



# Private Clarifications

## Tax Procedures | TPGPC1

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## 1. Introduction

### 1.1. Short brief

The Federal Tax Authority (“FTA”) is the government entity responsible for the administration, collection, and enforcement of federal taxes in the United Arab Emirates (“UAE”).<sup>1</sup>

The following federal taxes apply in the UAE:

- Corporate and Business Tax – introduced with effect from 1 June 2023
- Excise Tax – introduced with effect from 1 October 2017
- VAT – introduced with effect from 1 January 2018

The FTA publishes guides, public clarifications, and references that help taxpayers understand their federal tax obligations and ensure compliance with the UAE tax laws. Taxpayers may also seek guidance from the FTA on specific queries on the application of federal tax laws through the Private Clarification (“Clarification”) mechanism.

### 1.2. Purpose of this document

The purpose of this document is to provide guidance on who may apply for a Clarification, as well as instances where a Clarification application may be rejected.

This guide will help you:

- Provide accurate answers to the questions on the Clarification form by explaining what information is required, and
- Understand the icons and symbols you might see as you complete the form.

### 1.3. Who should read this document?

This document should be read by any person wishing to request a Clarification from the FTA. It is intended to be read in conjunction with the relevant law and other relevant guidance published by the FTA.

### 1.4. Status of the document

This guide is not a legally binding statement, but is intended to assist in understanding in which instances a person may apply for a Clarification. This guide is not intended to provide comprehensive details associated with taxes and is not intended for legal reference.



## 2. Purpose of Clarifications

A Clarification is an official document issued by the FTA in response to a query from the applicant regarding the tax treatment of specific transactions. The Clarification aims to provide guidance on the FTA's understanding of the tax legislation and its proper application to the facts stated in the application. While the FTA will aim to provide an answer based on the facts stated by the applicant, the FTA will not verify such facts and will rely solely on the provided information.

The Clarification provided by the FTA applies only to the applicant and the specific transaction(s) for which such Clarification has been requested. There is no precedence for the Clarification set out by the FTA's response that could be applied to other persons or to the applicant for materially different transactions.

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<sup>1</sup> Article 4(1)(i) of Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority and its amendments.



### 3. Instances where Clarification requests will not be accepted

The FTA will not provide a Clarification in the following instances:

- The clarification form is not filled correctly or is incomplete, for example:
  - The relevant supplies have not been explained in sufficient detail. The application should clearly state the type of supply/transaction, how it is supplied, who is supplying what to whom, etc.
  - The facts have not been clearly stated.
  - No technical or legal analysis has been provided.
  - The relevant supporting documents to prove the relationships and the stated supplies and other underlying relevant facts, have not been attached.
  - No summary of the above is provided in the application form, for example the fields only refer to attached documents, e.g. only state “refer to attached letter”.
- The clarification request is not clear.
- The Application is submitted by a person other than an authorised signatory, including:
  - Instances where proof of authorisation was not provided.
  - A tax agent applying for a clarification for a specific client without providing the client's details, including name and TRN.
  - A natural person indicated as “Applicant” in respect of a clarification request related to a company.
  - An application is submitted in the name of a member of a tax group other than by the representative member.
- A previous clarification has already been issued to the person on the same matter.
- The clarification request is about transactions which the FTA believes are for the purposes of avoiding tax or seeks tax planning advice.
- The application is related in any way to a tax inspection, audit, or assessment by the FTA.

Currently, Clarifications will only be available for VAT and Excise Tax. The FTA will announce the date from which clarification requests will be accepted for Corporate Tax.

The following are not Clarification requests and may need to be addressed through a more appropriate channel:

- Reconsideration request
- Administrative penalty waiver request
- Administrative penalty payment by instalment request



- Special Input Tax Apportionment method request
- Administrative exception request
- System technical enquiries
- Other matters not pertaining to the interpretation of the relevant tax law in the context of specific facts



## 4. Submitting the Clarification form

### 4.1 Who is qualified to submit the Clarification form?

Any person may apply for a Clarification when all of the following requirements are met:

- The person has analysed the relevant tax law and regulations, as well as the relevant publications by the FTA, and the answer is still uncertain. It is the responsibility of the applicant to monitor all publications by the FTA including, but not limited to, the law, regulations, decisions and guidance provided through Public Clarification, Guides etc.
- The person has an interest in the matter at hand (i.e. this is a genuine factual matter that has a material impact on the person's activities). In instances where the Clarification application is submitted by the recipient of a supply made by another person, the Clarification will be limited to the extent the facts provided impact on the applicant. In such case, the supplier cannot rely on the clarification issued as the supplier is not the applicant.
- The matter is not covered by previous Clarifications issued by the FTA to the same applicant.

