

Background Material
on
UAE - VAT
Federal Decree Law (No. 8) 2017
(June, 2018)



The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
New Delhi

© The Institute of Chartered Accountants of India

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form, or by any means, electronic, mechanical, photocopying, recording, or otherwise without prior permission, in writing, from the publisher.

DISCLAIMER:

The views expressed in this book are of the author(s). The Institute of Chartered Accountants of India may not necessarily subscribe to the views expressed by the author(s).

The information cited in this book has been drawn primarily from the www.mof.gov.ae and other sources. While every effort has been made to keep the information cited in this book error free, the Institute or any office of the same does not take the responsibility for any typographical or clerical error which may have crept in while compiling the information provided in this book.

First Edition : September 2017

Second Edition : January 2018

Third Edition : June 2018

Committee/Department : Indirect Taxes Committee

E-mail : idtc@icai.in

Website : www.icai.org; www.idtc.icai.org

ISBN : 978-81-8441-910-8

Published by : The Publication Department on behalf of the Institute of Chartered Accountants of India, ICAI Bhawan, Post Box No. 7100, Indraprastha Marg, New Delhi - 110 002.

Printed by : Sahitya Bhawan Publications, Hospital Road, Agra - 282 003.

Foreword

UAE is one of the Member States of the Gulf Cooperation Council (GCC). All GCC Countries have agreed to implement VAT and in that direction, had unanimously passed the Framework, which is consumption based model for common law. The Framework is binding on all Member States who shall design their own VAT Law within it. In UAE, VAT already became applicable from January 1, 2018.

Appreciating the dynamic changes taking place in the tax regime in UAE with VAT, the Indirect Taxes Committee of ICAI has revised its publication titled "Background Material on UAE VAT" incorporating procedural aspects of Law. This novel initiative of the Committee provides a comprehensive coverage of VAT law in simple and easy manner with tables, flow charts and illustrations etc. which facilitate the reader to easily comprehend the emerging law. ICAI, marking its global presence, through its Middle East Chapters have taken several initiatives to help the members as well as stakeholders of UAE for necessary knowledge dissemination and awareness.

Efforts put in by CA. Madhukar N. Hiregange, Chairman, CA. Sushil Kumar Goyal, Vice-Chairman and other members of the Indirect Taxes Committee of ICAI are appreciable for undertaking this task and revising the material as per need. I am confident that this revised publication would prove to be very useful for professionals in understanding the VAT law and gaining deep insights for exploring the subject further.

I wish the readers a fruitful and enriching experience.

Date: 01.07.2018

Place: New Delhi

CA. Naveen N D Gupta

President

ICAI

Preface

The January, 2018 witnessed implementation of VAT in UAE which is paradigm shift from no tax economy and the way of doing business in UAE has been getting impacted substantially. The Government had passed Federal Decree-Law No. (8) of 2017 on VAT based on the framework on common law passed by GCC Countries and executive Regulations by way of cabinet decisions have provided more clarity as well as the procedural compliances needed to implement the Law. Considering this a big opportunity for professional like ours to be proactive and ready to face the upcoming challenges and ICAI, marking its global presence, through its UAE Chapters and overseas office in Dubai have organised Live Webcasts series, Virtual online course, Faculty Identification and Train the Trainer programme. The Certificate Course batches has been conducted in UAE facilitating members to understand VAT law in systematic manner.

Appreciating the dynamic changes taking place in the tax regime in UAE, the Indirect Taxes Committee of ICAI has revised its publication titled "Background Material on UAE VAT" which follows a sequence aligned with the flow of the topics discussed rather than being in the order of Articles in VAT Law. This revised publication contains variants of VAT Law and inter alia includes the analysis of various Articles of Federal Decree Law No. 8 of 2017/ Statutory Provisions of UAE VAT Law pertaining to definitions (inter alia supply of goods, services), scope of tax, Registration, Place of Supply of Goods and Services, Reverse charge mechanism, Transitional Provisions, penalties, right of the Authority to perform a tax audit etc. It also provides the GCC VAT Framework and its features, Overview of UAE Excise Law.

We would like to express our sincere gratitude and thanks to CA Naveen N D Gupta, President, ICAI and CA Prafulla Premeekh Chhajed, Vice-President, ICAI, for their guidance and encouragement to the initiatives of the Committee. We would like to acknowledge the members of the Committee involved in this venture led by CA. A. Jatin Christopher and supported by CA. Jatin Harjai, CA. Ashish Choudhary and experts of this area like CA. Rajesh Kumar T R, CA. T P Anand, CA. Rajiv Hira, CA. Lakshmi Narasimhan, CA Jai Prakash Agarwal, CA. George Kurian and CA Sandesh Reddy for their support in revising this publication. Our Secretariat for their promptness and contribution to this publication. The services by CA Prabhdeep Singh, the Regional Director needs to be appreciated for his gentle co-ordination with all the experts and keeping the pace with us.

We would like the readers to make full use of this learning opportunity. Interested members may visit website of the Committee www.idtc.icai.org and join the IDT update facility. We request to share your feedback at idtc@icai.in to enable us to make this publication more accurate, value additive and useful.

We wish the Members to a fruitful and enriching learning experience.

CA. Madhukar Narayan Hiregange
Chairman
Indirect Taxes Committee

CA. Sushil Kumar Goyal
Vice-Chairman
Indirect Taxes Committee

Date: 01.07.2018
Place: New Delhi

Message from Chairman, Dubai Chapter, ICAI

VAT is one of the most common types of consumption tax found around the world. Over 150 countries have already implemented VAT (or its equivalent, Goods and Services Tax) as this being most convenient and administratively easy method of taxation.

After the release of Executive Regulation on Value Added Tax in UAE, there have been a lot of changes with the implementation of the VAT, which is a new concept for most of the people in the UAE. It is welcomed by a lot of the residents of the UAE as it is helping the growing economy although there are some challenges that are faced by the organizations. The organizations are restructuring their Finance and IT departments as well as orienting the staff with regard to VAT. VAT is bringing immense professional opportunities for the Indian Chartered Accountants in UAE.

I am confident that the information contained in this Background Material on UAE VAT will assist our members to gain knowledge required to understand the mechanics of how a VAT system works. It is designed to learn what VAT is and how it applies to the business.

I would also like to express my gratitude to all the ICAI Members for their contribution to compile valuable information for preparation of this book.

CA. Naveen Sharma

Message from Chairman, Abu Dhabi Chapter, ICAI

The Government recently released Executive Regulations on Value Added Tax. The Institute has also been taking various initiatives for increasing awareness among its members, revenue officers and public at large about VAT. Suggestions on the drafting of the VAT law and its easy implementation are being done continuously at various levels. One of the efforts in this direction is this revised Background Material on Model on VAT Law. It contains a clause by clause analysis of the updated VAT Law and Executive Regulations along with various FAQ's, MCQ's, Flowcharts and Illustrations etc. and is improved version of earlier background material.

This will be an intellectual learning spree for the readers. The book is an open content resource for people who want to learn about VAT without being overloaded with unnecessary information. The course is structured with content to suit novice, intermediate and advanced users alike. I want to extend my sincere thanks to everyone involved in putting together the book for better understanding of VAT and its impact on businesses and common men.

CA. Aashish Bhandari

Message from the Chairman - Ras Al Khaimah Chapter, ICAI

I am very pleased to note that Indirect Taxes Committee of ICAI has revised Background Material on VAT. This demonstrates a very proactive approach to enhancing understanding of the operational mechanism of a new taxation regime that is being introduced by India's important trading partner(s) and therefore:

1. benefits a large number of Chartered Accountants who have not only operated within this region for many years but also collectively form a sizeable professional body
2. benefits ICAI as an authoritative accounting body with its increasing global footprint

I encourage ICAI to continue to strive towards enhancing its coverage to more global issues and would like to extend appreciation of the efforts of the team that was engaged in developing this background material.

CA. Manu Mehra

Message from Vice-Chairman, Ras Al Khaimah Chapter, ICAI

As we gear up for VAT implementation in UAE effective 1st January 2018, I am pleased to note that Indirect Taxes Committee of ICAI has released background material on VAT, thereby taking a proactive initiative to help the professional community and various business across this region to understand VAT regulations properly. VAT will provide the 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. Introduction of VAT also brings in immense professional opportunities for the Indian Chartered Accountants settled in this region.

