of this Law.

Article (7)

The Legal Representative

Any Person appointed as a Legal Representative of a Taxable Person or his funds or his inheritance must inform the Authority within 20 business days from the date of the appointment, and according to the procedures that will be specified in the Executive Regulations of this Law.

Part Three

Tax Obligations

Article (8)

Tax Return Preparation and Submission

1. Each Taxable Person shall:
 - a. Prepare the Tax Return for each Tax Period for each Tax within the time limit of registration in accordance with the Tax Law.
 - b. Submit the Tax Return to the Authority in accordance with the provisions of this Law and the Tax Law.
 - c. Settle any Payable Tax as specified in the Tax Return or any Tax Assessment within the timeframespecified in this Law and the Tax Law.
2. Any incomplete Return submitted to the Authority shall be treated as not having been accepted by it if it does not include the basic information determined by the Tax Law.
3. Each Taxable Person is responsible for the accuracy of the information and data in the Tax Return and in all his correspondence with the Authority.
4. Each Taxpayer shall settle any Administrative Penalties prescribed within the period of time specified in this Law and the Tax Law.

Article (9)

Specifying Payable Tax when Settling

1. A Taxable Person must, when paying any amount to the Authority, specify the type of Tax and the relevant Tax Period to which the amount relates; the Authority shall allocate the payment accordingly.
2. If a Taxable Person makes any payment without specifying the type of Tax or the Tax Period, the Authority shall have the right to allocate the full amount or part thereof according to the mechanism that will be specified in the Executive Regulations of this Law.
3. If a Taxable Person pays more than the Payable Tax amount, the Authority shall have the right to allocate the difference to a later Tax Period, unless such Taxable Person submits a refund application in accordance with the provisions of this Law.
4. If a Taxable Person pays less than the Payable Tax amount, the provisions of Chapter Three, Part Four of this Law shall apply.

Part Four

Voluntary Disclosure

Article (10)

Voluntary Disclosure

1. If a Taxable Person becomes aware that a Tax Return submitted by him to the Authority or a Tax Assessment sent to him by the Authority is incorrect, resulting in a calculation of Payable Tax according to the Tax Law being less than it should have been, the Taxable Person must in that event apply to correct such Tax Return by submitting a Voluntary Disclosure within the time limit specified in the Executive Regulations of this Law.
2. If a Taxpayer becomes aware that a Tax refund application that he has submitted to the Authority is incorrect, resulting in a calculation of a refund to which he is entitled according to the Tax Law being more than it should have been, he must in that event apply to rectify the Tax refund application by submitting a Voluntary Disclosure within the time limit specified in the Executive Regulations of this Law.
3. If a Taxable Person becomes aware that a Tax Return submitted by him to the Authority or a Tax Assessment sent to him by the Authority are incorrect, resulting in the calculation of Payable Tax according to the Tax Law being more than it should have been, he may in that event apply to rectify such a Tax Return by submitting a Voluntary Disclosure.
4. If a Taxpayer becomes aware that a Tax refund application that he has submitted to the Authority is incorrect, resulting in the calculation of a refund amount to which he is entitled according to the Tax Law being less than the it should have been, he may in that event apply to rectify the Tax refund application by submitting a Voluntary Disclosure.

CHAPTER THREE

Tax Procedures

Part One

Notification

Article (11)

Methods of Notification

1. The Authority shall notify a Person of any decisions or procedures through the address stated in the correspondence between the Authority and that Person.
2. The Authority shall notify a Taxable Person through the address stated in the Tax Return, unless the Authority is informed of a change in address by the Taxable Person, his Legal Representative or his Agent.
3. In all cases, a Person shall be treated as having been notified of any decision and as having received any correspondence if it appears that the Authority has sent the notification and correspondence according to the provisions of sections (1) and (2) of this Article.
4. The Executive Regulations of this Law shall specify the means used for Notifications and correspondence.

Part Two

Tax Agent

Article (12)

Register of Tax Agents

A Register of Tax Agents shall be established at the Authority. For each Tax Agent there will be a file in which all matters related to his professional conduct shall be lodged.

Article (13)

Tax Agents Registration

It is not permitted for any Person to practise the profession of a Tax Agent in the State unless he is listed in the Register and licensed for this purpose by the Ministry of Economy and the competent local authority.

Article (14)

Conditions of Registration in the Register

1. Anyone listed in the Register must satisfy the following conditions:
 - a. be of good conduct and behaviour and never have been convicted of a crime or misdemeour prejudicial to honour or honesty, notwithstanding that he may have been rehabilitated.
 - b. hold an accredited qualification from a recognised university or institute showing his specialisation and practical experience as specified in the Executive Regulations of this Law.
 - c. be medically fit to perform the duties of the profession.
 - d. hold professional indemnity insurance.
2. A Tax Agent must notify the Authority of any period during which he ceases to practise his profession as a Tax Agent if he is hindered from practicing, and he can request to resume his practice when such hindrance ceases to exist.
3. The Executive Regulations of this Law shall specify the procedures for listing a Tax Agent in the Register and the rights and obligations of the Tax Agent before the Authority and the Person.

Article (15)

Appointment of a Tax Agent

1. A Person may appoint a Tax Agent to act in his name and on his behalf with regard to his tax affairs with the Authority without prejudice to that Person's responsibility to the Authority.
2. It is not permitted for the Authority to deal with any Tax Agent regarding any Person if such Person informs the Authority that his agency engagement has ended or that the Tax Agent has been dismissed.

Article (16)

Person's Records with the Tax Agent

1. The Tax Agent must, upon the Authority's request, provide it with all the information, documents, records and data required for any Person represented by the Tax Agent.
2. The Authority may review the records of any Person available with his Tax Agent and may rely on them for the purposes of a Tax Audit, even after the expiry of the agency engagement or the dismissal of the Tax Agent.

Part Three

Tax Audits

Article (17)

The right of the Authority to perform a Tax Audit

1. The Authority may perform a Tax Audit on any Person to ascertain the extent of that Person's compliance with the provisions of this Law and the Tax Law.
2. The Authority may perform the Tax Audit at its office or the place of business of the Person subject to the Tax Audit or any other place where such Person carries on Business, stores goods or keeps records.
3. If the Authority decides to perform a Tax Audit at the place of Business of the Person subject to the Tax Audit or any other place where such Person carries on his Business, stores goods or keeps records, the Authority must inform him at least five business days prior to the Tax Audit.
4. By way of exception to section (3) of this Article, the Tax Auditor has the right of entry to any place where the Person subject to the Tax Audit carries on his Business, stores goods, or keeps records, and as the case may be it will be temporarily closed in order to perform the Tax Audit for within a time limit not exceeding 72 hours without prior notice in any of the following cases:
 - a. if the Authority has serious grounds to believe that the Person subject to the Tax Audit is participating or involved in Tax Evasion whether related to this Person or another Person;
 - b. if the Authority has serious grounds to believe that not temporarily closing the place where the Tax Audit is conducted will hinder the conduct of the Tax Audit;
 - c. if the Person who has been given advance notice of the Tax Audit under section (3) of this Article attempts to hinder the Tax Auditor's access to the place where the Tax Audit is to be performed.
5. In all cases stated in section (4) of this Article, the Tax Auditor must obtain the prior written consent of the Director General; and if the place to be accessed is a place of residence then a permit from the Public Prosecutor must also be obtained.
6. Places closed under this Article must be reopened upon the expiration of 72 hours, unless the Authority obtains a permit from the Public Prosecutor to extend the closure time limit for a similar period prior to the expiry of the preceding 72 hours.
7. A criminal case can be initiated only upon an application from the Director General.
8. The Executive Regulations of this Law shall specify the necessary procedures related to the Tax Audit.

Article (18)

The Right of the Authority to Access the Original Records or Copies Thereof During a Tax Audit

While conducting a Tax Audit, the Tax Auditor may obtain original records or copies thereof, or take samples of the stock, equipment or other assets from the place at which the Person subject to the Tax Audit carries on his business or which are in his possession, or may seize them in accordance with the rules that shall be specified in the Executive Regulations of this Law.

Article (19)

Timing of the Tax Audit

A Tax Audit will be conducted during the official working hours of the Authority. In cases of necessity, a Tax Audit may be exceptionally conducted outside such hours by decision of the Director General.

Article (20)

New Information Surfacing after a Tax Audit

The Authority may audit any issue previously audited if new information surfaces that might impact the outcome of the Tax Audit, provided that the Tax Audit procedures shall apply in accordance with the provisions of this Law and its Executive Regulations.

Article (21)

Cooperation during the Tax Audit

Any Person subject to a Tax Audit, his Tax Agent or Legal Representative must facilitate and offer assistance to the Tax Auditor to enable him to perform his duties.

Article (22)

The Audited Person's Rights

The audited Person has the right to:

1. request the Tax Auditors to show their job identification cards.
2. obtain a copy of the Tax Audit Notification.
3. attend the Tax Audit which take place outside the Authority.
4. Obtain copies of any original paper or digital documents seized or obtained by the Authority during the Tax Audit, according to what is specified in the Executive Regulations of this Law.

Article (23)

Notification of the Tax Audit Results

1. The Authority must inform the Person subject to Tax Audit of the final results of the Tax Audit within the time limit and according to the procedures specified in the Executive Regulations of this Law.
2. The Person subject to the Tax Audit may view or obtain the documents and data on which the Authority based its assessment of Due Tax according to the provisions specified in the Executive Regulations of this Law.

Part Four

Tax Assessments and Administrative Penalties Assessment

Article (24)

Tax Assessments

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.
 - e. the Registrant failing to account for Tax on behalf of another Person when he is obligated to do so under the Tax Law.

- f. there being a shortfall in Payable Tax as a result of a Person's Tax Evasion, or as a result of a Tax Evasion in which such Person was involved.
2. The Authority shall issue an estimated Tax Assessment if it has not been possible to determine the amount of Tax deemed to be Payable Tax or the Refundable Tax that has not been due to be refunded, as the case may be.
3. The Authority may amend an estimated Tax Assessment based on new information that surface after the issue of the estimated Tax Assessment. It must notify the concerned Person of these amendments within (5) five business days from the date of amendment.
4. The Executive Regulations of this Law shall specify the information or data that must be included in the Tax Assessment.