Note, however that, due to confidentiality reasons the FTA will, generally, not address the tax obligations of another person in a Clarification issued to a third party.

For tax registrants, the Clarification form must be submitted by the authorised signatory and from the e-mail address registered with the FTA. For non-registrants, the person submitting the request must provide valid proof of authorisation to submit the request.

It is not required that:

- The person is a taxable person
- The person appoints a Tax Agent
- The matter relates to a transaction which has already occurred or is an active transaction.



#### 4.2 How to apply?

The person may submit the Clarification form via the concerned person's Emaratax portal on the FTA's website. Please refer to the relevant Emaratax guide for more information on the process to submit the application.

#### 4.3 Who can submit the Clarification form on behalf of a person?

Generally, the person (or the authorised signatory) seeking a Clarification in relation to its business should submit the Clarification form. However, submissions will also be accepted from:

- Appointed tax agents
- Appointed legal representatives

If the person is a member of a tax group, the request should be submitted by the authorised signatory of the representative member of the tax group.

Tax advisors (who are not registered tax agents) are not permitted to submit any Clarification requests on behalf of another person.



## 5. Completing the Clarification form

The following guidance is designed to assist applicants to understand the questions in the Clarification form in order to complete the form accurately. Further information on the actual process of submitting the Clarification via Emaratax is provided in a separate Emaratax guide.

### 1. Applicant Information

**Note that these field will be prepopulated if a registrant applies for the private clarification. In the case of a non-registrant, the fields will be pre-populated to the extent information was provided as part of creating a user profile on Emaratax.**

<b>Please select the relevant tax account for which you need Clarification</b>	<p>For registrants, please select the relevant TRN pertaining to the tax type the clarification relates to. If it relates to more than one tax type, the other tax types can be selected at a later stage of the application.</p> <p>For non-registrants, please type “Not applicable” and provide reasons for not being registered.</p>
<b>Name of the Applicant</b>	<p>This field will be pre-populated based on the information provided as per the user profile created (non-registrants) or taxpayer records (registrants).</p> <p>Please note that:</p> <p>If the request relates to a company, the name of the company should be reflected and not the name of the natural person submitting the request.</p> <p>If the request is from a tax group, the name of the representative member should be reflected and not the name of any of the other group members.</p>



<b>Tax Agent Approval Number (TAAN) (if applicable)</b>	If the Clarification application is submitted by a tax agent on behalf of a client, the TAAN will be pre-populated based on the tax agent's profile.  Please note that a tax agent may only submit Clarification requests for the tax types the tax agent is accredited and authorised. For example, if a tax agent is only registered with the FTA as an Indirect Tax agent, the tax agent may not submit Corporate Tax Clarification applications. Even if the tax agent is qualified as both Indirect and Direct tax agent, the tax agent may only submit Clarification applications in respect of the tax type(s) the client authorised him to assist with.
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## 2. Contact Details of the Applicant

<b>Building name and number, Street, e-mail address, etc.</b>	This information will be pre-populated based on the user profile created or registrant's taxpayer record.
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## 3. About the Request for Clarification

<b>Which tax does this request relate to?</b>	Please select from the drop-down list including: <ul style="list-style-type: none"><li>• Value Added Tax</li><li>• Excise Tax</li><li>• Corporate Tax (<i>This option will only be available from the date Corporate Tax Clarification requests are accepted</i>)</li></ul>
<b>Calculated fees amount</b>	This field is prepopulated based on the number of tax types selected. If only one tax type is selected the fee is AED 1,500. The fee is AED 2,250 if more than one tax type is selected.
<b>Does this request relate to any previous Clarifications issued by FTA?</b>	Please review any Clarifications that you have previously received from the FTA and avoid