CA. P K Chand

Contents

1	Overview of UAE VAT Law	1
2	GCC VAT Framework	11
3	Legal Background	19
4	Trade Background	24
5	VAT Law	33-266
	(i) Important Definitions	34
	(ii) Levy of VAT	52
	(iii) Exempt Supply and Non-Supply	84
	(iv) Transaction with GCC	92
	(v) Export	108
	(vi) Designated Zones	118
	(vii) Date and Place of Supply	126
	(viii) Tax Deduction & Payment	148
	(ix) Capital Assets Scheme	167
	(x) Valuation of Supply	173
	(xi) Job work	182
	(xii) Transitional Rules	188
	(xiii) Registration	192
	(xiv) Tax Return Filing	209
	(xv) Accounts and Records	218
	(xvi) Audit and Assessment	228
	(xvii) Automation	237
	(xviii) Penalties	244
	(xix) Tax Evasion	253
	(xx) Refund	257
6	Professional Services – VAT Impact Study	267
7	UAE Excise Tax at a Glance	277
8	Unified Customs Legislation	286

9	Annexures	
	Annexure A : Common VAT Agreement of the States of the GCC	293
	Annexure B : Federal Decree – Law on VAT	319
	Annexure C : Federal Law on Tax Procedures	351
	Annexure D : Executive Regulations on VAT	371
	Annexure E : Administrative Penalties for Violations of Tax Laws in the UAE	426
	Annexure F: VAT Treatment on Selected Industries	434

Chapter – 1

Overview of UAE VAT Law

Introduction

Taxes are imposed by Government within Constitutional power of the Country. Imposition of tax is necessary for States to collect money for its development activities, sovereign functions and meeting other sovereign objectives. The types of tax systems prevalent across the world are “Direct Taxes” and “Indirect Tax”. Direct Tax, also called as “Corporation Tax”, is directly linked to the income or capitals of the persons and collected by the States out of their income. Indirect Tax is tax levied on the goods or services rather on income or profits. We shall cover fundamental concepts and important aspects of VAT in the ensuing discussion.

Variants of VAT

VAT has three variants, viz., (a) gross product variant, (b) income variant, and (c) consumption variant. These variants, could be further distinguished according to their methods of calculation, viz., addition method, invoice method and subtraction method.

Gross Product Variant: The gross product variant allows deductions for taxes on all purchases of raw materials and components, but no deduction is allowed for taxes on capital inputs. That is, taxes on capital goods such as plant and machinery are not deductible from the tax base in the year of purchase and tax on the depreciated part of the plant and machinery is not deductible in the subsequent years. Thus, deducting aggregate tax-exclusive value of purchase from the tax- exclusive value of sales, the economic base of gross product variant is equivalent to Gross National Product. If the input tax on capital goods is not refunded, it is called as gross product variant. In this variant of VAT, capital goods carry a heavier tax burden as they are taxed twice at the time they are purchased and also when the products they produce are sold to consumers. It therefore discriminates against use of capital in the method of production. Modernization and upgrading of plant and machinery is delayed due to this double tax treatment.

Income Variant: The income variant of VAT on the other hand allows for deductions on purchases of raw materials and components as well as depreciation on capital goods. This method provides incentives to classify purchases as current expenditure to claim set-off. In other words, the input tax credit for capital goods is not refunded straightway but is refunded in accordance with the depreciation schedule similar to the one used for income tax purposes. The Credit of capital goods will therefore will be spread over the life of the capital goods. Therefore, the Net investment (i.e., gross investment minus depreciation) is taxed and, therefore, the economic base of the income variant is equivalent to the Net National Product. In practice, however, there are many difficulties connected with the specification of any

Background Material on UAE VAT

method of measuring depreciation, which basically depends on the life of an asset as well as on the rate of inflation.

Consumption Variant: Consumption taxes may be defined as taxes that aim at taxing the private consumption of goods or services of private individual. However, it may not be practically feasible for authorities to collect the taxes directly from end consumer as this would lead to substantial increase in tax base. Alternatively, tax is collected from business who pass on ultimately to end consumers and thus said to be consumption based taxation. Among the three variants of VAT, the consumption variant is widely used. Several countries of Europe and other continents have adopted this variant. The reasons for preference of this variant are:

First, it does not affect decisions regarding investment because the tax on capital goods is also available for set-off against the VAT liability. Hence, the system is tax neutral in respect of techniques of production (labour or capital-intensive).

Secondly, it is more in harmony with the destination principle. Hence, in the foreign-trade sector, this variant relieves all exports from taxation while imports are taxed.

Finally, the consumption variant is convenient from the point of administrative expediency as it simplifies tax administration by obviating the need to distinguish between purchases of intermediate and capital goods on the one hand and consumption goods on the other hand.

In practice, therefore, most of the countries use the consumption variant. Also, most VAT countries include many services in the tax base. Since the business gets set-off for the tax on services, it does not cause any cascading effect.

Origin/destination principle

VAT is being 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. That is to say, 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. This is origin principle. Under the ‘origin principle’, value added domestically on all goods whether they are exported or internally consumed is subjected to tax. Consequently, tax cannot be levied on value added abroad and this principle confines VAT only to goods originating in the country of consumption. In short, exports are taxable under this principle while imports are exempt. It is mostly used in conjunction with income VAT and is unpopular for obvious reasons like under this principle VAT is imposed on the value added of all taxable products that are produced domestically and input tax credit is not given for the domestic purchase.

If a commodity is taxed in the State where it is consumed it is said to be taxed on the basis of its location of consumption or destination. This is destination principle. Under the destination principle the VAT is imposed on the value added of all taxable products that are consumed

Note:

.....

domestically. Under 'destination principle', value added irrespective of the place of origin is taxable. All goods are taxed if they are consumed within the country. In this regime, exports are exempt while imports are subjected to tax. Destination principle is normally used along with consumption VAT.

Choice is clearly for the destination principle in the case of international trade. Design of VAT for international trade eminently suits the destination principle. VAT should be neutral as regards international trade. The exports should leave the country free of tax and VAT on the imported goods should be the same as the tax on the domestically produced goods. At export, all prior stage tax, indicated on purchase invoice can be rebated and at import, the mechanism of the VAT ensures equal treatment with domestic goods.

Another attractive feature of this principle is that it 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 which is economically and politically inadvisable. In the European countries, origin principle was once considered for eliminating border controls and problems of valuation, but was subsequently given up as being impractical. Usually international trade flows are taxed on the destination principle. The country from which the goods are finally exported abroad bears the full cost of tax credit on inputs for the exported goods and the country into which the imports initially enter collects the tax on their value at the point of entry. Therefore the destination principle is now followed.

In the GCC Framework, and which is followed in UAE VAT, the destination principle is preferred for taxation of products consumed within the various States of the country although some deviations are noticeable in certain cases particularly Services so as to meet the preferences of the State. It would be more reasonable to say that UAE follows a quasi-destination principle that is more akin to a hybrid of the two principles available.

Methods for computation of tax

There are essentially three methods of computing VAT liability: addition method, subtraction method and the credit method (also known as the invoice method). The principal debate concerning choice of methods in computing VAT liability is normally restricted to the credit and subtraction methods. The credit method requires that the amount of VAT charged be explicitly stated on the invoice associated with any taxable transaction. The amount of tax a taxable person submits to tax authorities is simply the difference between the tax he collected on his sales and the tax he paid on his purchases.

Under the subtraction method, each taxable person's tax liability is computed by applying the applicable VAT rate to the difference between his total sales (inclusive of the VAT element in his sales price and his total purchases (inclusive of the VAT element in his purchase price).

Note:

.....

Background Material on UAE VAT

Hence, unlike the credit method, the amount of VAT connected with a taxable transaction is not required to be explicitly stated on the associated invoice.

The credit method therefore, is more transparent, whereby the effective tax rate on any commodity is easily identifiable as the rate applicable to the last transaction in that commodity.

Invoice (Credit) method

This is the most common and popular method for computing the tax liability under 'VAT' system. Under this method, tax is imposed at each stage of sales on the entire sale value and the tax paid at the earlier stage is allowed as set-off. In other words, out of tax so calculated, tax paid at the earlier stage i.e., at the stage of purchases is set-off, and at every stage the differential tax is being paid. The most important aspect of this method is that at each stage, tax is to be charged separately in the invoice. This method is very popular in western countries. In India also, under Central Excise Law this method is followed. This method is also called the 'Tax credit method' or 'Voucher method' as he takes the credit of the tax paid by him on the inputs purchased by him and deposits the balance amount to the VAT department. From the following illustration, the mode of calculation of tax under this method will become clear:

Stage	Particulars	VAT Liability	Less VAT Credit	Tax to Government
1.	Manufacturer/first seller in the State sells the goods to distributor for AED1,000. Rate of tax is 5%. Therefore, his tax liability will be AED 50. He will not get any VAT credit, being the first seller.	50		50
2.	Distributor sells the goods to a wholesale dealer for say AED 1,200 @ 5% and will get set-off of tax paid at earlier stage at AED 50. His net tax liability will be AED 10.	60	50	10
3.	Wholesale dealer sells the goods to a retailer at say AED 1500. Here again he will have to pay the tax on AED 1500. He will get credit of tax paid at earlier stage of AED 60. His net tax liability will be AED 15.	75	60	15

Note:

.....

4.	Retailer sells the goods to consumers at say AED 2,000 .Here again he will have to pay tax on AED 2,000. He will get credit for tax paid earlier at AED 75. His net tax liability will be AED 25.	100	75	25
	Total	285	185	100

Thus, the Government will get tax on the final retail sale price of AED 2,000. However, the tax will be paid in instalments at different stages. At each stage, tax liability is worked out on the sale price and credit is also given on the basis of tax charged in the purchase invoice. The invoice method is also known as tax credit method because the input tax paid is credited and adjusted with a final liability of tax. The series of tax credit taken by different industries and dealers is called VAT chain. If the first seller is a manufacturer, he will get the credit of tax paid on raw materials, etc. which are used in the manufacturing. From the above illustration, it is clear that under this method tax credit cannot be claimed unless and until the purchase invoice is produced. As a result, in a chain, if at any stage the transaction is kept out of the books, still there is no loss of revenue. The department will be in a position to recover the full tax at the next stage. Thus, the possibility of tax evasion, if not entirely ruled out, will be reduced to a minimum. However, proper measures should be implemented to prevent the production of fake invoices to claim the credit of tax at an earlier stage.