Article (25)

Administrative Penalties Assessment

1. The Authority shall issue an Administrative Penalties Assessment for a Person and notify him within (5) five business days for any of the following violations:
 - a. the Person carrying on a Business failing to keep the required records and other information specified in this Law and the Tax Law.
 - b. the Person carrying on Business failing to submit the data, records and documents related to Tax in Arabic to the Authority when requested.
 - c. the Taxable Person failing to submit a registration application within the timeframe specified in the Tax Law.
 - d. the Registrant failing to submit a deregistration application within the timeframe specified in the Tax Law.
 - e. the Registrant failing to inform the Authority of any circumstance that requires the adjustment of the information pertaining to his tax record kept by the Authority.
 - f. the Person appointed as a Legal Representative for the Taxable Person failing to inform the Authority of his appointment within the specified timeframe, in which case the penalties will be due from the Legal Representative's own funds.
 - g. the Person appointed as a Legal Representative for the Taxable Person failing to file a Tax Return within the specified timeframe, in which case the penalties will be due from the Legal Representative's own funds.
 - h. the Registrant failing to submit the Tax Return within the timeframe specified in the Tax Law.
 - i. the Taxable Person failing to settle the Payable Tax stated in the submitted Tax Return or Tax Assessment he was notified of, within the timeframe specified in the Tax Law.
 - j. the Registrant submitting an incorrect Tax Return.
 - k. the Person voluntarily disclosing errors in the Tax Return, Tax Assessment or Refund Application pursuant to Article 10 (1) and (2) of this Law.
 - l. the Taxable Person failing to voluntarily disclose errors in the Tax Return, Tax Assessment or Refund Application pursuant to Article 10 (1) and (2) of this Law before being notified that he will be subject to a Tax Audit.
 - m. the Person carrying on a Business failing to offer the facilitation and assistance to the Tax Auditor in violation of the provisions of Article (21) of this Law.
 - n. the Registrant failing to calculate Tax on behalf of another Person when the registered Taxable Person is obligated to do so under the Tax Law.
 - o. any other violation for which a resolution is issued by the Cabinet.
2. The Executive Regulations of this Law shall specify the information and data that must be included in the Administrative Penalties Assessment.

3. The Cabinet shall issue a resolution that specifies the Administrative Penalties for each of the violations listed in section (1) of this Article. Such Administrative Penalties shall be no less than 500 Dirhams for any violation and shall not exceed three times the amount of Tax in respect of which the Administrative Penalty was levied.
4. The imposition of any Administrative Penalty pursuant to the provisions of this Law or any other law shall not exempt any Person of his liability to settle the Due Tax in accordance with the provisions of this Law or the Tax Law.

Part Five

Penalties

Article (26)

Tax Evasion Penalties

1. Without prejudice to any more severe penalty applicable under any other law, a prison sentence and monetary penalty not exceeding five times the amount of evaded Tax or either of the two, shall be imposed on:
 - a. a Taxable Person who deliberately fails to settle any Payable Tax or Administrative Penalties.
 - b. a Taxable Person who deliberately understates the actual value of his Business or fails to consolidate his related Businesses with the intent of remaining below the required registration threshold.
 - c. a Person who charges and collects amounts from his clients claiming them to be Tax without being registered.
 - d. a Person who deliberately provides false information and data and incorrect documents to the Authority.
 - e. a Person who deliberately conceals or destroys documents or other material that he is required to keep and provide to the Authority.
 - f. a Person who deliberately steals, mis-uses or causes the destruction of documents or other materials that are in the possession of the Authority.
 - g. a Person who prevents or hinders the Authority's employees from performing their duties.
 - h. a Person who deliberately decreases the Payable Tax through Tax Evasion or conspiring to evade Tax.
2. The imposition of a penalty under the provisions of this Law or any other Law shall not exempt any Person from the liability to pay any Payable Tax or Administrative Penalties under the provisions of this Law or any Tax Law.
3. The competent court shall impose Tax Evasion penalties against any Person who is proven to have been directly involved or instrumental in Tax Evasion pursuant to Federal Law No. (3) of 1987 referred to.
4. Without prejudice to section (2) of this Article, any Person who is proven to have been directly involved or instrumental in Tax Evasion pursuant to section (3) of this Article shall be jointly and severally liable with the Person whom he has assisted, to pay the Payable Tax and Administrative Penalties pursuant to this Law or any other Tax Law.

CHAPTER FOUR

OBJECTIONS

Part One

Application for Reconsideration

Article (27)

Procedures for Application for Reconsideration

1. Any Person may submit a request to the Authority to reconsider any of its decisions issued in connection with him in whole or in part provided that reasons are included, within 20 business days from him being notified of the decision.
2. The Authority shall review a request for reconsideration if it has fulfilled the requirements and issue its decision with reasons within 20 business days from receipt of such application. The Authority must inform the applicant of its decision within five business days of issuing the decision.

Part Two

Objections to the Committee

Article (28)

Tax Disputes Resolution Committee

1. One or more permanent committee shall be formed known as the “Tax Disputes Resolution Committee”, chaired by a member of the judicial authority and two expert members being persons registered on the register of Tax experts to be appointed by a decision by the Minister of Justice in coordination with the Minister.
2. A decision shall be issued by the Cabinet regarding the Committee’s code of practice rules, the remuneration of its members, and the procedures it shall follow.

Article (29)

Jurisdictions of the Committee

The Committee shall have jurisdiction to:

1. decide in respect of objections submitted regarding the Authority’s decisions on reconsiderations requests.
2. decide in respect of reconsideration requests submitted to the Authority where the Authority has not made a decision according to the provisions of this Law.
3. any other jurisdictions entrusted to the Committee by the Cabinet.

Article (30)

Procedures for Submitting Objections

1. An objection regarding the Authority’s decisions on a reconsideration request shall be submitted within 20 business days from the date of Notification.

2. An objection submitted to the Committee shall not be accepted in the following instances:
 - a. if a reconsideration request has not been previously submitted to the Authority.
 - b. if the Tax and Penalties subject of the objection have not been settled.

Article (31)

Procedures of the Committee

1. The Committee shall review the objection submitted and make a decision within 20 business days from receipt of the objection.
2. The Committee may extend the time for making its decision for no more than additional 20 business days after the end of the time limit specified in section (1) of this Article if it sees that there are reasonable grounds for that extension in order to make a decision regarding the objection.
3. The Authority shall inform the Person submitting the objection of its decision within five business days of its issuance.
4. The Committee's decision on the objection shall be treated as final if the total amount of the Tax and Administrative Penalties due is not more than 100,000 Dirhams.
5. In no case may Tax disputes may be brought before the Competent Court if an objection has not been first submitted to the Committee.

Article (32)

Enforcement the Committee's Decision

Final decisions issued by the Committee regarding disputes which do not exceed 100,000 Dirhams shall be treated as executory instruments pursuant to this Law, while final decisions of disputes exceeding 100,000 Dirhams shall be treated as executory instruments if they are not challenged before the Competent Court within 20 business days from the date of rejection of the objection and shall be enforced through the execution judge at the Competent Court pursuant to the Civil Procedures Law in the State.

Part Three

Challenges before Courts

Article (33)

Challenge Procedures before Courts

1. Without prejudice to the provisions of Article (32) of this Law, the Authority and a Person may challenge any of the Committee's decisions before the Competent Court within 20 business days from the objector being notified of the Committee's decision.
2. Challenges may be made to the Competent Court in the following instances:
 - a. There being an objection to the whole or part of the decision of the Committee.
 - b. A decision not having been issued by the Committee regarding an objection submitted to it in accordance with the provisions of this Law.

CHAPTER FIVE

REFUND AND COLLECTION OF TAX

Part One

Refund of Tax

Article (34)

Application for Tax Refunds

A Taxpayer may apply for a refund of any Tax he has paid if he is entitled to a refund under the Tax Law and it appears that the amount he has paid is in excess of the Payable Tax and Administrative Penalties, pursuant to the procedures specified in the Executive Regulations of this Law.

Article (35)

Tax Refund Procedures

1. The Authority shall set-off the amount applied to be refunded against any other Payable Tax or Administrative Penalties due from the Taxpayer who has applied for the refund pursuant to the Tax Return or Tax Assessment issued by the Authority before refunding any amount relating to a particular tax.
2. The Authority may decline to refund the amounts mentioned in section (1) of this Article if it finds that there are other disputed Tax amounts that are due in relation to that Person or according to a decision of the Competent Court.
3. The Authority shall issue a Tax refund under this Article pursuant to the procedures and provisions specified in the Executive Regulations of this Law.

Part Two

Tax Collection

Article (36)

Collection of Payable Tax and Administrative Penalties

If a Taxable Person fails to settle any Payable Tax or Administrative Penalties within the specified timeframe under this Law and the Tax Law, the following measures shall be taken:

1. The Authority shall send the Taxable Person a notice to pay Payable Tax and Administrative Penalties within 20 business days of the date of Notification.
2. If the Taxable Person fails to make payment after being notified pursuant to section (1) of this Article, the Director General shall issue a decision obligating the Taxable Person to settle the Payable Tax and Administrative Penalties which shall be communicated to him within five business days from the issuance of the decision accompanied by the Tax Assessment and Administrative Penalties Assessments.
3. The decision of the Director General regarding the Tax Assessment and Administrative Penalties Assessments shall be treated as an executory instrument for the purposes of enforcement through the execution judge at the Competent Court.

Part Three

Settlement and Collection of Tax and Administrative Penalties in Special Cases

Article (37)

Obligations of the Legal Representative

The Legal Representative must continue to submit the required Tax Returns to the Authority on behalf of the Taxable Person.

Article (38)

Responsibility of Settlement in the Case of a Partnership

If multiple Persons participate in a Business that does not have independent legal personality, each of them shall be jointly and severally liable towards the Authority for any Payable Tax and Administrative Penalties related to such Business.

Article (39)

Tax and Administrative Penalties Settlement in Special Cases

1. In cases of death, Payable Tax shall be paid as follows:
 - a. for Payable Tax due from a natural Person prior to the date of death, payment shall be made from the value of the elements of the inheritance or income arising thereof prior to distribution among the heirs or legatees.
 - b. if it transpires after the distribution of the inheritance that there is Payable Tax still outstanding, recourse shall be had against the heirs and legatees for payment of such outstanding tax, unless a Clearance Certificate has been obtained from the Authority for the inheritance representative or any of the heirs.
2. Payable Tax and Administrative Penalties due from a Taxable Person of missing capacity, or who is absent or missing, or a person without a known place of residence, or the like, shall be paid by their Legal Representative from the funds and assets of the Taxable Person.
3. Payable Tax and Administrative Penalties due from a Taxable Person who is an incapacitated person shall be paid by their Legal Representative from the funds and assets of the Taxable Person.

Article 40

Settlement of Tax in Bankruptcy Case

1. The appointed Trustee shall communicate with the Authority to notify him of the Due Tax or of its intention to perform a Tax Audit for the specified Tax Period or Tax Periods.
2. The Authority shall notify the Trustee of the amount of Due Tax or of the Tax Audit within 20 business days after being notified by the Trustee.
3. The Trustee may object or appeal the estimate of the Authority or settle the Due Tax.
4. The Executive Regulations shall specify the procedures of communicating with the Authority, objection, appeal and settlement of Due Tax.