	submitting duplicate Clarification requests or requests on similar technical matters.
<b>If yes, please provide the reference number of the previous Clarification</b>	Please do not submit duplicate requests. If you have similar and/or additional enquires which are relevant to a previous request, please enter the reference number of the previous Clarification received here and list all Clarifications received from the FTA.
<b>Estimated tax amount that is/may be impacted by this technical Clarification (AED)</b>	Please estimate the potential tax amount impacted by your request. This can be either an additional amount of tax payment or, a credit or refund of tax. You may enter zero if you believe the amount cannot be quantified.
<b>Nature of the estimated tax amount</b>	Please specify the nature of the estimated tax amount impacted by your request. For example: <ul style="list-style-type: none"> <li>• If it is related to VAT, please specify if it is in relation to input tax, output tax, import VAT or VAT due through a reverse charge mechanism</li> <li>• If it is related to Excise Tax, please specify if it is in relation to payable tax or deductible tax</li> </ul>
<b>Please specify the tax period impacted by this matter. These can be past, present or future periods.</b>	Please indicate all the tax periods impacted by the matter. Note that different tax types have different tax periods.  If, for example, the Clarification request relates to VAT and the applicant submits quarterly VAT returns, the tax periods may be referred to as follows: VATQ1-2023 or VAT01/2023.
<b>Does the Clarification relate to a completed, current or proposed supply chain / transaction?</b>	Please select from the drop-down options as provided below: <ul style="list-style-type: none"> <li>• Proposed transaction(s)</li> <li>• Current transaction(s)</li> <li>• Completed transaction(s)</li> </ul>

#### 4. Background and Facts



<b>Please provide a brief description of the background, including transactions, steps and the intentions of the matter which is the subject of the Clarification.</b>	Please provide your input in no more than 20,000 characters. Please refrain from only referring to an attached cover letter as the purpose of this question is to provide a brief summary of the relevant background facts.
<b>Please provide any documentary proof to support the factual and legal grounds on which the request is based.</b>	Please attach the relevant supporting documents to facilitate the processing of your request. This could, for example, include sample invoices, contracts, payment slips or other documents.
<b>Please attach a covering letter describing the Clarification requested.</b>	Please upload a cover letter in .pdf format which clearly sets out all the required information.
<b>5. Technical view</b>	
<b>Specify the legal provisions which are relevant to assessing the tax treatment of the matter which is the subject of the Clarification.</b>	Please detail the article numbers as well as the name of the relevant tax legislation.
<b>Specify any guidance issued by the FTA which is relevant to the technical position of the matter which is the subject of the Clarification.</b>	Please include all relevant material that you have reviewed and considered before raising this request. These can be guides, awareness session materials, e-Learning, quick references, or other material. Please specify the relevant sections and/or page references of the content you have reviewed.
<b>Details of any previous Clarifications issued by the FTA relevant to your application.</b>	This field is pre-populated based on the clarifications previously indicated on the application form.
<b>Please upload any tax advice you received for which you are seeking Clarification.</b>	Please provide any relevant tax advice that you have received with regards to your application. You may provide multiple documents and / or advice.



	This includes advice received from tax advisors and tax agents. Please do not upload here a copy of the cover letter already uploaded. If no tax advice was received, leave the field blank.
<b>No. of times you have approached the FTA for Clarifications in the last 12 months.</b>	This field is pre-populated with respect to all private clarifications submitted on or after 1 June 2023 and does not include any Clarification applications prior to this date. The number of times you have submitted a request for Clarification will not affect your right to submit a new application.
<b>What is the outcome of your tax technical assessments of this matter?</b>	Briefly describe the tax treatment which you consider to be correct based on your technical analysis. Please refrain from only referring to an attached letter.
<b>What is the outcome of other alternative tax technical assessments of this matter?</b>	Briefly describe the other tax treatments which you have considered but do not consider to be correct.
<b>Please describe your analysis on the tax technical position which you consider to be correct in more detail.</b>	<p>Please elaborate on the analysis which you consider to be the correct position in no more than 20,000 characters.</p> <p>Please refrain from only referring to an attached letter. Instead provide a brief summary of your analysis and attach a separate letter in which the detailed analysis is explained.</p>
<b>Please describe your analysis on the alternative tax technical position(s) in more detail.</b>	Please elaborate on the alternative analysis to the above position which you have considered in no more than 20,000 characters.
<b>Please provide the question(s) which you would like the FTA to answer.</b>	<p>Please provide the questions which relate to the matter which is the subject of this specific request in no more than 500 characters. Generally, try to limit the number of questions to 5. The FTA may not be able to address all the questions on an individual basis.</p> <p>Please refrain from only referring to an attached letter. Instead, state the questions in a clear and</p>