Rate structure under VAT

VAT can operate either with a single rate or with multiple rates. When multiple rates are used, in addition to zero-rate, lower rates are prescribed for granting concessions. Multiple rates conveniently allow preferential treatment to certain commodities, firms or sectors and a zero rate is normally applied to exempt mass consumption articles. GCC Member States have agreed to charge tax at fixed 5% rate with exceptions/exemptions to certain priority sectors.

Merits and demerits of VAT

It has been explained earlier that when compared to the other systems of imposing sales tax on a transaction of sale, VAT has an edge over them. The working of VAT is quite simple. This is one of the reasons as to why a host of other countries adopted the system. The other merits of VAT are explained below.

Neutrality

The greatest advantage of the system is that it does not interfere in the choice of decision for purchases. This is because the system has anti-cascading effect. How much value is added and at what stage it is added in the system of production/distribution is of *no* consequence.

Note:

.....

Background Material on UAE VAT

The system is neutral with regard to choice of production technique, as well as business organisation. All other things remaining the same, the issue of tax liability does not vary the decision about the source of purchase. VAT facilitates precise identification and rebate of the tax on purchases and thus ensures that there is no cascading effect of tax. A significant factor in the importance attached to VAT in the GCC countries is its ability to treat transactions between all Members States as also trade with other countries with complete neutrality, that too without any distortion by taxation. This is possible when the VAT is applied where the goods are consumed and not at a place where goods are produced.

Certainty and transparency

The VAT is a system based simply on transactions. The tax is broad-based and applicable to all sales in business, thus there is little room for different interpretations. Similarly, due to the basic feature that it gives credit of tax paid on earlier stage, the buyer will always ask for invoice. Thus the scope of tax avoidance or evasion will be much less. The disputes will also be fewer. Thus, this system brings certainty to a great extent. So also, the buyer knows, out of the total consideration paid for purchase of material, what is tax component. Thus, the system ensures transparency also.

Harmonized system of taxation

VAT became popular because of its built-in advantage of harmonizing the tax structure. It leaves very small room for interpretation. Even the entries prone to varied interpretations, under VAT, do not make any difference either to taxable persons or the Government. Ideally under VAT, there should be only one basic rate.

Better revenue collection and stability

The Government will receive its due tax on the final consumer/retail sale price. There will be a minimum possibility of revenue leakage, since the tax credit will be given only if the proof of tax paid at an earlier stage is produced. This means that if the tax is evaded at one stage, full tax will be recoverable from the person at the subsequent stage or from a person unable to produce proof of such tax payment. Thus, in particular, an invoice of VAT will be self-enforcing and will induce business to demand invoices from the suppliers. Another attribute of VAT is that it is an exceptionally stable and flexible source of government revenue. The stability of VAT as a revenue source stems from the fact that if consumption is less volatile the income system provides a flexible instrument of taxation, since it is collected on a current basis. The decision about revenue can also be taken correctly as variance in rate of tax has direct relation with revenue collection.

Better accounting systems

Since the tax paid on an earlier stage is to be received back, the system will promote better accounting systems.

Note:

Effect on retail price

A persistent criticism of the VAT form has been that since the tax is payable on the final sale price, the VAT usually increases the prices of the goods. This could be true in GCC countries including UAE as well considering that there was no tax hitherto. However, considering the negative impact which could arise on the inflation, government may look into exempting the goods and services of basic necessities so that negative repercussions are minimised.

Compliance cost to the business

It is argued that for compliance with the VAT provisions, the accounting cost will increase. The burden of this increase may not be commensurate with the benefit to traders and small firms. Under the VAT, books of account would require to be maintained in detail. In any case, the inherent benefit of simplicity of the system will overcome this difficulty.

Increase in working capital requirement

Another possible point in the introduction of VAT, which will have an adverse impact on it is that, since the tax is to be imposed or paid at various stages and not on last stage, it would increase the working capital requirements and the interest burden on the same if it is interest bearing funds. In this way it is considered to be non-beneficial as compared to the single stage-last point taxation system. This position may depend upon the facts of each case.

Regressive

VAT is a form of consumption tax. Since the proportion of income spent on consumption is larger for the poor than for the rich, VAT tends to be regressive. However, this weakness is inherent in all the forms of consumption of tax. While it may be possible to moderate the distribution impact of VAT by taxing necessities at a lower rate, it is always advisable to moderate the distribution considerations through other programmes rather than concessions or exemptions which create complications for administration and compliance with uncertain results.

Key Features of VAT in UAE:

UAE is one of the Member States of the GCC. All GCC Countries have agreed to implement the VAT latest w.e.f. 01.01.2019 and in that direction, have already passed the Framework for common law. The Framework unanimously passed by all GCC Countries is on consumption based model. The Framework would be binding on all Member States who shall design their own VAT Law within it. Federal Decree-Law No. (8) of 2017 on VAT has already been passed by Government making the effective date of VAT implementation from 01.01.2018. Executive Regulations are also issued under the Law, which lay down various details as to deemed supplies, exemptions, zero rate, transition and different procedural aspects of the Law. Important features of the UAE VAT Law are as below:

Note:

.....

Background Material on UAE VAT

- Tax on supply of goods or service: VAT is leviable on the supply of goods or services. What constitutes supply of goods or supply of services has been defined in the Decree Law and further procedures laid down through Executive Regulations. The term “supply of service” is broad enough to cover all such transactions which do not constitute supply of goods. Further, some activities are treated as deemed supply of transactions to bring within the scope of levy of tax.
- Tax on import of goods and services: VAT is also leviable on the import of goods as well as services. The goods and services which would be subject matter of VAT on import will be those goods and services which are liable to tax if such goods were supplied within UAE. Those goods or services are called as concerned goods or concerned services.
- Tax has to be paid by the supplier making taxable supplies of goods or services. In some cases of import of goods, the liability has been casted on the recipient of goods or service, commonly called as Reverse Charge Mechanism. The person liable to pay tax is required to get itself registered under the Law to fulfil all its obligations.
- The Place of Supply provisions have been defined for the “supply of goods” as well as “supply of services”. Tax would be levied in the State (UAE) only when the place of supply falls in the State. In case of supply of goods, the place of actual supply of goods would generally be within States. There are specific provisions for determination of place of supply in case of exports and imports. In case of supply of service, the place of supply shall be the residence of the supplier. In exceptional cases, place of supply shall be location of recipient or place where services are actually performed.
- There are specific provisions for determination of Date of Supply i.e. the point of time when liability to pay tax would arise. Normally it is the date of supply of goods or services or the date of receiving the advances, or date of issue of invoice, whichever is earlier. There are other specific instances to determine the date of supply which need to be observed in those specified cases.
- Each person making supply who has place of residence in the State or in any other implementing states is required to obtain registration if value of aggregate supplies (as specified) made by him in the state (as per place of supply) exceed compulsory registration threshold of AED 375,000/- in preceding 12 months. There is also option to get oneself voluntary registered in the value of supply or expenses exceeds AED 187,500/-. The concept of Tax Group has also been introduced to allow single registration to various entities working in a group.
- There are specific valuation provisions for determination of value on which tax is to be charged. Value has to be determined based on the transaction value. If consideration is

Note:

.....

partly non-monetary, then monetary value + market value of non-monetary consideration to be taken for determination of value for charging VAT. There are specific provisions supported by executive regulation to deal with discount, value of transactions with related parties, vouchers, profit margin based scheme, deemed supply cases etc.

- Certain sectors have been made zero rated which means resultant tax on supply of zero rated goods would be '0' (ZERO) but corresponding input tax may be recovered and claim as refund. This is done in priority sectors. Exports of goods and services, international transportations of passengers or goods, Supply of means of transportation and related services, investment in precious metals, supply of residential buildings, crude oil or natural gases etc. are few cases which have been made zero rated. The conditions and explanation as to what are all covered therein are explained in executive regulation.
- Exemptions have been granted to few other sectors where person making supplies shall not have right to recover the input tax. These include mainly financial service sector, supply of bare land, local passenger transports, basic healthcare services etc. However, for financial sector in certain cases the input tax credit is extended.
- From the VAT, that the taxable person is liable to pay can be deducted the VAT that is charged to him by other taxpayers. In addition, the person is also entitle to recover the input tax paid under reverse charge mechanism. There are conditions and mechanism for input tax recovery, its adjustment and claiming refund. There is specific scheme for capital assets for recovery of VAT distributed over more than one tax periods instead of full VAT in the year of purchase.
- There are specific cases for output tax adjustment which could arise on account of any event occurring post supply of goods or services. The person may issue credit note for any alterations in the value of supply including in the cases of bad debts which would result in corresponding reduction of liability.
- Tax invoice is very important document in the VAT Law as it records understanding of the parties, all ingredients of supply and applicable tax on such supplies. The tax invoice has to be in the specified format and may be raised either manually or electronically.
- There is detailed requirement for maintenance of records and documents. All taxpayers are required to maintain the account for specified period.
- Transitional provisions have been provided for smooth migration from non VAT regime to VAT regime.