CHAPTER SIX

GENERAL PROVISIONS

Part One

Confidentiality

Article (41)

Professional Confidentiality

1. Employees of the Authority must not disclose information that they have obtained or to which they have had access to in their capacity as employees or by reason of such capacity while during their employment, save as specified or defined in accordance with the Executive Regulations of this Law.
2. In all cases provided for in section (1) of this Article, disclosure may be made only with the approval of officers authorised by the Authority's board of directors, in accordance with the Executive Regulations of this Law.
3. Employees of the Authority shall, after cessation of their employment, continue to maintain professional confidentiality, and shall not disclose information that they have obtained or to which they have had access to in their capacity as employees or by reason of such capacity, unless otherwise requested by the judicial authorities and in accordance with the Executive Regulations of this Law.
4. Any person who has obtained information pursuant to the provisions of this Law shall not disclose or use the information for any purposes other than those for which the information was obtained, without prejudice to the obligation arising from judiciary.
5. The Authority's board of directors shall issue the regulations and instructions regulating internal procedures to protect confidentiality of information within the Authority, and the obligations of the Tax Agent in this regard.

Part Two

Timeframes and Lapse of Time

Article (42)

Statute of Limitation

1. Except in cases of proven Tax Evasion or non-registration for Tax purposes, the Authority may not conduct a Tax Assessment after the expiration of five years from the end of the relevant Tax Period.
2. In case Tax Evasion is proven, the Authority may conduct a Tax Assessment within 15 years from the end of the Tax Period in which the Tax Evasion occurred.
3. In cases of non-registration for Tax purposes, the Authority may conduct a Tax Assessment within 15 years from the date on which the Taxable Person should have registered.

Article (43)

The Authority's Right to Claim

Payable Tax and Administrative Penalties of which the Taxable Person has been notified do not lapse with time and the Authority may claim them at any time.

Article (44)

Time Limit for Tax Obligations

In case a period of time is not specified for the performance of any obligations or other procedure in this Law or the Tax Law, the Authority shall grant the Taxable Person a period appropriate to the nature of the obligation or procedure of not less than five business days and not exceeding 40 business days from the date of the event resulting in the arising obligation or the conduct of the procedure.

Article (45)

Calculation of Timeframes

In all events, the following rules shall be observed when calculating time limit:

1. The day of notification or the day of occurrence of the event by reason of which the time limit began shall not form part of it.
2. If the last day of the time limit coincides with a public holiday, the time limit shall be extended to the first business day thereafter.

Article (46)

Reduction of or Exemption from Administrative Penalties

If the Authority imposes an Administrative Penalty on any Person for a violation of the provisions of this Law or the Tax Law, the Authority may reduce or exempt the Person from such Administrative Penalty if the Person produces evidence justifying the reason for his failure to comply, pursuant to the provisions specified in the Executive Regulations of this Law.

Article (47)

Calendar

Timelimits and due dates provided for in this Law and the Tax Law shall be calculated according to the Gregorian calendar.

Part Three

Closing Provisions

Article (48)

Proof of Accuracy of Data

The burden of proving the accuracy of the Tax Return falls upon the Taxable Person, and the burden of proving cases of Tax Evasion falls upon the Authority.

Article (49)

Conflict of Interest

All Authority staff members are prohibited from performing or participating in any tax procedures related to any Person in the following cases:

1. The member of staff and that Person being related up to the fourth degree.
2. There being a common interest between the member of staff and Person or between any of their relatives up to the third degree.
3. The Director General deciding that the member of staff should not perform any tax procedures related to that Person owing to a case of conflict of interest.

Article (50)

Judicial Officers

The Director General and Tax Auditors appointed by a decision from the Minister of Justice in agreement with the Minister shall have the capacity of Judicial Officers in recording violations of the provisions of this Law, the Tax Law or decisions issued in implementation thereof.

Article (51)

Authority Fees

The Cabinet shall, according to a suggestion by the Minister, issue a decision specifying the fees due in implementation of the provisions of this Law and its Executive Regulations.

Article (52)

Repeal of Conflicting Provisions

All provisions contrary to or in conflict with the provisions of this Law are repealed.

Article (53)

Executive Regulations

The Cabinet shall, according to a suggestion by the Minister, issue the Executive Regulations of this Law within 6 months of the issuance of this Law.

Article (54)

Publication and Coming into Force of this Law

This Law shall be published in the Official Gazette and shall come into force 30 days from the date of publication.

Khalifa bin Zayed Al Nahyan

President of the United Arab Emirates

Issued by us at the Presidential Palace in Abu Dhabi

On: 16 Ramadan 1438H

Corresponding to: 11 June 2017

**CABINET DECISION NO. (36) OF 2017 ON THE
EXECUTIVE REGULATION OF FEDERAL LAW
NO. (7) OF 2017 ON TAX PROCEDURES**

**Cabinet Decision No. (36) of 2017 on the Executive
Regulation of Federal Law No. (7) of 2017 on
Tax Procedures**

The Cabinet,

- Having reviewed the Constitution;
- Federal Law No. (1) of 1972 on the Competencies of the Ministries and Powers of the Ministers and its amendments;
- Federal Decree-Law No. (13) of 2016 on the Establishment of the Federal Tax Authority;
- Federal Law No. (7) of 2017 on Tax Procedures;
- Based on what was presented by the Minister of Finance and approved by the Cabinet,

Has decided:

Title One

DEFINITIONS

Article (1)

Definitions

In the application of the provisions of this Decision, the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

State: United Arab Emirates

Authority: Federal Tax Authority

Board: Authority's board of directors.

Director-General: Director-General of the Authority

Competent Court: Federal court within whose jurisdiction the Authority's Head Office or branch is located.

Tax: Any Federal tax administered, collected or enforced by the Authority.

Tax Law: Any federal law pursuant to which a Federal Tax is imposed.

Person: A natural or legal person.

Business: Any activity conducted in an ongoing, regular and independent manner by any Person and in any location, such as an industrial, commercial, agricultural, professional, vocational or service activity, drilling activities or anything related to the use of material or non-material property.

Premises: the place of business of the Person subject to Tax Audit, any other place in which he conducts his business, or where he stores goods or records.

Taxable Person: A Person who is subject to Tax under the provisions of the relevant Tax Law.

Taxpayer: Any Person who is obligated to pay Tax in the State under the Tax Law, whether such Person is a Taxable Person or an end consumer.

Tax Return: Information and data specified for Tax purposes and submitted by a Taxable Person in accordance with the form prepared by the Authority

Tax Period: A specified period of time for which the Payable Tax shall be calculated and paid.

Tax Registration: A procedure by which a Taxable Person or his Legal Representative registers with the Authority for Tax purposes.

Tax Registration Number (TRN): A unique number issued by the Authority for each Person registered for Tax purposes.

Registrant: A Taxable Person who has been granted a TRN.

Legal Representative: The manager of a company or a guardian or custodian of a minor or incapacitated person, or the bankruptcy trustee appointed by court for a company that is in bankruptcy, or any other Person legally appointed to represent another Person.

Due Tax: Tax that is calculated and imposed under the provisions of any Tax Law.

Payable Tax: Tax that has become due for payment to the Authority.

Administrative Penalties: Monetary amounts imposed on a Person by the Authority for breaching the provisions of the Law or the Tax Law.

Refundable Tax: Amounts that have been paid and that the Authority may return in whole or in part to the Taxpayer pursuant to the relevant Tax Law require to use for the payment of amounts due or Administrative Penalties or require to carry forward to future Tax Periods depending on the nature of the refund, according to the Tax Law.

Tax Assessment: A decision issued by the Authority in relation to the Payable Tax or Refundable Tax.

Administrative Penalties Assessment: A decision issued by the Authority concerning Administrative Penalties due.

Notification: Notification to the concerned Person or his Tax Agent or Legal Representative of the decisions issued by the Authority through the means stated in the Law and this Decision.

Voluntary Disclosure: A form prepared by the Authority pursuant to which the Taxpayer notifies the Authority of an error or omission in the Tax Return, Tax Assessment or Tax Refund application in accordance with the provisions of the Tax Law.

Register: The Register of Tax Agents.

Tax Agent: Any Person registered with the Authority in the Register, who is appointed on behalf of another Person to represent him before the Authority and assist him in the fulfilment of his Tax obligations and the exercise of his associated tax rights.

Tax Audit: A procedure undertaken by the Authority to inspect the commercial records or any information or data related to a Person conducting Business.

Tax Auditor: Any member of the Authority's staff appointed as a Tax Auditor.

Documents: Original documents or copies thereof that are related to the Person conducting a Business, and forming a part of the Person's legal records.

Assets: Tangible assets, including equipment, machinery, stock and others, that the Authority has considers as owned, leased or used in connection with the conduct of business by any Person.

The Law: Federal Law No. (7) of 2017 on Tax Procedures.

Title Two

KEEPING ACCOUNTING RECORDS AND COMMERCIAL BOOKS

Article (2)

Keeping Accounting Records and Commercial Books

1. Accounting Records and Commercial Books shall include the following:
 - a. Accounting books in relation to that Business, which include records of payments and receipts, purchases and sales, revenues and expenditures, and any business, and any matters as required under any Tax Law or any other applicable law, including:
 - 1) Balance sheet and profit and loss accounts.
 - 2) Records of wages and salaries.
 - 3) Records of fixed assets.
 - 4) Inventory records and statements (including quantities and values) at the end of any relevant Tax Period and all records of stock-counts related to Inventory statements.
 - b. Additional records as may be required in the Tax Law and its Executive Regulation.
2. In addition to the Accounting Records and Commercial Books mentioned in Clause (1) of this Article, the Authority may require any other information in order to confirm, through an audit trail, the Person's Tax obligations, including any liability to register for Tax purposes.

Article (3)

Period of Record-Keeping

1. Every Person holding and maintaining any of the records mentioned in Article (2) of this Decision, shall keep these records in a manner that enables the Authority, or an officer authorised by the Authority, to ascertain that Person's Tax obligations, as follows:
 - a. For a period of (5) years after the end of the Tax Period to which they relate in the case of a Taxable Person.
 - b. For a period of (5) years from the end of the calendar year in which the concerned document was created in the case of non-Taxable Persons.
 - c. For a period specified in the Tax Law for real estate records.
2. The Authority may, before the expiry of the period specified in paragraph (a) of Clause (1) of this Article, inform the Person to retain the records for a further period not exceeding (4) years, in cases where he is required to do so including the following:
 - a. If the Taxable Person's tax obligations are subject to a dispute between him and the Authority.
 - b. If the Person is being subject to a Tax Audit and that Tax Audit has not yet been completed.
 - c. If the Authority has given notice to the Person that it intends to conduct a Tax Audit before the expiry of the period specified in Clause (1) of this Article.

3. If a Person is no longer a Taxable Person, he shall be required to comply with the provisions of paragraph (b) of Clause (1) of this Article.
4. Where a Person enters into bankruptcy proceedings, his Legal Representative is required to keep the records of that Person for 12 months from the date on which those proceedings have come to an end.
5. For the purposes of Clause (4) of this Article, should the Authority require the records to be kept for a longer period, it may take possession of them, at a time agreed with the Legal Representative responsible for the relevant bankruptcy proceedings.