	concise manner. Further detail on the questions may be provided in a letter attached to the application.
<b>Please upload a formal letter for FTA for seeking clarification.</b>	Kindly upload a .pdf version of the cover letter.
<b>6. Review and declaration</b>	
<b>Summary of fields previously completed</b>	Review the details, pre-populated based on information provided in the Clarification application.
<b>Authorised signatory</b>	Pre-populated based on taxpayer data (registrants) or user profile created (non-registrants).
<b>Declaration</b>	Please confirm that all the information provided is correct, all relevant supporting documents are uploaded, that you have considered the relevant tax legislation and other guidance provided by the FTA and that you agree to provide further information if requested by the FTA.



## 6. Fees

From 1 June 2023, fees are payable in respect of private clarifications.<sup>2</sup> If the private clarification relates to only one tax, the fee is AED 1,500 per application. If the private clarification relates to more than one tax, the fee is AED 2,250 per application.

Please note that to qualify for the AED 2,250 fee per application, the questions have to be related to the same transaction and parties, otherwise separate applications have to be submitted.

The fees can only be paid via the Emaratax portal using a valid card.

Please note that these fees are generally non-refundable. The onus is, therefore, on the applicant to ensure that only valid, correct and complete applications are submitted.

The FTA may refund, at its discretion, the Clarification fee received for a private clarification request if the FTA does not issue the private clarification required.

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<sup>2</sup> Cabinet Decision No. 7 of 2023 on the amendment of some provisions of Cabinet Decision No. 65 of 2020 on Fees for the Services Provided by the Federal Tax Authority.



## 7. Response from the FTA to a Clarification request

In most cases, it will take the FTA up to **50 business days** to issue a Clarification. If the application is incomplete, or additional information is required, the FTA will ask the applicant to provide additional information or documentation. After providing the additional information or documentation, the **50 business days** to issue a Clarification will be calculated from the date the additional information is received.

Kindly note that requests or further information submitted after 3 pm on a business day, during a weekend or a federal public holiday, will be regarded as being received on the following business day.

Furthermore, if the case is relatively complex (e.g. the FTA is required to refer to other government entities), the FTA may **extend the abovementioned time limit**. In such case, you will be notified of the extension.

The status of the application will be reflected on your dashboard on Emaratax. Once the Clarification is issued, you will be able to download the Clarification from your Emaratax portal.

The answer provided by the FTA is based on the facts provided by you at the time the completed Clarification form is submitted, on the additional information that was provided in response to an information request, and on the applicable legislation. It is the person's responsibility to stay up to date with any changes in legislation or the views of the FTA as evidenced by its official publications.

Please note that the Clarification issued by the FTA is of a confidential nature, and should not be shared with, or used by any third parties.



## 8. Disputing the Clarification

The FTA considers itself administratively bound to follow the position set out in the Clarification where the factual circumstances are materially the same as set out in the clarification form.

Please note that Clarifications are not considered to be a decision by the FTA, but rather the FTA's view on the application of the applicable legislation based on a specific set of facts.

Consequently, Clarifications are not subject to the dispute resolution process and applicants may not apply for a reconsideration or review in respect thereof. The applicant may, however, submit a new Clarification request if there are any materially new information which were not previously shared with the FTA as part of the previously submitted request in respect of which a Clarification was issued.



## 9. Updates and amendments

Date of amendment	Amendments made
December 2022	<ul style="list-style-type: none"> <li>Revised the whole guide for simplification and amendment of content in light of recent updates.</li> <li>Addition of section 7 to clarify that Clarifications do not constitute an official decision by the FTA and is, therefore, not subject to the dispute resolution process.</li> </ul>
June 2023	<ul style="list-style-type: none"> <li>Revised the whole guide for simplification and amendment of content in light of recent updates.</li> <li>Removed references to eServices.</li> <li>Updated description of fields in Clarification application as per Emaratax.</li> <li>Addition of a section on fees for submitting clarification requests.</li> </ul>