Note:

.....

Background Material on UAE VAT

- To deal with the tax procedures related to the administration, collection and enforcement of Tax by the Authority, separate Decree Law Federal Law No. (7) of 2017 on Tax procedures has been notified. The law provides for concept of tax agent, audit by authorities, assessment, demand, administrative penalties, tax evasion, manner of claiming refund and other relevant aspects.

Conclusion

The VAT Law in UAE is framed in accordance with the GCC VAT Framework and has been designed considering peculiar economic and social features of the region. The successful implementation of the VAT would largely depend upon the active participation of all stakeholders including government. It is now the responsibility of the businesses in UAE get themselves prepared for this landmark change in the way of doing business in the region.

Note:

.....

Chapter - 2

GCC VAT Framework

A. Introduction

The six countries of Gulf region namely United Arab Emirates, Kingdom of Bahrain, Kingdom of Saudi Arabia, Sultanate of Oman, State of Qatar, and State of Kuwait, have formed the Gulf Cooperation Council (hereinafter referred to as GCC) with an aim of developing the existing co-operation and relations with regard to various fields.

In 2001 the GCC adopted the revised GCC Economic Agreement 2001 in place of the Economic Agreement of 1981. The objective of Economic Agreement is to enhance and strengthen the economic ties among Member States, and harmonizing their economic, financial and monetary policies, their commercial and industrial laws, as well as their customs regulations. Further it had an objective to reach advanced stages of economic integration, and develop similar legislation and legal foundations in economic and financial spheres, and with a desire to promote the GCC economy and proceed with the measures that have been taken to establish economic unity amongst member States. Accordingly, certain actions are already taken including framing a common customs law applicable to all GCC Countries.

In line with the said Economic Agreement 2001, based on the decision of Supreme Council of GCC, held in December 2015, and keeping in mind the uniformity in imposition of VAT by the GCC States, the decision to establish a unified legal framework for the introduction of a general tax on consumption in the GCC known as VAT was made. Such agreement is termed as "Common VAT Agreement of the States of the Gulf Cooperation Council (GCC)", and commonly called as 'Unified VAT Agreement' or 'GCC VAT Framework'.

One of the reasons for introduction of VAT in GCC is that they are chiefly dependent on sale of Crude, Natural Gas's, and other products of hydrocarbons to generate revenue for spending on public welfare. However, now they are looking for a new source of income to ensure high quality public services into the future on a continuous basis, without depending on oil as such.

B. Structure and purpose

The GCC Framework contains 15 Chapters consisting of 78 Articles covering different aspects starting from definitions, scope of tax and supplies, place of supply, tax due date, calculation of tax, and value of supply so on. The Framework Agreement provides for various tax treatment of different types of transactions in different circumstances. Though the Framework Agreement covers most of the aspects of VAT law to be implemented in GCC countries, the final law to be implemented by the respective countries will be formulated by them and adopted. In lien with understanding of framework, 'United Arab Emirates' & 'Kingdom of Saudi Arabia' has already finalized their VAT law, whereas other member states are yet to come up with their respective laws. It is expected that other member states will impose the VAT law in the year 2019-2020.

The purpose of this Framework Agreement is to:

- (a) Provide uniform definition and taxing principles
- (b) Prescribe special privileges in tax treatment in respect of transactions amongst GCC members
- (c) Introduce VAT in a time-bound manner in the regions to avoid imbalances

With this Framework Agreement, the entire region comprising of GCC members becomes a common block without disparity or deviation in imposing tax or the rules of interpretation of this tax. Necessary resolutions of the Supreme Council supported the move towards execution of this Framework Agreement. The individual VAT legislation of each member cannot be at variance with this Framework Agreement. At the same time, this Framework Agreement will not exert interpretative force in applying the respective VAT legislation so as not to permit this measure of cooperation to supplant sovereign authority of each member.

C. Laws to be enacted by GCC Countries

This framework agreement is not merely in the nature of guidelines; instead it is an agreement between the countries which has an international obligation upon the GCC countries.

Each of the member countries is obligated to frame its own laws as per its constitutional set up and implement the VAT law in its territory.

It is relevant to refer to the provisions of Article 78 of the Framework Agreement which clearly states that each Member country shall take domestic measures to issue its Local Law with the aim of implementing the Agreement. This includes laying down the required policies and procedures to implement the Tax in such manner not in conflict with the provisions of the Framework Agreement.

Though this Agreement requires that all the member States implement the law at a state (country level) to give effect to this Agreement, it has clearly stated that not implementing its state Law shall be treated as being outside the scope of this Agreement until such time as its state VAT Law comes into force.

The Member country will work to settle any dispute which may arise between them concerning the framework agreement amicably. In case of impossibility of such an amicable settlement, there is a provision for referring the dispute to arbitration in accordance with the rules of arbitration agreed upon in the GCC Economic Agreement 2001.

D. Uniform Framework of Law

VAT is agreed to be imposed on goods and services on their supply and import into the territory. It is agreed that member States will enjoy special privileges in respect of transactions

Note:

.....

Background Material on UAE VAT

amongst Members. VAT will be imposed on the supply which includes transfer of property and transfer of right to use any property. Special cases of supply which may not conform to the definition of supply, are to be defined and included or excluded for tax purposes. VAT at a standard rate of 5% will apply unless special rates are notified.

Value of supply will be the consideration paid for the supply. GCC region understands the valuation principles from the experience with Unified Customs legislation. But here, the Framework seeks to limit the tax only to the money consideration paid for a taxable supply. Transactions that are likely to miss the acceptable valuation can be addressed by relying on the protective measures available in the valuation provisions of the Customs legislation of GCC.

It is agreed that a minimum registration threshold (MRT) be prescribed for businesses to become liable to VAT and comply with the requirements by seeking registration. Supplies that will be liable to tax will include import of goods and services. As such, in relation of import of goods, VAT would align itself to the customs declaration procedure that is applicable.

Goods are defined to mean 'tangible property' and includes water and energy. Services includes everything that is not goods. By these definitions, there is clarity in the categorization of supplies and application of the rules of place of supply. Real estate transactions are agreed to be brought within the scope of VAT not based on the completed property or land per se but by imposing tax on the underlying economic activity of bringing together the real estate. Services sector plays a significant role in the economic development of the region and hence it is not free from VAT. Services are subject to tax, except for instances where these were excluded due to their importance or strategic nature.

Place of supply is interesting as it lays down the rules for identifying which is the 'tax collecting State' in case of transactions that may have one element taking place outside the State. This can happen not only in the export and import transactions, there can be instances where both part of transactions are taking place outside the State or transaction is already subject to tax being part of larger transaction. For example, the buyer who is outside the State may require the goods to be delivered within the State or services may be utilized by the customer in relation to his exports and so on. Precise determination of place of supply is agreed to be the bedrock of this Framework.

Concepts such as reverse mechanism of tax collection and deduction of taxes are agreed. Reverse Charge Mechanism is when a taxable supply takes place where administration of tax through the customer is more expeditious than through the supplier. The Framework permits States to determine cases where use of this form of tax collection may be more efficient and to place this obligation on the customer. Deduction of taxes is a progressive step in tax law-making. Taxes payable on outward supplies are required to be paid to the State but after deducting the taxes already paid on inward supplies by the same person. This is a whole new

Note:

.....

field of tax law which requires a thorough understanding of the eligible inward supplies measures to eliminate ineligibles. Then to compute and aggregate these taxes that can be available at any time to be applied in payment of taxes due on outward supplies. Taxes paid on Capital assets are also permitted to participate in this arrangement of deduction of taxes as the VAT in GCC is based on the Consumption Variant.

Deduction of tax is acceptable only if the inward supplies continue to participate in taxable outward supplies. Suitable measures are agreed for the reversal of tax deduction in case of diversion of use of the inward supplier or cessation of business operations.

It is agreed that the introduction of VAT should not disturb the legislative agreements for the establishment of free trade zones. The privileges allowed to free zone enterprises must be preserved. Supplies to free zone and duty free shops to be treated as exports and supplies into mainland from these areas as imports. Free Zones need to comply for the rules & regulations designed by the state for implementation & availing the special status.

Supplies that are liable to VAT allows the supplier to reimburse himself of this VAT from the customers by charging VAT in addition to the consideration agreed. But the recoupment of VAT may fail for any commercial reason known to the parties. The liability to pay VAT therefore is agreed to be of the supplier and not contingent upon their commercial arrangement. It is agreed that except in case of reverse mechanism, VAT must be paid by the supplier on taxable supplies. This makes the definition of taxable person and taxable supplies very clear. It is interesting that the scope of tax agreed to be on transfer of property in goods and transfer of right to use those goods.

Supply of Goods specifically includes:

- (a) disposal of Goods under an agreement that provides for the transfer of ownership of these Goods or the possibility of transferring the same at a date subsequent to the date of the agreement, which shall be no later than the date on which the Consideration is paid in full;
- (b) granting rights in rem deriving from ownership giving the right to use real estate;
- (c) compulsory transfer of ownership of the Goods for Consideration pursuant to a decision of the public authorities or by virtue of any applicable law.