Article (4)

How to Keep Accounting Records and Commercial Books

1. Unless otherwise required by the Tax Law, the obligation to maintain Accounting Records and Commercial Books shall be met through any of the following:
 - a. Creating the record and the retention of original Documents which support the entries contained in the record.
 - b. Creating the record and preserving the information that was contained in the original document, provided that:
 - 1) The information matches the data contained in the original document, and shall be available during the periods referred to in Article (3) of this Decision.
 - 2) The information retained or stored in either photocopy or electronic form, and an easily readable copy of it can be reproduced within a reasonable period, if requested by the Authority.
 - a. The Authority may lay down the rules of preserving information contained in Accounting Records and Commercial Books, and impose such reasonable requirements for ensuring that the information will be as readily available to it as if the original records themselves had been preserved.

Article (5)

The use of a language other than the Arabic

1. Tax Return, data, information, records and other Documents related to any Tax shall be submitted to the Authority in Arabic, as per the mechanism specified by the Tax Law.
2. As an exception to Clause (1) of this Article, the Authority may accept data, information, records and other Documents related to any Tax to be submitted to it in English; the Authority may, at its discretion, request the Person to translate some or all of these to Arabic.
3. Where the data, information, records and other Documents related to any Tax are issued in any foreign language other than English, the Person is required to submit these Documents to the Authority as translated into Arabic.
4. The Person submitting any translation of data, information, records and other Documents related to any Tax to the Authority shall be liable for the accuracy and correctness of the translation, and shall bear all associated costs. The Authority shall have the right to rely on the translation provided.

Title Three

REGISTRATION AND DE-REGISTRATION FOR TAX PURPOSES

Article (6)

Procedures of Tax Registration, De-registration and Amending Details of Registration

The following procedures with respect to tax registration and de-registration shall be followed:

1. A Tax Registration application shall be submitted by the non-registered Taxable Person or any other Person who has the right to be registered to the Authority according to the forms adopted by the Authority in this regard.
2. A Tax de-registration application shall be submitted to the Authority by the Registrant who is required or has the right, to be deregistered based on the forms adopted by the Authority in this regard.
3. The Authority shall review the tax registration or de-registration application in accordance with the rules adopted in this regard.
4. Tax registration or de-registration shall be finalised by issuing the Tax Registration Number for the applicant, or cancelling this number, or reactivating the Tax Registration Number if the Authority re-registers a Person, as the case may be.
5. The Authority shall notify the Person of his tax registration or de-registration or the reactivation of his registration based on the mechanism adopted thereby in this regard.
6. A Registrant shall within (20) business days notify the Authority of any of the following:
 - a. Any change to the name, address, articles of association, or nature of the Business of that Registrant.
 - b. Any change to the address from which any Business is conducted by that Registrant.
7. The Government body responsible for issuing business licences shall inform the Authority in writing of any licences that has been issued thereby on the form specified by the Authority, within (20) business days from issuing the licence, provided that such notification include the following:
 - a. The name of the business.
 - b. The type of commercial licence.
 - c. The commercial licence number.
 - d. The date of issuance of the commercial license.
 - e. The registered address of the business.
 - f. Description of the activities of the business.
 - g. The details of the owners and directors of the business.
 - h. Any other information requested by the Authority.
8. Any Person appointed as a Legal Representative is required to give a notice of his appointment to the Authority within (20) business days from the appointment date, such notice shall be in writing or by the form determined by the Authority, and shall include the following:
 - a. The type of appointment.

- b. The Person's responsibilities.
 - c. The duration of the appointment, in the case of fixed-term appointment.
 - d. The name, address and Tax Registration Number, if applicable, of the Taxable Person who is represented by the Legal Representative.
 - e. The name and address of the Legal Representative.
 - f. The legal basis of the appointment.
9. When a notice is given in accordance with Clause (8) of this Article, it shall be accompanied by appropriate evidence of the appointment of the Legal Representative, such as a copy of the document that states the legal basis for the appointment.
10. The Authority may request further information from the applicant about the appointment of the Legal Representative and may obtain from other persons information relating to the appointment in order to verify the details of the appointment.
11. Where the Authority accepts the appointment of the Legal Representative, it will notify the Legal Representative of the acceptance of his appointment within (20) business days as of such acceptance.

Title Four

TAX OBLIGATIONS

Article (7)

Allocation of Unidentified payments

1. If the Taxable Person settles any amount to the Authority without specifying the type of Tax or Tax Period to which it relates, the Authority may allocate the amount for settling any debts or liabilities due to the Authority based on seniority.
2. If the amount received by the Authority under Clause (1) of this Article, exceeds the Taxable Person's existing liabilities, the Authority shall treat the excess amount received as a credit against future liabilities of the Taxable Person, where the Taxable Person did not request the excess amount to be returned.
3. The Authority shall notify the Taxable Person regarding the allocation of payments according to Clause (1) of this Article.

Title Five

VOLUNTARY DISCLOSURE

Article (8)

Time Limits for Voluntary Disclosure

1. If a Taxable Person becomes aware that a Tax Return submitted by him to the Authority or a Tax Assessment sent to him from the Authority are incorrect, resulting in a calculation of the Payable Tax according to the Tax Law being less than required by more than (10,000) Dirhams, the Taxable Person shall make a Voluntary Disclosure to the Authority within (20) business days from the date when the Taxable Person became aware of the error.
2. If a Taxable Person becomes aware that a Tax Return submitted by him to the Authority or a Tax Assessment sent to him from the Authority is incorrect, resulting in a calculation of Payable Tax according to the Tax Law being less than required by not more than (10,000) Dirhams, the Taxable Person shall make the following:
 - a. To correct the error in the Tax Return for the Tax Period in which the error has been discovered, if the Taxable Person is obligated to submit a Tax Return to the Authority for this Tax Period.
 - b. The Taxable Person shall make a Voluntary Disclosure to the Authority within (20) business days from the date of becoming aware of the error, if there is no Tax Return through which the error can be corrected according to paragraph (a) of this Clause.
3. If a Taxpayer becomes aware that a Tax refund application that he has submitted to the Authority is incorrect, resulting in a calculation of a refund to which he is entitled according to the Tax Law being more than the correct amount, the Taxpayer shall make a Voluntary Disclosure to the Authority within (20) business days from the date when the Taxpayer becomes aware of the error, unless the error was a result of an incorrect Tax Return or Tax Assessment, then provisions of Clauses (1) and (2) shall apply.
4. For the purposes of implementing this Article, a Voluntary Disclosure must be made in accordance with the form directed by the Authority.

Title Six

TAX NOTIFICATIONS

Article (9)

Means of Notification and Correspondence by the Authority

1. The Authority shall execute the Notification by any of the following means:
 - a. Post.
 - b. Registered post.
 - c. By electronic mail to the address provided by the Person being notified.
 - d. Posting on the premises of the Taxable Person
 - e. Any other means as may be agreed by the Person and the Authority.
2. If the Authority considers that notifying the unregistered person by the means mentioned in Clause of this Article is not practical for the cases of Notification mentioned in Article (13) of this Decision, the Notification may be made by posting a notice in a printed or written form at the Premises at which a Tax Audit is to be conducted.
3. For the purposes of Clause (1) of this Article, the Authority may use any of the following contact addresses for a Person, according to the cases mentioned:
 - a. For delivery by post or registered post: the address provided by the Person to the Authority, or the address of their usual or last known place of residence or business may be used.
 - b. In case of natural Person: the email address that they have provided to the Authority or the Person's last known email address may be used.
 - c. In case of legal Person: the email address shall be used in the following order:
 - 1) The email address that they have provided to the Authority.
 - 2) The email address of any Person acting in favour or on behalf of the Person being notified concerning the relevant matter.
 - 3) The last known email address of a Person acting in favour or on behalf of the Person being notified concerning the relevant matter.
 - 4) Any other email address of another Person, if there are reasonable grounds to suppose that that Legal Person will receive the Notification through that other Person.
4. For the purposes of making a communication under Clauses (1) and (2) of this Article, the Authority may communicate with either of the following:
 - a. The relevant Person.
 - b. The Tax Agent or Legal Representative of the Taxable Person.

Title Seven

TAX AGENTS

Article (10)

Procedures for listing a Tax Agent in the Register and Rights and Obligations of Tax Agents

1. Anyone requesting to be listed in the Register shall satisfy the following conditions:
 - a. To be of good conduct and behaviour and to have never been convicted of a crime or misdemeanor prejudicial to honour or honesty, irrespective of whether or not he may have been rehabilitated.
 - b. To hold at least a certified bachelor or Master degree in tax, accounting or law from a recognised educational institution, or a bachelor degree in any field plus a tax certification as accepted from an internationally known tax institute.
 - c. To have a relevant recent experience of at least three years, in either tax, qualified accounting or law, with the ability to communicate orally and in writing in both Arabic and English.
 - d. To pass any tests to meet qualification standards as may be specified by the Authority.
 - e. To be medically fit to perform the duties of the profession.
 - f. To hold a professional indemnity insurance contract.
 - g. To perform his activity through a legal person approved by the Ministry of Economy and the local competent authority.
2. The Person shall submit an application for listing in the Register to the Authority using the form specified by the Authority.
3. The Authority may request further information from the Person applying for registration, request an interview with the Person or check references provided in the application before deciding whether or not to list the applicant as a Tax Agent.
4. The Authority shall review the applications and shall issue its decision within (15) business days from receiving the application. Exceptionally, in case of gathering additional information under Clause (3) of this Article, it shall issue the decision within (15) business days from the date of receipt of the information.
5. If the Authority accepts the application, the applicant will be listed in the Register within (5) business days from the date of the Authority's approval of the application or any other date that may be specified by the Authority after settling the required fees.
6. The Authority may refuse an application for listing a Person in the Register in any of the following cases:
 - a. The Person fails to meet the conditions specified in Clause (1) of this Article.
 - b. Listing the Person as a Tax Agent would adversely affect the integrity of the Tax system.
7. The Authority shall notify the Person whether or not his application to be listed in the Register has been accepted or rejected within (20) business days from the date of the Authority's approval of the application.

8. Listing in the Register shall be valid for three years from the date of registration. The relevant Person shall be required to renew his listing before expiration of such period according to the mechanism determined by the Authority.
9. The Authority may de-list the Tax Agent from the Register in any of the following cases:
 - a. If it was proven to the Authority that the Person is not eligible to be a Tax Agent.
 - b. If the Authority found that the continued registration of the Person as a Tax Agent would adversely affect the integrity of the Tax system.
 - c. If he committed a significant violation of the provisions of Law or Tax Law.
10. Upon de-listing a Person from the Register, the Authority shall notify that Person regarding the de-listing within (5) business days of the decision and provide reasons for the decision.
11. Where a Person appoints a Tax Agent to act in his name and on his behalf, the Tax Agent shall:
 - a. Assist the Person with his Tax obligations according to a contractual agreement between the Person and the Tax Agent.
 - b. Without prejudice to any obligations in the Law, maintain the confidentiality of any information obtained in the course of performing his duties as a Tax Agent.
 - c. Refuse to participate in any work or plan which may result in a breach of any law by any Person or may jeopardize the integrity of the tax system.
12. In performing his duties as a Tax Agent, the Tax Agent may rely on information provided to him by the Person unless the Tax Agent has reasonable grounds for believing that the information may be incorrect.