Transactions involving immovable property are agreed to be included in the scope of VAT. Necessary inclusion is made to impose VAT on internet based economic transactions so as not to leave this growing area of commerce out of the tax net. Traders in water and energy are agreed to be brought into the tax net because of their ability to afford VAT when involved in commercial trade. The minimum threshold limit ensures that small businesses are not burdened with VAT and its associated complexities and compliances.

Note:

.....

Background Material on UAE VAT

Exemptions occupy a special place in the Framework because certain industries hold a special place of historical growth and development of the region, whether it is due to their dependence by common citizens like passenger transport or their strategic significance like resources or military or diplomatic supplies. Necessary provisions to grant relaxation in the operation of VAT in relation to these articles are embedded in the Framework.

Exports that are to enjoy exclusion from VAT are allowed to be zero-rated, that is, the tax deduction that would be available will still be available while charging zero per cent VAT. With outward supplies being taxed at zero per cent exporters are entitled to claim refund of deduction of taxes paid on inward supplies. This is a welcome measure to promote exports from GCC States.

Compliances must be simple for any law to be effective and welcomed by trade. It is agreed that periodic compliances of summarized data are to be reported to regulator for 'information' purposes and not to verify or challenge. Self-governance is admitted as most efficient and it is agreed that businesses be allowed to determine their own tax dues and discharge them voluntarily. Data submitted is available for regulator to call for questions in case of alarming variations with the volume of trade or other corresponding data points. Standardization of due dates is also agreed and mechanism of payment of taxes prescribed.

This Framework Agreement is remarkably granular, in its deliberation of the various aspects of VAT that each member State is required to legislate, that it almost supplies the template on which the respective VAT law may be drafted.

E. Special Privileges to GCC Members

Refer to Chapter - "Transaction with GCC"

F. Simultaneous introduction of VAT

The purpose of this Framework is not only to agree on a uniform tax system but also provide for its introduction in all member States at the same time. Not only does this avoid imbalances but also allows member States to draw mutual support and cooperation in addressing VAT implementation challenges.

Simultaneous introduction can bring the economic advantage that VAT has delivered across the world to the GCC region too. The Supreme Council recognized that implementation of VAT will not be free from concerns both from trade and administration. Cooperative roll-out facilitates preparation in advance to address all implementation concerns and share experience with each other.

Uniformity in the law serves better if its interpretation and implementation are also uniform.

Note:

.....

Cooperative introduction allows opportunity for consistency in interpretation of transactions that are common across the region. This manner of VAT introduction gains strength from jointly leveraging the tax resources from the economic activity in each State without causing trade disruption or mutual competition.

Consensus regarding the standard rate of VAT is one aspect but consensus regarding the minimum registration threshold is altogether of a different order. There is no doubt that the Framework Agreement brings great clarity in approach to the implementation of VAT in each State so that there will be no disruption in trade but only benefits from this source of revenue.

G. Relationship between GCC Countries ¹

As far as relationship between the GCC Countries, is concerned, it is so designed that trade between the GCC member countries will be conducted within the framework of a customs union covering

- (a) A common external customs tariff (CET);
- (b) Common customs regulations and procedures;
- (c) Single entry point where customs duties are collected;
- (d) Elimination of all tariff and non-tariff barriers, while taking into consideration laws of agricultural and veterinarian quarantine, as well as rules regarding prohibited and restricted goods.
- (e) Goods produced in any Member State shall be accorded the same treatment as national products.

When it comes to International Economic Relations, they are to operate together to secure better terms and more favorable conditions in their international economic relationships. The Member countries would draw their policies and conduct economic relations in a collective fashion in dealing with other countries, blocs and regional groupings, as well as other regional and international organizations.

Further the GCC countries have agreed for a relationship wherein the natural and legal citizens are given the same treatment in all GCC Counties as accorded to its own citizens, without differentiation or discrimination, in all economic activities, as to movement and residence, work in private and government jobs, pension and social security, engagement in all professions and crafts, engagement in all economic, investment and service activities, real estate ownership, capital movement etc.

¹ Based on GCC Economic Agreement 2001

Note:

.....

Background Material on UAE VAT

GCC Countries, for the purpose of achieving a monetary and economic union between Member countries, including currency unification, have agreed to achieve a high level of harmonization between them in all economic policies, especially fiscal and monetary policies, banking legislation, setting criteria to approximate rates of economic performance related to fiscal and monetary stability, such as rates of budgetary deficit, indebtedness, and price levels.

As regards the investment climate also, GCC countries have agreed to provide for unified law relating to all their investments; accord national treatment to all investments owned by GCC natural and legal citizens; Integrate financial markets in Member States, and unify all related legislation and policies; adopt unified standards and specifications for all products, according to the Charter of the GCC Standardization and Metrology Organization.

Similarly, the GCC Countries have agreed for dealing with different aspects together. Some of those aspects are as follows:

- (a) Regional and International Aid;
- (b) Development integration;
- (c) Policies for Oil, Gas, and Natural Resources integration
- (d) Agricultural development
- (e) Environmental Protection

H. Relevance of Agreement after enactment of Laws by GCC members

The framework agreement is not merely a one-time document; instead it is a continuing obligation upon the GCC member countries to follow the same. This agreement will be operational till the relationship between the GCC countries continue. This is also clear from Articles 75 which provides that the Ministerial Committee shall have jurisdiction to consider matters related to the application and interpretation of the framework Agreement and its decisions shall be binding on the Member countries. Further Article 76 provides for dispute resolution between the member countries while implementing the framework agreement. Article 77 provides for amendment of the framework agreement upon the approval of all the Member countries based on the proposal of any of these States. However, it may be noted since the law is not going to be implemented in all member states from same point of time, there may be some differences in terms (or definitions) provided by 'GST VAT Agreement' and law of the implementing state, though in line with the spirit of the Common VAT Agreement. Eg. Definition of Exports given in the 'GST VAT Framework' and Federal Law are different, but seems to be in line with spirit of 'GST VAT Agreement'. In such cases in the humble opinion of the author the law of relevant implementing state shall prevail.

Note:

.....

Conclusion

Consensus on so many granular aspects demonstrates the strength of the process that started as early as one of the goals in the 2001 Economic Agreement and the forward-looking view taken by the Supreme Council way ahead of the times. And to make such a concerted effort to reach a goal 17 years later with full preparedness is a tribute to the surefootedness and resolve in the introduction of this new legislation for the imposition of Value Added Tax.

Note:

.....

Chapter – 3

Legal Background

1. Law Making Process

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. 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 Federal Supreme Council is the highest constitutional authority that has the legislative and executive powers to ratify Federal laws, decrees, plans and general policies. Its jurisdictions are derived from Egyptian, French, Roman and Islamic Laws.

There are five Federal institutions as per the Constitution of UAE. The Federal Supreme Council, The President and Vice President, Council of Ministers of the Union, Federal National Council and the Judiciary of the Union.

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 also has the powers to question the Minister or its own members.

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 beginning and termination of the legislative session is determined by the Presidential Decree issued by the President of the UAE.

The Ministers draft various decrees and various decisions which are adopted in the Council of Ministers meeting. The Council of Ministers is headed by the Prime Minister of the Country (Ruler of Dubai) who work on the directions of the President of the Country (Ruler of Abu Dhabi).

According to Article 144 of the Constitution, any amendment to the Constitution is to be drafted by the Federal Supreme Council and must be approved by a two-thirds majority of the Federal National Council, after which the amendment is signed into law by the President.

Part 5 of the Constitution explains the process of legislation in the UAE. The Process of law making in UAE is as follows:

Federal Laws are drafted by the Council of Ministers and are submitted to the FNC. The FNC

sends the draft law to a proper committee. If the appointed proper committee makes any amendment to the draft law, the amended law is then sent to the Legal and Legislative Committee. After the Legal and Legislative Committee has accepted the amended law it is taken up for debate on the floor of the FNC. The FNC then sanctions the final draft and approves the same. The Final draft is then presented to the President. The President then issues the Decree under his signature for the promulgation of the Law and within two weeks the law is published in the Official Gazette of the Union.

The basis of the legal system in the UAE is Sharia or Quranic Law. Islam is identified in the Constitution as the religion of the State as well as the principal source of law for the country. The direct influence of Sharia is seen in the social laws such as family law, divorce and succession.

2. Distribution of Legislative & Executive Powers & Powers of HH for Imposition of Tax Laws

Part Seven of the 'Constitution of UAE' describes the distribution of powers between Union (Federal Government) and Local Government (Emirates). 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. Further matters in relation to technical and industrial property and copyrights also comes within the domain of Union (Federal Government.).

As per Article 122 of the Constitution, the Emirates (Local Government.) is having jurisdiction in all matters not assigned to the exclusive jurisdiction of the Union.

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. Under these powers the President of the UAE His Highness Sheikh Khalifa Bin Zayed Al Nahyan issued Emiri Decree 13 of 2016 for setting up the Federal Tax Authority (FTA). The new law was published in the Official Gazette on 29th September 2016.