Title Eight

TAX AUDITS

Article (11)

Regularity of Tax Audits

1. When the Authority decides on whether or not to conduct a Tax Audit on a Person, it shall consider the following:
 - a. That a Tax Audit is necessary for protecting the integrity of the Tax system.
 - b. The responsibility of the Person, or anyone associated with him, to comply with the Law and Tax Law.
 - c. The likely Tax revenue at stake, and the administrative and compliance burdens on both the Person and the Authority resulting from performing a Tax Audit.
2. If the Authority decides to re-audit a business, it shall take into consideration the results of the previous Tax Audit, any new information or data, which are likely to change the Authority's position.
3. Notwithstanding Clauses (1) and (2) of this Article, a decision by the Authority to conduct a Tax Audit may not be challenged by any Person.

Article (12)

Right to Conduct Tax Audit

1. For the purposes of conducting a Tax Audit, the Authority may inspect:
 - a. The Premises.
 - b. The Documents available at the Premises.
 - c. The Assets that are available at the Premises.
 - d. The accounting systems used by the Person subject to Tax Audit.
2. For the purposes of implementing provisions of Clause (4) of Article (17) of this Law, the Tax Auditor shall obtain the prior written consent of the Director-General, as well as a permit from the Public Prosecutor to be able to enter the part of the Premises where the Premises or parts thereof are used as a dwelling.
3. For the purposes of implementing Clause (1) of this Article, the occupational tenant of the Premises, or in the absence of the occupational tenant, any Person the Authority considers as having control over the Premises, shall provide the Authority with all reasonable facilities necessary for the effective exercise of its powers under this Article.

Article (13)

Notice of Audit

1. Any notice of a Tax Audit sent by the Authority shall state the possible consequences of obstructing the Tax Auditor in the exercise of his duty.
2. Where a Tax Auditor is assigned to carry out a Tax Audit according to Clause (4) of Article (17) of this Law, he shall provide a notice in writing at the beginning of the Tax Audit to the following:
 - a. The occupational tenant of the Premises if he is present at the time of beginning the Tax Audit.

- b. The Person who appears to be in charge of the Premises if he is present and the occupational tenant is not present.
- c. In any other case, the notice shall be posted on a prominent place in the Premises.
3. Any other official of the Authority whom a Tax Auditor considers necessary for the effective exercise of his powers under this Decision may accompany the Tax Auditor to any Premises.
4. A Tax Auditor carrying out a Tax Audit at the Premises of a Person based on a permission of the public prosecutor according to Article (12) of this Decision, shall present the permit issued by the Authority as well as the permit obtained from the public prosecutor, in addition to the proof of identity every time he is requested to do so.

Article (14)

Power to remove and retain Original Documents or Assets or make Copies Thereof

1. Where an original Document is provided to or inspected by a Tax Auditor during a Tax Audit, he may:
 - a. Make copies of the Document.
 - b. Remove the Document for a period specified by the Tax Auditor for the completion of his work, or make copies of it during the removal period, provided that he notifies the Person of such matter.
2. For purposes of Article (12) of this Decision, the Tax Auditor may remove any Asset provided thereto, or inspected by him for a period specified by the Authority for the purposes of completing the Tax Audit.
3. Where a Document is removed under Clause (1) of this Article or an Asset is removed under Clause (2) of this Article, the Authority shall provide a record of what was removed, within (10) business days from the date of removal, to any of the following:
 - a. The owner of the Document or the Asset.
 - b. The occupational tenant of the Premises in which the Document or Asset were removed.
 - c. The Person who had custody or control of the Document or Asset immediately before the removal.
4. The record referred to in Clause (3) of this Article shall include the following:
 - a. The purpose for removing the Asset or Document.
 - b. The nature of the Asset or Document so removed.
 - c. The location where the Asset or Document is stored and the conditions of storage.
 - d. The period for which it is expected to be retained by the Authority.

Article (15)

Power to Mark Assets and Record Information

The Authority shall have the power to:

1. Mark Assets for the purpose of indicating that they have been inspected.
2. Obtain and record information relating to the Premises, Assets, Documents and accounting systems that have been inspected.

Article (16)

Storage and Providing Access to removed Documents and Assets

1. Any Documents or Assets removed under Article (14) of this Decision shall be kept and stored by the Authority for the duration required for the completion of the Tax Audit in accordance with the conditions included in Clauses (2) and (3) of this Article.

2. Any Documents or Assets removed and retained shall be returned to the Person to whom a record has been provided under the provisions of Clause (3) of Article (14) of this Decision in a condition as good as practically possible. The Authority may dispose of the Assets that naturally deteriorate and hence cease to have value, in accordance with the internal procedures of the Authority.
3. For perishable Assets, the Authority shall have the right to dispose of them (45) business days after their removal, in accordance with the internal procedures of the Authority.
4. The Authority shall notify the owner of an Asset (10) business days prior to exercising its right under Clauses (2) or (3) of this Article, of its intention to dispose of the Asset in whole or in part, and give the owner an opportunity to take back the Asset in whole or in part.
5. Where the Person from whom the Asset or Document was taken submits a request to view the Asset or Document, the Authority may:
 - a. Allow the Person who made the request to view the Asset or Document under the supervision of the Authority for the purpose of photocopying or photographing the Document or photographing the Asset.
 - b. Photocopy or photograph the Document or photograph the Asset, and provide the photocopy or the photograph to the relevant Person.
 - c. Reject the request where the Authority believes that it would prejudice any of the following:
 - 1) That Tax Audit.
 - 2) The Tax Audit of another Person.
 - 3) Any investigation related to any of the Documents or Assets to be viewed.
 - 4) Any criminal proceedings related to the Document or the Asset to be viewed.

Article (17)

Result of the Audit

1. The Person subject to the Tax Audit shall be notified of the results of the Tax Audit within (10) business days from the end of the audit.
2. Where the Person subject to the Tax Audit is notified of the results of the Tax Audit in accordance with Clause (1) of this Article, he may request the Authority to view or obtain Documents and data on which the Authority based the assessment of Due Tax. Such request shall be made in writing or through such other form adopted by the Authority within (20) business days from the date of the notice provided by the Authority, and shall provide the requested information within (10) business days in the following manner:
 - a. A paper or electronic copy of the Document or data requested.
 - b. The original Document or data requested if such Documents or data belong to the Person subject to the Tax Audit who made the request.
3. The Authority is not required to provide:
 - a. Documents or data which would reveal internal correspondence or decisions made by the Authority.
 - b. Any confidential information or data related to any other Person or Persons.
 - c. Any Documents or data, which are known to be in possession of the Person, who is subject to the Tax Audit and made the request. In this case, the Authority shall provide the Person subject to the Tax Audit with sufficient information to enable him to identify the Documents and data requested.

Article (18)

Notice to Provide Information or Documents

The Authority may issue a Notification requiring a Person to provide any information or any Documents in relation to himself or another Person, if these Documents or information are considered necessary by the Authority.

Article (19)

Complying with Notifications

1. Where a Person has been notified to provide information or Documents, the Person shall do so within the period specified and by the means and in the form determined in the Notification.
2. Where a Notification requires a Person to provide information or Documents, these shall be submitted at any of the following places:
 - a. A place agreed upon between the Person and the Authority.
 - b. The place determined by the Authority provided that this place is appropriate and not used solely as a dwelling.

Title Nine

TAX ASSESSMENT AND THE ADMINISTRATIVE PENALTIES ASSESSMENT

Article (20)

Considering Taxes as Debts owed to the Authority

Where an amount of Tax or Administrative Penalty has been assessed and notified to any Person under the Tax Law, it shall be deemed to be a debt to the Authority, and may be collected accordingly.

Article (21)

Notification of Tax Assessment or Administrative Penalty Assessment

1. A notification of Tax Assessment shall contain sufficient information regarding the Tax Assessment, and include at least the following:
 - a. The Taxable Person's name and address.
 - b. The Taxable Person's Tax Registration Number, if applicable.
 - c. The Tax Assessment reference number.
 - d. The Tax to which the assessment relates.
 - e. A Tax summary, which includes: the details of the Tax declared and adjustments made.
 - f. Reasons for Tax Assessment.
 - g. Net Tax due to the Authority or refundable by the Authority.
 - h. The date any Due Tax is payable and the method of payment.
2. A notification of an Administrative Penalty Assessment shall contain sufficient information regarding the Administrative Penalty Assessment, and shall include at least the following:
 - a. The Person's name and address.
 - b. The Taxable Person's Tax Registration Number if applicable.
 - c. The Administrative Penalty Assessment reference number.
 - d. The Tax to which the Administrative Penalty Assessment relates.
 - e. The violation for which the Administrative Penalty has been assessed.
 - f. The Administrative Penalty summary, which includes: the amount of Administrative Penalty imposed, the amount of Tax to which the Administrative Penalty relates, and any reductions to the Administrative Penalty.
 - g. Total of Administrative Penalties due to the Authority.
 - h. The date any Administrative Penalty due is payable and the method of payment.

Title Ten

TAX REFUNDS

Article (22)

Procedures of Getting a Tax Refund

1. Subject to any further conditions specified in the Tax Law, a Taxpayer shall apply for a refund as per the mechanism specified by the Authority.
2. The Authority shall, within (20) business days of an application being submitted, review the application and notify said Taxpayer of accepting or rejecting the refund claim. Where the Authority has reasonable grounds for requiring a period longer than (20) business days to consider his application, it shall notify the relevant Taxpayer thereof.
3. Where the Authority has approved a refund application in accordance with Clause (2) of this Article, it shall, within (5) business days of the approval, either make the appropriate payment to the Person or notify the Person that the Authority will offset the amount requested to be refunded against any other Payable Tax or Administrative Penalties due, or to notify the Person that the refund will be postponed until all due Tax Returns are submitted to the Authority; any amount in excess of such liability shall be refundable in conformity with the conditions contained in the Tax Law .
4. The payment of a refund amount shall be made to the Person entitled to the refund by the means acceptable to the Authority.

Title Eleven

BANKRUPTCY CASES

Article (23)

Responsibilities of Bankruptcy Trustee in Case of Bankruptcy

1. If a Business or part of a Business is subject to bankruptcy proceedings and a Person has been appointed as a trustee in bankruptcy, that trustee shall be treated as representing and carrying out the Business or the part of the Business until the expiration date of his appointment as a trustee in bankruptcy under the Federal Decree Law No (9) of 2016.
2. Where the Authority has notified an appointed trustee of the Due Tax, the trustee may apply for a review, objection or appeal of the decision, in accordance with the rules and controls stated in Title Four of the Law.
3. Any Payable Tax due to the Authority shall be paid by the trustee in accordance with the settlement mechanism applicable to the Payable Tax.