3. 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. The principles of Sharia Law are applicable to business transactions and have influenced the development of the commercial code. These principles have influenced the drafting and interpretation of laws in the UAE.

Note:

.....

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

The Principles of Sharia Law have been considered in the VAT Law, Excise Law and Customs Law though there is no direct reference.

4. Reliability of English Translation of Authorised Arabic Legislation

Translation of Arabic text into English is very difficult and is highly complex. There are 28 alphabets in Arabic as opposed to 26 in English and it is pertinent to note that there are some Arabic letters which have no equivalent in English. One word in Arabic need not be translated into one word in English. The Translator may have to express “how something is said or expressed” in Arabic rather than literal translation of “what is said”.

The Law is always promulgated in Arabic, as it is the official language of the State. There are Legal Translation Experts who are authorised and registered with the Ministry of Justice and English Translation approved by such Legal Translation Experts is valid. In case of any ambiguity in the meaning of any provisions of Law or Regulations or Procedures between the Arabic version and the English version then the **Arabic version will prevail**.

It is always better to get the Arabic to English translation done by an authorised Legal Translation Expert and have the document duly stamped by such expert before relying on the English Version. In order to avoid doubts and to make the document complete, it is an accepted practice to execute documents in both English and Arabic (bilingual documents).

5. Past Experience of Translation Differences Resolution

There are a large number of firms and individuals who offer the Translation service in UAE and many of them do not have the requisite qualification and experience to translate a technical or legal document. Literal translation of a document from English or Arabic will not give the same meaning and effect. The same applies to literal translation from Arabic to English, particularly for a legal or technical document.

Note:

.....

There are occasions when differences arise in a translation due to the lack of understanding or inexperience of the person involved in the translation exercise. These differences are best resolved through an amicable dialogue and not through legal route, i.e., litigation. Need to bear in mind that the Arabic Version will prevail at the end and hence a lack of understanding or knowledge of the language is not an excuse.

The only solution is to engage a professional organisation which provides translation services which is recognised and approved by the Ministry of Justice, U.A.E.

6. Applicability of Indian or other Jurisprudence

The UAE follows a civil law system heavily influenced by French and Roman systems. A strong Egyptian influence is present in the legal and judicial system being one of the most modern legislations in the Arab World.

One of the distinguishing features of the UAE Legal System is the co-existence of parallel judicial systems. The UAE has a federal judicial system with a Court of First Instance, Court of Appeal and Court of Cassation. However, interestingly, this is followed only by four emirates, viz., Sharjah, Ajman, Fujairah and Umm Al Quwain. The other three Emirates, viz., Abu Dhabi, Dubai and Ras Al Khaimah have their own independent judicial systems parallel to the Federal system.

All Courts in UAE have three different branches to deal with Civil, Criminal and Family Matters. The Family and Personal Laws predominantly follow the Sharia Law. The Personal matters and family matters are hence handled by Sharia Court.

Since the UAE follows a civil law system, court proceedings are significantly different from the Courts in India. There are no witness examinations or discovery of documents. The pleadings submitted by the parties have a crucial role in the outcome of the dispute. A major part of the proceedings in the litigation is conducted through written submissions of both parties. Choice of lawyers and briefing to the lawyers, who appear for the case and provide the written submissions and explanations, plays a vital role. The Courts also seek expert opinion on matters involving technicalities and there are qualified experts in each industry who are empanelled with the Courts. In most of the cases the reports of the Expert is followed in full by the Courts and their opinion is reproduced in the judgement.

The official language of the State being Arabic, all documents have to be translated into Arabic and submitted to the Courts in UAE (except the DIFC Courts) as the Court proceedings are conducting only in Arabic. The parties are required to translate all documents in Arabic and submit the same to the Court or to the court appointed Expert. This may be an expensive and onerous exercise depending upon the volume and technicality of the documents.

While the UAE follows the "civil law" there is also a judicial body that administers justice under

Note:

.....

the “common law” system. The Courts in the Dubai International Financial Centre (DIFC Courts) follow the common law system. This is a very bold and innovative initiative taken by the Ruler of Dubai to provide the much needed comfort and relief to foreign investors from countries where the common law is followed (like India). The Government of Dubai has recently extended the jurisdiction of the DIFC Courts and has authorised to hear disputes arising out of transactions between parties outside the DIFC. The emergence of DIFC Courts by following “common law” is a great initiative which has provided the much needed relief and comfort to the Foreign Investors in Dubai.

In short, the UAE Legal system is a complex system which has adopted the best practices from different parts of the world while the core is still revolving around the Sharia Law.

7. Accepted Legal Maxims

The following are some of the generally accepted Legal Maxims under the Sharia Law:

1. Al-umuru bi-maqasidiha: Acts are judged by the intention behind them
2. Ad-dararu yuzal: Harm must be eliminated
3. Al-yaqinu la yazulu bish-shakk: Certainty is not overruled by doubt
4. Al-'addatu muhakkamatun: Custom is the basis of judgement
5. Al-mashaqqatu tujlab at-taysir: Hardship begets facility

8. Summary

The legal system in UAE is complex as there are parallel judicial systems within the country.

Dubai has integrated with the rest of the world by forming DIFC Courts which follows the “common law” while the UAE legal system is predominantly built on “civil law”.

The Judiciary works differently and relies on written submissions and opinion of experts on all technical matters.

Sharia Courts handle mainly the personal law relating Family Matters like Divorce and Succession.

Note:

.....

Chapter – 4

Trade Background

1. Forms of Business Enterprise Permitted in UAE

Types of business entities

There are mainly three types of business entities permitted by law in the UAE and they are:

- (a) Professional
- (b) Commercial
- (c) Industrial

It is important for the promoters of a business to choose the right type of business entity and this would entail the permitted activities to be performed by the business entity. In other words, the type of business depends on the nature of activities to be performed by the business entity.

Professional License is issued to professionals, artisans and craftsmen. The Professional License is for rendering professional services which entirely depends on the skills, knowledge and experience of the professional concerned. The holder of professional license is not permitted to import or export any goods and thus is not permitted to engage in any trading or manufacturing activity.

Commercial License is issued to business entities which are involved in commercial activities of buying and selling of goods, imports and exports, transportation and all other commercial activities which are performed with the intention of making profits. Commercial License is generally taken for business activities like trading, retail, hotels, warehousing, transporting, etc. In trading business, the license can be for specific trading or general trading. The General Trading License will allow the licensee to deal in any product whereas specific trading will be restricted only to specific products. For example, a Business Entity which has a specific food items trading license can deal only in food items and not in building materials. On the other hand, a General Trading License permits the business entity to deal in both food items as well as building materials.

Industrial License is issued to business entities which are involved in the manufacturing or industrial activity which involves value addition or conversion of the input into a different output. The manufacturing or industrial activity involves transforming the raw material into semi-finished or finished goods. The transformation can be in the structure or usage or appearance or stage of finish etc. The manufacturing process could involve use of machinery or could be manual.

Jurisdictions

The following are the three jurisdictions that are recognized and practiced in the UAE:

- (a) Mainland Business is located in the UAE mainland and can conduct business across mainland of UAE. The businesses in the mainland are regulated and licensed by the Department of Economic Development.
- (b) Free Zone Business is located in a specific zone (area) and can conduct business within the designated zone. If they want to do business, in the main land, their additional regulations are to be followed. The Free Zone businesses are formed, regulated and licensed by the various Free Zones that are existing in the UAE.
- (c) Offshore Business is located in one of the Free Zones and conducts business only offshore. In other words, the offshore company will do transactions outside the jurisdiction of UAE and its free zones. The Offshore Business license is generally issued by the various Trade Free Zones in the UAE and are governed by the respective Free Zones. An Offshore Company can open and operate a Bank Account in the UAE.

Forms of Business Enterprise

The various forms of business enterprises permitted in the United Arab Emirates are as follows:

- (a) Sole Establishment – Sole proprietary Organisation which can be formed only by UAE Nationals or GCC Citizens. Sole Proprietary Establishment is generally formed in the name of the individual owner. The liability of the Sole Owner is unlimited and hence the owner needs to meet all the obligations of the business.
- (b) One Person Company – A One Person Company is also like a Sole Establishment as it is owned by one individual. One Person Company can be formed by a UAE National or GCC Citizen. It is a Limited Liability Company formed with only one person and hence the owner's liability is limited to the extent of the share capital of the company.
- (c) Civil Company – A civil company is formed for professionals like Doctors, Lawyers, Accountants and Engineers. A Civil Company can be owned by a person of any nationality but if the owners of the Civil Company are other than UAE National or Citizen of GCC then the Civil Company should have a UAE National as its "Service Agent". In the case of Civil Company in Engineering business UAE National should be a Partner owning minimum 51% of the Share Capital.
- (d) Company – A company incorporated under the Commercial Company Law (CCL). Article (9) of the CCL has prescribed five different forms of companies, viz., (i) Joint Liability Company; (ii) Simple Commandite Company; (iii) Limited Liability Company; (iv) Public Joint Stock Company and (v) Private Joint Stock Company. With the exception

Note:

.....

Background Material on UAE VAT

of Joint Liability Company and Simple Commandite Company, which shall be entirely owned by UAE Nationals, every Company shall have one or more UAE Nationals holding at least 51% of the Share Capital of the Company.