Title Twelve

DISCLOSURE OF INFORMATION

Article (24)

Disclosure of information

1. The Authority staff and any Persons delegated by the Authority to execute the provisions of the Law or the Tax Law shall not disclose information they become aware of by virtue of carrying out function at the Authority, except in the following cases:
 - a. The disclosure is made upon a decision of a judicial authority for the purposes of a civil or criminal case before the Competent Court with respect to a matter falling within the Authority's functions.
 - b. The disclosure is made to a competent government entity that was determined by a decision of the board of directors, after concluding a memorandum that stipulates such disclosure, the use that may be made of the information disclosed, the arrangements for the control, security, subsequent disclosure and the accuracy of the information, including the access to that information by Persons.
 - c. The disclosure is made in the implementation of international conventions or treaties.
 - d. The disclosure is requested by a Person or their Tax Agent in relation to any part of their file which is held by the Authority.
 - e. The disclosure is made to another specialised Authority's staff member, provided it is made at a place and in accordance with the confidentiality conditions under which the Authority expects that Person to perform his duties and functions.
2. For purposes of Clause (1) of this Article, "the Authority's staff" means:
 - a. The chairman and members of the Board.
 - b. The Director-General.
 - c. Any other officer of the Authority.
3. For the purposes of implementing this Article, the Board may specify the following:
 - a. The Persons working at the Authority, whose functions allow them to disclose information and the nature or category of such information which may be disclosed.
 - b. The date on which disclosure may be made.

Article (25)

Disclosure of Information by the Authority's Staff after Leaving Function

If an Authority's staff member leaves his job, he shall remain under the same duty of confidentiality in respect of information known or held by him at the time that he was authorised to carry out his functions as a competent officer of the Authority, save where a Competent Court or the Public Prosecutor orders the disclosure of any such information.

Title Thirteen

REDUCTION IN OR EXEMPTION FROM ADMINISTRATIVE PENALTIES

Article (26)

Reduction of Administrative Penalties or Exemption Therefrom

1. The Authority may reduce or waive any administrative penalties imposed on any person whose violation of the provisions of the Law or Tax Law was proved, according to the following provisions:
 - a. The Person has an excuse that is acceptable to the Authority.
 - b. The Person provides evidence that justifies the excuse and the violation it caused, which led to the imposition of Administrative Penalties.
 - c. The reduction or exemption application shall be notified to the Authority as per the mechanism specified by the Authority within 10 business days as of the end of the acceptable excuse.
 - d. The Person shall not have been subject to any Administrative Penalties in the 2 years preceding the application.
 - e. The Person shall demonstrate that they have corrected the violation.
2. For the purposes of paragraph (a) of Clause (1) of this Article, an acceptance of an excuse shall be decided by a committee, set up by a decision of the Director-General, consisting of three officers, specialised in reviewing the excuse and evidence provided by the violating Person, and accepting or rejecting the excuse subject to Clauses (3) and (4) of this Article.
3. An excuse shall not be considered acceptable if the act that led to the violation was deliberate.
4. The following shall not ordinarily be considered an acceptable excuse:
 - a. Insufficiency of funds.
 - b. Reliance on another Person.
5. The Authority shall make its decision in respect of the reduction of the Administrative Penalties or exemption therefrom within (20) business days from receiving the application, and shall notify the Person of said decision within (10) business days as of issuing its decision.

Article (27)

Abrogation of Contradicting Provisions

Any provision contrary to or inconsistent with the provisions of this Decision shall be abrogated.

Article (28)

Publication and Application of this Decision

This Decision shall be published in the Official Gazette and shall come into effect from the date of its issuance.

Mohammed Bin Rashid Al Maktoum

Prime Minister

Issued by us

On: 4 Muharram 1439H

Corresponding to: 24 September 2017

**CABINET DECISION NO. (39) OF 2017 ON FEES
FOR SERVICES PROVIDED BY THE FEDERAL
TAX AUTHORITY**

Cabinet Decision No. (39) of 2017 on Fees for Services Provided by the Federal Tax Authority

The Cabinet:

- Having reviewed the Constitution;
 - Federal Law No. (1) of 1972 on the Competencies of the Ministries and Powers of the Ministers and its amendments;
 - Federal Law No. (1) of 2011 on the State's Public Revenues;
 - Federal Decree-Law No. (13) of 2016 on the Establishment of the Federal Tax Authority;
 - Federal Law No. (7) of 2017 on Tax Procedures;
 - Federal Decree-Law No. (7) of 2017 on Excise Tax;
 - Federal Decree-Law No. (8) of 2017 on Value Added Tax,
 - And pursuant to what was presented by the Minister of Finance and approved by the Cabinet,
- Has decided:

Article 1

Definitions

In the application of the provisions of this Decision, the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

State: United Arab Emirates.

Minister: Minister of Finance.

Authority: Federal Tax Authority.

Chairman: Chairman of Authority's board of directors.

Board: Authority's board of directors.

Article 2

Fees for Services

In return for the services provided by the Authority as shown in the table appended to this Decision, the fees opposite to each shall be due.

Article 3

Amending Fees

Any amendments to the fees specified in this Decision, whether addition, deletion or amendment thereof, shall be made by Cabinet.

Article 4

Issuing Executive Decisions

The Minister shall issue the necessary decisions to implement the provisions of this Decision.

Article 5

Coming into Effect and Publication

This Decision shall come into effect as of the date of its issuance and shall be published in the Official Gazette.

Mohammed Bin Rashid Al Maktoum
Prime Minister

Issued by us:

On: 4 Muhamarram 1439H

Corresponding to: 24 September 2017

Table of Fees for Services Provided by the Federal Tax Authority Appendix to Cabinet Decision No (39) of 2017

#	Description of Service	Fee (AED)
1	Issuing of an attested paper tax registration certificate.	(500) for each certificate
2	Listing of a Tax Agent in the Tax Agent Register.	(3,000) for three years
3	Renew Listing of a Tax Agent in the Tax Agent Register.	(3,000) for three years
4	Registration of Software provider with the Federal Tax Authority.	(10,000) for one year
5	Renew registration of Software provider with the Federal Tax Authority.	(10,000) for one year
6	Registration of Designated Zone, in accordance with the provisions of Federal Decree-Law No. (7) of 2017 on Excise Tax.	(2,000) for one year
7	Issuing of an attested paper Warehouse Keeper registration certificate	(500) for each certificate

**CABINET RESOLUTION NO. (40) OF 2017
ON ADMINISTRATIVE PENALTIES FOR
VIOLATIONS OF TAX LAWS IN THE UAE**

Cabinet Resolution No. (40) of 2017 on Administrative Penalties for Violations of Tax Laws in the UAE

The Cabinet:

- Having reviewed the Constitution;
- Federal Law No. (1) of 1972 on the Competencies of the Ministries and Powers of the Ministers and its amendments;
- Federal Law No. (1) of 2011 on the State's Public Revenues;
- Federal Decree-Law No. (8) of 2011 on the Rules of the Preparation of the General Budget and Final Accounts
- Federal Law No. (14) of 2016 on Violations and Administrative Penalties in the Federal Government,
- Federal Decree-Law No. (13) of 2016 on the Establishment of the Federal Tax Authority;
- Federal Law No. (7) of 2017 on Tax Procedures;
- Federal Decree-Law No. (7) of 2017 on Excise Tax;
- Federal Decree-Law No. (8) of 2017 on Value Added Tax,
- And pursuant to what was presented by the Minister of Finance and approved by the Cabinet, Has decided:

Article 1

Definitions

In the application of the provisions of this Decision, the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

State: United Arab Emirates.

Minister: Minister of Finance.

Authority: Federal Tax Authority.

Chairman: Chairman of Authority's board of directors.

Tax Law: Any Federal law pursuant to which a Federal Tax is imposed.

Administrative Penalties: Monetary amounts imposed on a Person by the Authority for breaching the provisions of the Federal Law No. (7) of 2017 on Tax Procedures or the Tax Law.

Person: A natural or legal person.

Business: Any activity conducted in an ongoing, regular and independent manner by any Person and in any location, such as industrial, commercial, agricultural, professional, vocational or service activity, drilling activities or anything related to the use of material or non-material property.

Taxable Person: A Person who is subject to Tax under the provisions of the relevant Tax Law.

Tax Return: Information and data specified for Tax purposes and submitted by a Taxable Person in accordance with the form prepared by the Authority.

Tax Registration: A procedure according to which the Taxable Person or his Legal Representative registers for Tax purposes with the Authority.

Registrant: The Taxable Person who has been issued a Tax Registration Number. **Legal Representative:** The manager of a company or a guardian or custodian of a minor or an incapacitated person, or the bankruptcy trustee appointed by the court for a company that is in bankruptcy, or any other Person legally appointed to represent another Person.

Payable Tax: Tax that has become due for payment to the Authority.

Tax Assessment: A decision issued by the Authority in relation to the Payable Tax or Refundable Tax.

Administrative Penalties Assessment: A decision issued by the Authority concerning any Administrative Penalties due.

Notification: A notification sent to the concerned Person or his Tax Agent or Legal Representative of any decisions issued by the Authority through the means stated in this Law and its Executive Regulation.

Voluntary Disclosure: A form prepared by the Authority pursuant to which the Taxpayer notifies the Authority of an error or omission in the Tax Return, Tax Assessment or Tax refund application in accordance with the provisions of the Tax Law.

Article 2

Scope

Administrative Penalties shall be imposed on the violations listed in the tables (1), (2) and (3) appended to this Decision.

Article 3

General Provisions

The imposition of any Administrative Penalty pursuant to the provisions of this Decision shall not exempt any Person of his liability to pay the Payable Tax in accordance with the provisions of the Federal Tax Laws.

Article 4

Amending Administrative Penalties

Any amendments to the Administrative Penalties specified in this Decision, whether addition, deletion or amendment thereof, shall be made by Cabinet.

Article 5

Objections

The Person has the right to object to the Administrative Penalties imposed on him in accordance with the procedures specified in the Federal Law No. (7) of 2017 on Tax Procedures

Article 6

Issuing Executive Decisions

The Minister shall issue the necessary decisions to implement the provisions of this Decision.

Article 7

Coming into Effect

This Decision shall come into effect as of the date of its issuance, except for the following:

1. Table No (2) on Violations and Administrative Penalties related to the Federal Decree-Law No. (7) of 2017 on Excise Tax shall come into effect as of October 1, 2017.
2. Table No (3) on Violations and Administrative Penalties related to the Federal Decree-Law No. (8) of 2017 on Value Added Tax shall come into effect as of January 1, 2018.

Article 8

Publication

This Decision shall be published in the Official Gazette.