The Joint Liability Company will have two or more partners who shall be UAE Nationals and they are jointly and severally liable for all the obligations of the Company.

The Simple Commandite Company is a company which will have one or more UAE Nationals as partners. This is a form of company where it is permitted to have silent partners whose liability is limited to the share capital contributed by them. The active partners will have unlimited liability and will be jointly and severally liable for all the obligations of the Company. The General Partners whose liability is unlimited should be UAE Nationals and the Limited Partners can be nationals of other countries.

Limited Liability Company in short called as "LLC" – which can be formed by two or more partners of whom one shall be UAE National holding minimum 51% of the share capital of the company. This is the most popular form of organisation in the mainland. The LLC should have minimum two shareholders/partners and can have a maximum of 50 shareholders/partners. The Liability of a Partner/shareholder is limited to the extent of the Share Capital contributed by him. While it is compulsory to have one or more UAE Nationals holding minimum 51% of the share capital, the partners can agree to have a differential profit sharing ratio. In other words, though the UAE Nationals are holding 51% of the Share Capital they may be eligible for a much lesser share of profits as the business is predominantly managed and run by the other partners.

A **Public Joint Stock Company** is a company where the shares are offered to public for subscription. The shares are listed in the Stock Exchange, for example the PJSC in Dubai will have the shares listed in Dubai Financial Market (DFM) whereas a PJSC in Abu Dhabi will have the shares listed in Abu Dhabi Securities Exchange (ADX). The Liability of the shareholder is limited to his share of the Share Capital of the Company. Five or more persons can form a PJSC and as Promoters/Founders they shall contribute 30% to 70% of the Share Capital and the rest shall be offered to public through a Public Issue of Shares. However, the Founders are not allowed to subscribe to the shares offered in the Public Issue. A PJSC shall be managed by an elected Board of Directors and the Chairman and majority of the Board members shall be UAE Nationals.

A **Private Joint Stock Company** is a company where the number of shareholders is minimum two and maximum of two hundred. The Capital of the company is divided into equal shares to be paid in full but not offered to public. A shareholder shall be liable only to the extent of his share of the Capital of Company. The minimum issued capital of Private Joint Stock Company shall be AED 5 Million.

Note:

.....

All the five forms of companies under Commercial Company Law are titled as Partnerships as the Shareholders are referred to as Partners in the Act.

- (e) Partnership – A Partnership Company is a form of organisation where there are two or more partners who are contributing to the business. The name of the company shall have the name of the one of the partners in addition to a word that signifies the nature of business.
- (f) Branches –
 - (i) Branches can be established for Foreign Companies. The branch office shall carry on the activities of the Parent Entity. The Branch Office should have a local agent who shall be a UAE National.
 - (ii) Branch also includes branch of a UAE based company where the branch is 100% owned by the parent company.
 - (iii) Branches can also be branch of GCC based company where the branch is 100% owned by the parent company which is headquartered and based in one of the GCC countries.
 - (iv) Similarly, a Free Zone Company can have a branch in mainland and vice versa.
- (g) Representative Office – office set up in the UAE to represent a Foreign Company which can only perform the liaison function and is not permitted to import or export goods. The Representative Office can solicit business and do business promotion but cannot directly engage in any trading activity. A UAE National should be appointed as “Service Agent” for the Representative Office.
- (h) Intelqa – Home Office owned by a UAE National for conducting any type of professional, trade or artisan business. The business must be such that can be operated from a residential unit without causing any harm to the environment. The legal form of the business can be Sole Establishment or LLC or Civil Company or Partnership.
- (i) SME License – UAE National can also obtain SME License which is valid for 3 years for any activity.

2. Forms of organisation with limited scope to undertake trade

1. A Civil Company with professional license cannot undertake trading activities unless it is registered as an Engineering Company.
2. A Representative Office which is in UAE for liaison, order procurement and mere local presence to be in touch with the clients and prospects cannot undertake trading activities.

Note:

.....

3. A Free Zone entity is expected to do trade within the Free Zone or with the outside world, i.e., outside UAE. In other words, the Free Zone Entity cannot have trade with the mainland companies. However, the Free Zone Entity can obtain its services from a mainland company.
4. A Trading Company with specific objectives cannot undertake trade in other commodities or products unlike a General Trading Company.
5. A Limited Liability Company which is formed with specific activities listed in the Trade License cannot embark into other areas of business unless the relevant activity is added to the list of activities in the Trade License.

3. Defacto and Dejure Role of Local Arab Partner in Business

The requirement of UAE National being a majority stakeholder in the business is only in Mainland and is not applicable to Free Zone entities. However, if the Business Entity is being set up by a GCC National then there is no requirement for having UAE National as the local partner holding 51% of the Share Capital. The requirement of UAE National as the local partner is applicable only to Non-GCC Nationals who want to set up business in the mainland for either Commercial or Industrial activity. In the case of Professional Services the UAE National is needed only as a "Service Agent" and hence 100% of the ownership rests with the professional.

Though the UAE National holds 51% of the Share Capital in a Commercial or Industrial entity owned by Non-GCC Nationals, there is no requirement for the company to share the profits in the same ratio of the share capital. Companies generally resort to a differential arrangement whereby even the UAE National who holds 51% of the Share Capital gets only differentially agreed portion of the share of Profits. The day-to-day management of the business is with the expatriate partner. Bank Account operation and dealing with all Government Agencies can be handled by the Expatriate Partner without any interference of the UAE National.

4. Concept of Free Zone Enterprises

The Concept of Free Zone Enterprises was introduced to protect the interests of Business Owners who wanted to use UAE as a Trading Hub or Transshipment Centre. The Free Trade Zone is a secluded area which is properly fenced and the goods that are imported into the Free Trade Zone are brought in without payment of any Customs Duty. The goods are meant for other countries outside the UAE and are destined to leave the shores of UAE and hence are allowed to be brought in without any payment of Customs Duty.

The Free Zone Enterprises are also given immunity from Tax and enjoy tax free existence as the Free Zone area is considered as being outside of the UAE. However, if the goods are

Note:

.....

moved from the Free Zone into Mainland then it would attract Customs Duty. Free Trade Zones exist in all the 7 Emirates in UAE.

The Business activities that can be performed by the Free Zone Enterprises is decided by the respective Free Trade Zone Authority. However, the Owners and Employees of Free Zone Enterprises are given residence visa of UAE so that they can live in the UAE and conduct the business out of the Free Zone.

5. Inapplicability of Local Arab Partner in Free Zones

The Free Zone Enterprises do not generally have any trade ties with the mainland and hence the requirement of having a UAE National as 51% partner does not apply to Free Zone Enterprises. Thus, a Free Zone Enterprise can be set up with 100% foreign ownership. The Free Zones enterprises are expected to operate within the Free Zone and with the rest of the world with no connection with the Mainland. In view of the above it was felt by the Government that the involvement of a UAE National may not be required in the Free Zones. Hence 100% foreign ownership has been allowed in all the Free Zones across UAE.

6. Inter Free Zone Entity Transactions/Limitation

The Free Zone entities in different Free Zones can have transactions within the rules and regulations of the respective Free Zones. For instance, if the entity in Jebel Ali Free Zone wants to transfer goods to Hamriyah Free Zone in Sharjah then the documentation should be made as per the JAFZA requirements for exit of goods and similarly proper documentation should be made as per Hamriyah Free Zone for the goods to enter that Free Zone area. If the particular goods are not allowed to be transferred on a Duty Free basis then the goods have to be brought through the mainland by payment of customs duty.

7. Free Zone Entity and Mainland Transactions - Limitations

The Free Zone Entity is not permitted to deal with mainland companies to offer and sell its products and services. The restrictions apply to each Free Zone entity based on the rules and regulations in force in the respective Free Zone.

The Free Zone entities can transfer goods to the mainland at any stage by payment of customs duty as the transaction is treated as an Import into UAE when it enters the mainland, provided it is permitted by the respective Free Zone Authority. Generally import is done with the import license of mainland company (with exception, where free zone company holds import license to supply goods in mainland).

If the goods in the mainland had already suffered Customs Duty, they can be transferred to Free Zone as it will be treated as an Export from the mainland to the Free Zone. If the Trader is aware in the beginning that the goods imported into mainland is destined for the Free Zone,

Note:

then he could bring the goods into the mainland on "Import for Re-export Bill of Entry" whereby 180 days' time is available for re-export of the goods. In such cases the importer need not pay Customs Duty on the goods as it is meant for re-export. However, if the importer fails to re-export the goods within 180 days then the customs duty has to be paid on 181st day.

8. Incorporation, Maintenance and Liquidation of Business Entities

Incorporation

Formation of a business entity needs to be done by following the rules and regulations depending on whether the entity is in Mainland or Free Zone. The steps to be followed can be summarized broadly as follows:

1. Name Approval

The entity should first seek name approval for the name of the business and generally the name should reflect the activity. For instance, if the business entity is offering Accounting Services then the name should include the phrase "Accounting Services" and the activities to be performed by such entity will be limited to Accounting Services and related activities only.