**Mohammed Bin Rashid Al Maktoum
Prime Minister**

Issued by us:

On: 4 Muharram 1439H

Corresponding to: 24 September 2017

Tables of Violations and Administrative Penalties
Appendix to the Cabinet Decision No. (40) of 2017

Table (1): Violations and Administrative Penalties related to the Implementation of the Federal Law No. (7) of 2017 on Tax Procedures

Description of Violation		Administrative Penalty (AED)
1	The failure of the person conducting Business to keep the required records and other information specified in Tax Procedures Law and the Tax Law	<ul style="list-style-type: none"> • (10,000) for the first time. • (50,000) in case of repetition.
2	The failure of the person conducting Business to submit the data, records and documents related to Tax in Arabic to the Authority when requested.	(20,000)
3	The failure of the Taxable Person to submit a registration application within the timeframe specified in the Tax Law	(20,000)
4	The failure of the Registrant to submit a deregistration application within the timeframe specified in the Tax Law	(10,000)
5	The failure of the Registrant to inform the Authority of any circumstance that requires the amendment of the information pertaining to his tax record kept by Authority.	<ul style="list-style-type: none"> • (5,000) for the first time. • (15,000) in case of repetition
6	The failure of the person appointed as a Legal Representative for the Taxable Person to inform the Authority of his appointment within the specified timeframe. The penalties will be due from the Legal Representative's own funds.	(20,000)
7	The failure of the person appointed as a Legal Representative for the Taxable Person to file a Tax Return within the specified timeframe. The penalties will be due from the Legal Representative's own funds.	<ul style="list-style-type: none"> • (1,000) for the first time. • (2,000) in case of repetition within (24) months.
8	The failure of the Registrant to submit the Tax Return within the timeframe specified in the Tax Law.	<ul style="list-style-type: none"> • (1,000) for the first time. • (2,000) in case of repetition within (24) months.
9	The failure of the Taxable Person to settle the Payable Tax stated in the submitted Tax Return or Tax Assessment he was notified of, within the timeframe specified in the Tax Law.	<p>The Taxable Person shall be obligated to pay a late payment penalty consisting of:</p> <ul style="list-style-type: none"> - (2%) of the unpaid tax is due immediately once the payment of Payable Tax is late; - (4%) is due on the seventh day following the deadline for payment, on the amount of tax which is still unpaid. - (1%) daily penalty charged on any amount that is still unpaid one calendar month following the deadline for payment with upper ceiling of (300%).

10	The submittal of an incorrect Tax Return by the Registrant.	<p>Two penalties are applied:</p> <ol style="list-style-type: none"> 1. Fixed penalty of: <ul style="list-style-type: none"> • (3,000) for the first time. • (5,000) in case of repetition 2. Percentage based penalty shall be applied on the amount unpaid to the Authority due to the error and resulting in a tax benefit as follows: <ul style="list-style-type: none"> - (50%) if the Registrant does not make a voluntary disclosure or he made the voluntary disclosure after being notified of the tax audit and the Authority has started the tax audit process, or after being asked for information relating to the tax audit, whichever takes place first. - (30%) if the Registrant makes the voluntary disclosure after being notified of the tax audit and before the Authority starts the tax audit. - (5%) if the Registrant makes a voluntary disclosure before being notified of the tax audit by the Authority.
11	The Voluntary Disclosure by the Person/Taxpayer of errors in the Tax Return, Tax Assessment or Refund Application pursuant to Article 10 (1) and (2) of the Tax Procedures Law.	<p>Two penalties are applied:</p> <ol style="list-style-type: none"> 1. Fixed penalty of: <ul style="list-style-type: none"> • (3,000) for the first time. • (5,000) in case of repetition 2. Percentage based penalty shall be applied on the amount unpaid to the Authority due to the error and resulting in a tax benefit as follows: <ul style="list-style-type: none"> - (50%) if the Person/Taxpayer makes a voluntary disclosure after being notified of the tax audit and the Authority starting the tax audit or after being asked for information relating to the tax audit, whichever takes place first. - (30%) if the Person/Taxpayer makes the voluntary disclosure after being notified of the tax audit but before the start of the tax audit. - (5%) if the Person/Taxpayer makes voluntary disclosure before being notified of the tax audit by the Authority.
12	The failure of the Taxable Person to voluntarily disclose errors in the Tax Return, Tax Assessment or Refund Application pursuant to Article 10 (1) and (2) of this the Tax Procedures Law before being notified that he will be subject to a Tax Audit.	<p>Two penalties are applied:</p> <ol style="list-style-type: none"> 1. Fixed penalty of: <ul style="list-style-type: none"> • (3,000) for the first time. • (5,000) in case of repetition 2. (50%) of the amount unpaid to the Authority due to the error resulting in a tax benefit for the Person/Taxpayer.
13	The failure of the Person conducting Business to facilitate the work of the Tax Auditor in violation of the provisions of Article (21) of the Tax Procedures Law.	(20,000)

14	The failure of the Registrant to calculate Tax on behalf of another Person when the registered Taxable Person is obligated to do so under the Tax Law.	<p>The Registrant shall be obligated to pay a late payment penalty consisting of:</p> <ul style="list-style-type: none"> - (2%) of the unpaid tax is due immediately once the payment of Payable Tax is late; - (4%) is due on the seventh day following the deadline for payment, on the amount of tax which is still unpaid. - (1%) daily penalty charged on any amount that is still unpaid one calendar month following the deadline for payment with upper ceiling of (300%).
15	A Person not accounting for any tax that may be due on import of goods as required under the Tax Law.	(50%) of unpaid or undeclared tax.

Table (2): Violations and Administrative Penalties related to the Implementation of the Federal Decree-Law No. (7) of 2017 on Excise Tax

Description of Violation		Administrative Penalty (AED)
1	Failure by the Taxable Person to display prices inclusive of Tax.	(15,000).
2	Failure to comply with the conditions and procedures related to transfer the Excise Goods from a Designated Zone to another Designated Zone, and the mechanism of processing and storing of such Excise Goods.	The penalty shall be the higher of AED (50,000) or (50%) of the tax, if any, chargeable in respect of the goods as the result of the violation.
3	Failure by the Taxable Person to provide the Authority with price lists for the Excise Goods produced, imported or sold thereby.	<ul style="list-style-type: none"> • (5,000) for the first time. • (20,000) in case of repetition

Table (3): Violations and Administrative Penalties related to the Implementation of the Federal Decree-Law No. (8) of 2017 on Value Added Tax

Description of Violation		Administrative Penalty (AED)
1	Failure by the Taxable Person to display prices inclusive of Tax.	(15,000)
2	Failure by the Taxable Person to notify the Authority of applying Tax based on the margin.	(2,500)
3	Failure to comply with conditions and procedures related to keeping the Goods in a Designated Zone or moving them to another Designated Zone.	The penalty shall be the higher of AED (50,000) or (50%) of the tax, if any, chargeable in respect of the goods as the result of the violation.
4	Failure by the Taxable Person to issue the Tax invoice or an alternative document when making any supply.	(5,000) for each tax invoice or alternative document.
5	Failure by the Taxable Person to issue a Tax Credit Note or an alternative document	(5,000) for each tax credit note or alternative document.
6	Failure by the Taxable Person to comply with the conditions and procedures regarding the issuance of electronic Tax Invoices and electronic Tax Credit Notes	(5,000) for each incorrect document.

**FEDERAL DECREE LAW NO. (13) OF 2016
ON ESTABLISHMENT OF THE FEDERAL TAX
AUTHORITY**

Federal Decree-Law No. (13) of 2016 On the Establishment of the Federal Tax Authority

We, Khalifa bin Zayed Al Nahyan – President of the United Arab Emirates,

- Having reviewed the Constitution;
- Federal Law No. (1) of 1972 on the Competencies of the Ministries and Powers of the Ministers and its amendments,
- Federal Law No. (11) of 1981 on the Imposition of a Federal Customs Tax on Imports of Tobacco and its derivatives and its amendments,
- Federal Law No. (5) of 1985 promulgating the Civil Transactions Law and its amendments,
- Federal Law No. (3) of 1987 promulgating the Penal Law and its amendments,
- Federal Law No. (10) of 1992 promulgating the Law of Evidence in Civil and Commercial Transactions and its amendments,
- Federal Law No. (11) of 1992 promulgating the Law on Civil Procedures and its amendments,
- Federal Law No. (7) of 1999 promulgating the Pensions and Social Security Law and its amendments,
- Federal Law No. (4) of 2002 on the Criminalisation of Money Laundering and Combating the Financing of Terrorism and its amendments,
- Federal Decree-Law No. (4) of 2007 on the Establishment of the Emirates Investment Authority and its amendments,
- Federal Decree-Law No. (11) of 2008 on Human Resources in the Federal Government and its amendments,
- Federal Law No. (1) of 2011 on the State's Public Revenues,
- Federal Decree-Law No. (5) of 2011 regulating the Boards of Directors and Trustees and the Committees at the Federal Government,
- Federal Law No. (8) of 2011 on the Reorganisation of the State Audit Institution,
- Federal Decree-Law No. (8) of 2011 on the Rules of the Preparation of the General Budget and Final Accounts,
- Federal Law No. (12) of 2014 on the Organisation of the Auditing Profession,
- Federal Law No. (2) of 2015 on Commercial Companies,
- Federal Law No. (8) of 2015 on the Federal Customs Authority, and
- Pursuant to what was presented by the Minister of Finance and approved by the Council of Ministers,

Have issued the following Decree-Law:

Chapter One

Definitions

Article (1)

In the application of the provisions of this Decree-Law, the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

State: The United Arab Emirates.

Federal Government: The Government of the State.

Emirates' Governments: The Local government of each Emirate.

Ministry: The Ministry of Finance.

Minister: The Minister of Finance.

Authority: The Federal Tax Authority.

Board: The Authority's board of directors.

Chairman: The Chairman of the Board.

Director-General: The Director-General of the Authority.

Concerned Entities: The Federal and local entities concerned with combating tax evasion in the State.

Taxpayer: Any Person who pays Federal Taxes.

Federal Taxes: Taxes imposed pursuant to a federal law.

Tax Law: Any federal law pursuant to which a Federal Tax is imposed.

Relevant Penalties: The financial penalties related to the Federal Taxes.

Tax Procedures: The procedures of administering, collecting and enforcing Federal Taxes and Relevant Penalties.

Authority's Expenses: All set-up and operational costs of the Authority.

Tax Evasion: The Person's use of illegitimate means in order not to pay taxes that are due or the use of illegitimate means to reclaim tax without having the right to reclaim or refund.

Double Taxation: Instances where any tax is imposed more than once on the same Taxpayer and the same source of income.

Chapter Two

Establishment of the Authority and its Jurisdictions

Article (2)

A general Federal authority shall be established pursuant to this Decree-Law under the name of the "Federal Tax Authority", and it shall have an independent legal personality, the necessary legal capacity to act and the financial and administrative independence.

Article (3)

The Authority's Head Office shall be in the city of Abu Dhabi and it may, pursuant to a Board Decision, establish branches and offices inside the State.

Article (4)

The Authority shall have jurisdiction over the administration, collection and enforcement of Federal Taxes and Relevant Penalties, to distribute their revenues and to apply the Tax Procedures applicable in the State. For this purpose, it shall have the following Jurisdictions:

1. Implement applicable laws and regulations related to Federal Taxes and Relevant Penalties.
2. Pay the Authority's financial obligations.
3. Implement Double Taxation treaties ratified by the State.

4. Avoid Double Taxation and combat Tax Evasion in cooperation with the concerned entities inside and outside the State.
5. Decide on the applications submitted for registration in the tax systems applicable in the State and allocate tax registration numbers to register in said systems.
6. Propose legislation related to the administration, collection and enforcement of the Federal Taxes and Relevant Penalties and distribution of their revenues in coordination with the Ministry;
7. Collect statistical data and information related to the Federal Taxes and Relevant Penalties;
8. Create records for the registered Taxpayer and keep these records as specified by the Tax Laws issued.
9. Issue directives and clarifications necessary for Taxpayers with regard to the limits of their obligations related to the Federal Taxes and Relevant Penalties in accordance with the mechanisms decided by the Board.
10. Coordinate with the Federal Government and the Emirates' Governments and taxpayers on all matters related to Federal Taxes and Relevant Penalties.
11. Contract with certain entities to execute certain works required by the Authority to exercise its jurisdictions.
12. Exchange information and expertise with other states and international organisations, bodies and federations related to tax.
13. Coordinate with competent authorities with regard to joining international tax organisations, bodies and federations.
14. Represent the State in regional and international conferences and meetings related to tax matters in coordination with the competent authorities in the State.
15. Inspect Taxpayers' records and documents.
16. Review tax returns and reports submitted to the Authority, audit them, decide on approving or amending the same, or request any additional information or documents.
17. Issue certificates related to Federal Taxes.
18. Implement a mechanism to settle disputes between the Taxpayer and the Authority in accordance with the laws in force.
19. Demand access to any information or data available with any third party who may possess information on a person being subjected to a tax audit and that may be necessary for the tax audit process.
20. Demand from any person having dealings with a person subject to a tax audit to provide information about such transactions.

Chapter Three

The Administration of the Authority

Article (5)

The Authority shall be managed by a board of directors chaired by the Minister and a sufficient number of members, whose appointment and remuneration shall be determined by a decision of the Council of Ministers based on the nomination by the Minister. Such decision shall determine the Board's by-laws.

Article (6)

The Board is the supreme authority overseeing the Authority's affairs and conducting its business. It may in particular:

1. Draw up the Authority's general policy and supervise its implementation after Council of Ministers' approval thereon.

2. Propose general tax policies in the light of the State's policy in coordination with the Ministry, and oversee their implementation. The Council of Ministers shall issue the necessary decisions to this effect.
3. Oversee the Authority's exercise of its jurisdictions.
4. Issue the regulations and decisions required for the organisation of the Authority's work.
5. Propose the Authority's organisational structure and submit it to the Council of Ministers for approval.
6. Propose the Authority's Human Resources Regulation including the rules for the recruitment of its staff and salary scale. Such regulation shall be approved by a decision of the Council of Ministers.
7. Propose the Finance and Procurement Regulations in accordance with the principles of transparency and accountability; such regulations shall be approved by a decision of the Council of Ministers.
8. Approve the Authority's draft annual budget and its closing account and present the same to the Council of Ministers for approval.
9. Appoint one or more independent certified auditors for the Authority's accounts and determine their remuneration.
10. Propose the fees of the services provided by the Authority as well as the administrative penalties resulting from violation thereof and present the same to the Minister for a recommendation to be made thereon. A decision shall be issued by the Council of Ministers in respect thereof.
11. Appoint the executive directors of sectors at the Authority.
12. Submit an annual report to the Council of Ministers regarding the Authority's achievements and conduct of business.
13. Any other jurisdictions assigned to the Board by virtue of Tax Laws or by the Council of Ministers. The Board may form one or more committees from among its members to conduct studies and research certain issues within its jurisdiction. It may invite whomever it deems appropriate to attend its meetings without such person having voting rights.

Article (7)

The Authority shall have a Director-General at the rank of an Undersecretary. He shall be appointed by a federal decree based on a nomination from the Chairman and the approval of the Board.

Article (8)

1. The Director-General shall exercise the powers vested in him by the Board and required to manage the Authority and represent it in its relationship with others and before the courts. In particular, the Director-General may:
 - a. Follow up the Authority's technical, administrative, and financial affairs within the limits prescribed in the applicable legislation, the regulations of the Authority, and the Board decisions.
 - b. Implement the Authority's decisions and general policies approved by the Board.
 - c. Propose the plans and strategies for the Authority, present the same to the Board for approval and follow up the implementation thereof.
 - d. Prepare the Authority's draft annual budget and closing account and present the same to the Board for approval pursuant to Article 6(8) of this Decree-Law.
 - e. Appoint staff and issue decisions related to their affairs in accordance with the Human Resources Regulation in force at the Authority within the powers vested in him by the Board.
 - f. Prepare periodic reports concerning the conduct of the business of the Authority and present the same to the Board.
 - g. Enter into contracts and agreements to which the Authority is a party in accordance with the powers vested in him by the Board and the applicable regulations of the Authority.

- h. Any other jurisdictions or tasks assigned to him by the Board.
2. The Director-General may delegate some of his powers under section (1) of this Article to the Authority's executive directors.

Chapter Four

Financial Affairs

Article (9)

The Authority shall have an independent annual budget.

Article (10)

The Authority's funds shall be considered as public funds and shall be exempt from all taxes and duties.

Article (11)

The Authority's financial year shall start on 1st January and end on 31st December of each year. The first financial year of the Authority shall commence on the effective date of this Decree-Law and shall end on the 31st of December of the following year.

Article (12)

The financial resources of the Authority shall consist of the following:

1. Revenues collected by the Authority from the services provided thereby, with the exception of the revenues of Federal Taxes and Relevant Penalties.
2. Amounts withheld from the revenues of Federal Taxes and Relevant Penalties that are allocated for the payment of the Authority's expenses according to the budget approved pursuant to Article 6(8) of this Decree-Law.
3. Loans received by the Authority from the Federal Government to pay the Authority's expenses pursuant to a decision by the Council of Ministers based on the Minister's recommendation. The Authority shall be committed to repay these loans within the terms set by a decision of the Council of Ministers, subject to Article 16 of this Decree-Law.
4. Gifts, subsidies, grants and bequests that are accepted by the Board and deemed consistent with the Authority's jurisdictions.

Article (13)

The revenues collected by the Authority from Federal Taxes and Relevant Penalties shall be deposited in separate accounts for each type of Federal Tax, pending distribution thereof to the Federal Government and Emirates' Governments in accordance with the relevant legislations.

Article (14)

The Authority may, upon a Board decision, withhold amounts of the revenues of Federal Taxes and Relevant Penalties for refund purposes.

Amounts withheld shall be deposited into a separate account designated for each type of Federal Tax. The mechanism of refund from these amounts shall be determined according to the Tax Laws.

Article (15)

1. Each Tax Law shall determine whether the revenues of Federal Taxes and Relevant Penalties arising out of said Law will be shared between the Federal Government and the Emirates' Governments.

2. The mechanism of sharing the revenues of Federal Taxes and Relevant Penalties and the dates of their distribution shall be determined according to a decision by the Council of Ministers based on the recommendation of the Minister and as agreed between the Federal Government and the Emirates' Governments.

Article (16)

Prior to any sharing or distribution of the revenues of Federal Taxes and Relevant Penalties collected by the Authority, the following shall take place:

1. Deduct amounts withheld for refunding pursuant to Article 14 of this Decree-Law;
2. Deduct amounts provided for in Article 12(2) of this Decree-Law;
3. Settle the amounts received under Article 12(3) of this Decree-Law;
4. Settle the expenses paid by the Federal Government to set up the Authority prior to the issuance of this Decree-Law.

Article (17)

Subject to Articles 13, 14, 15 and 16 of this Decree-Law, the Authority shall distribute the revenues of Federal Taxes and Relevant Penalties to the Federal Government and Emirates' Governments in accordance with a decision issued by the Council of Ministers.

Article (18)

The Authority's accounts shall be audited by one or more certified independent auditors in accordance with the recognised auditing norms applicable in the State. The Auditor shall submit a report within a period of maximum three months from the end of the financial year, provided that the final account is submitted to the Council of Ministers in accordance with the rules and the provisions of the laws in force. The Auditor may not combine his work with any other work in the Authority.

Chapter Five

General Provisions

Article (19)

Until the issuance of the Authority's Human Resources Regulations, the Authority's staff shall be subject to the Human Resources Regulation for Independent Federal Entities.

Article (20)

Any text or provisions contrary to or inconsistent with the provisions of this Decree-Law shall be abrogated.

Article (21)

This Decree-Law shall be published in the Official Gazette and will come into effect 90 days from the date of its publication.

Khalifa bin Zayed Al Nahyan

President of the United Arab Emirates

Issued by us at the Presidential Palace in Abu Dhabi

On: 24/12/1437 H.

Corresponding to: 26/09 /2016

A COMPREHENSIVE GUIDE ON UAE VALUE ADDED TAX

UAE VAT SIMPLIFIED

- Are you a student or finance professional or accountant or auditors or directors or owners of business?
- Do you feel the need to understand the UAE Value Added Tax in a detailed manner?

This publication is meant to make your business 100% VAT compliant. The book explains UAE VAT laws in a simple yet comprehensive manner. Complex VAT provisions have been explained in easy to understand language with the help of flowcharts and examples so as to suit novice, intermediate and advanced users alike.

Key Features of the book

- Bird's Eye View of UAE VAT Provisions.
- Author's comments with Examples and FAQs.
- VAT Provisions explained with the help of more than **200 Examples**.
- Complex VAT provisions explained by way of diagrams, process flowcharts etc.
- Chapters and Paragraph arranged in logical sequence.
- Simple and easy to understand language.
- Industry Specific Guidance.

Arvind Kumar is a Chartered Accountant and a Commerce Graduate from University of Delhi. He has also pursued a course on Advance Diploma in International Taxation from "KIMEP" one of the premier University of Kazakhstan. The author has amassed some impressive international experience of more than 7 years in the areas of Taxation, Risk Management & Internal Controls. The author gained wide experience in handling taxation matters of companies in various Asian Countries particularly **Kazakhstan, Hong Kong, UAE, Singapore, and India**.

After having worked in a multitude of countries mainly in Central Asia, Middle East & South East Asia regions for diversified industries and consequent upon the decision of Indian Government and GCC Countries to Implement Goods and Services Tax and Value Added Tax respectively in 2017, he decided follow his passion for gaining specialisation in the area of Consumption Taxes, **Value Added Tax and Goods and Services Tax** in particular.

Presently, he is a senior partner of the "M/s Arvind S Kumar & Co" a Chartered Accountant Firm in India.