2. Leasing of Office

The Second step in the Incorporation of Business is leasing of office premises. The number of Visas that the business is eligible will be determined based on the size of the Office Premises. Having a place of business is a pre-requisite for the formation of a business in the UAE and hence this is a very crucial step which needs to be addressed as soon as the name of the business is approved by the concerned Government Department or Free Zone Authority.

3. Trade License

Once the Leasing of premises is finalized then the Business Entity needs to be registered and a Trade License has to be obtained. If the business entity is owned by more than one person then the Shareholders Agreement, Memorandum of Association and Articles of Association have to be executed as the case may be. These contracts can be executed only in the presence of the Notary Public. The Contract between the Shareholders/Partners is required for getting the Trade License and also for registering the entity with the Chamber of Commerce.

4. Investor Visa/Employment Visa/Residence Permit

Once the Trade License is obtained the Visa formalities have to be done to get the Investor Visa for the Promoters/Partners and also the Employment Visa for the employees of the Business Entity. Once the Visa is obtained the Investor/Employees should get their residence permit stamped on the passport.

Note:

.....

5. Commencement of Business

Upon incorporation of the business by obtaining the Trade License the business entity can start its activities. In order to commence the business, the first step would be opening of Bank Account in the name of the business entity.

Maintenance

Maintenance of the Business Entity would entail renewal of the Trade License every year. Depending on the jurisdiction the requirements have to be met for the renewal purposes. Some of the Free Zones require Audited Accounts to be submitted each year for renewal of the Trade License. The requisite Trade License Fee has to be paid and all other requirements have to be met for the Trade License to be renewed. Irrespective of the jurisdiction the renewal of Trade License is an annual feature as the Trade License issued by the Government Authority or Free Zone Authority is valid only for one year in most cases.

Liquidation

While starting a business is fairly simple and easy the closure of business is quite complex. To start a business it may take few days in most of the jurisdictions. However, liquidation of business would mean first settling all liabilities of the business, whether it is amounts due to Government Departments or Banks or Financial Institutions or Suppliers or Vendors or Employees. All dues of the business have to be fully settled and all registrations have to be properly closed. Finally, the business will get liquidated if all the formalities are fully complied with as per the requirements of the Government or Free Zone Authority. The normal time span for liquidation of a business in the UAE can be anywhere between 12 to 18 months as the process is quite complex and tedious.

9. Summary

1. The three types of licenses that are issued in UAE are Professional, Commercial and Industrial.
2. There are primarily two jurisdictions in UAE, viz., Mainland and Free Zone and technically we could have the Offshore Companies as the third jurisdiction in the Free Zones.
3. The various forms of Organisation in UAE are Sole Establishment, Civil Company, Partnership, Company, Branch, Representative Office, Intelqaq and SME
4. The requirement of a Local UAE National as Partner holding 51% of Share Capital is only in Mainland that too for Commercial and Industrial Activity.
5. Civil company for professionals like Doctor, Lawyer and Accountants can be owned by

Note:

.....

Background Material on UAE VAT

any person other than UAE or GCC national subject to a condition of having a UAE national as its "Service Agent".

6. Free Zones offer the flexibility of 100% foreign ownership and tax exemption for life time.
7. Free Zone entities have restrictions in having dealings with Mainland Companies and the rules and regulations are prescribed in this regard by the respective Free Zone Authority.
8. Forming a Business is quite simple, easy and fast in the UAE irrespective of the Jurisdiction.
9. Maintenance of the Business requires fulfilment of all the requirements of the Government Authority or Free Zone Authority as the Trade License needs to be renewed every year.
10. Liquidation of a business is quite complex and time consuming as the legal requirements are far too demanding and complex.

Note:

.....

Chapter-5
VAT Law

Chapter-I

Important 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:

<p>State: United Arab Emirates</p> <p>Minister: Minister of Finance</p> <p>Authority: Federal Tax Authority</p>
--

The definition of 'State' is relevant as it determines the tax jurisdiction. In the context of UAE VAT Decree-Law, the law extends to the territory of UAE State.

The Federal Tax Authority was established under Federal Decree-Law No. (13) of 2016. The Federal Tax Authority shall have jurisdiction over the administration, collection and enforcement of Federal Taxes (including Value Added Tax) and Relevant Penalties. The Authority shall also be responsible to distribute their revenues and to apply the Tax Procedures applicable in the State. Federal Tax Authority shall have an independent legal personality, the necessary legal capacity to act and withhold financial and administrative independence.

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. The Federal Tax Authority shall be managed by a board of directors chaired by the Minister and a sufficient number of members. The Board is the supreme authority overseeing the Authority's affairs and conducting its business. The Authority shall have a Director-General at the rank of an Undersecretary.

Director-General of Federal Tax Authority shall be appointed by federal decree based on a nomination from the Chairman and the approval of the Board. The Director-General shall exercise the powers vested to him by the Board and required to manage the Authority. The Director-General may delegate some of his powers to the executive directors of the Authority as per stated provisions.

<p>Value Added Tax: A tax imposed on the import and supply of Goods and Services at each stage of production and distribution, including Deemed Supply.</p> <p>Tax: Value Added Tax (VAT)</p>

The Decree Law has been framed to empower the State to levy tax on import and supply of Goods and Services, which is to be called as Value Added Tax (hereinafter referred to as "VAT"). The scope of taxation under the Decree would be as under:

Important Definitions

- Supply of goods and services: The Decree-Law encompasses levy of Tax both on the supply of goods and supply of services. Title Three Chapter One (Articles (5) to (10)) of the Decree Law define what is treated as supply of goods or supply of services.
- Import of goods and services: There is separate reference of imports of goods and services as tax would be imposed on importation also. VAT imposed on importation of goods would be on 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. In other words, the VAT is applied on import of goods on the basis of the landed cost.
- Deemed Supply: The Decree-Law defines Deemed Supply under Title Three Chapter Two (Article (11) & (12), defined instances of deemed supply & instances of exceptions thereof i.e. circumstances wherein the supply shall not be treated as deemed supply.

Tax is imposed on all stages of value chain starting from production to distribution. As the name itself indicates, the tax would be levied on value addition in each of these stages till the goods or services reach the final consumer. Entire incidence of tax is permitted to be transferred to be borne by consumer. There could be instances where consumption is by business. In such cases, the tax burden would be on such business which may be not be able to recover input tax or instances where tax is imposed on the deemed supply. In summary, Value Added Tax is a consumption tax which is borne by the consumer of the goods and services. (Consumer is the one with whom the value chain terminates).

Wherever the law has reference to the word “tax”, it shall connote the Value Added Tax payable under this Decree- Law.

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.

The member States of Gulf Cooperation Council (GCC), includes all the six states, namely:

- The United Arab Emirates,
- The Kingdom of Bahrain,
- The Kingdom of Saudi Arabia,
- The Sultanate of Oman,

Note:

.....

Background Material on UAE VAT

- The State of Qatar, and
- The State of Kuwait

All the member States, in line with the objectives of the GCC Economic Agreement of 2001 and pursuant to the Supreme Council decision at its 36th meeting (Riyadh – 9-10 December, 2015) agreed and signed Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) on 27 November 2016. This Agreement aims to establish a common legal framework for the introduction of a general tax on consumption in the GCC known as Value Added Tax (VAT) levied on the import and supply of Goods and Services at each stage of production and distribution.

United Arab Emirates and Kingdom of Saudi Arabia are the first two States to implement Value Added Tax effective from 1 January, 2018. Other States are also expected to implement the VAT as part of Common VAT Agreement of the States of the Gulf Cooperation Council (GCC).

In the UAE VAT Law references can be found to ‘Implementing States’. Although the GCC Framework Agreement has been signed by six GCC member States, only when each sovereign enacts its own VAT legislation and implements that law, then that member State will enjoy the treatment of ‘Implementing State’ under the respective VAT laws of other member States. This reference to implementing States assumes significance considering that special status is given to transactions taking place between Taxable Person of (say) UAE and Implementing State(s). Any State would fall within the definition of Implementing State from the date it implements the VAT. Till such time, though part of the GCC States, any transaction taking place between Taxable Person of UAE and Person of such non-Implementing States would be dealt with in similar way as it would be with persons of other countries outside GCC territory in rest-of-world. In short, it will be treated like a normal export/import transaction.

Even though both UAE and KSA have implemented the VAT Law with effect from 1st January 2018 it is pertinent to note that till now (May 2018 when this third edition was prepared) the two states have not firmed up the Electronic Exchange of Information and hence the transactions between UAE and KSA do not fall under the GCC framework and hence they are not treated as transaction with the Implementing 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.

- There is specific definition of “goods” within the Decree Law which requires this definition of goods to be observed in the entire law though there could be separate definition of the goods in other laws of the State. The definition of goods is very specific as it covers only physical property i.e. tangible goods. Classification issues may arise as to the treatment of

Note:

.....

intangible property i.e. software installed in physical form viz. DVD and supplied off the shelf. Relevant point for consideration may arise whether DVD which is used as medium to convey intellectual content could be said to be physical (tangible) property or intangible property considering the fact that value of software/ intangible portion is significantly higher than the medium used to convey it.

- In addition to all physical properties which are capable of being supplied, few things have been specifically included in the definition of goods. First is the “real estate”. ‘Real estate’ is a wide term which could include bare land; semi developed plots, immovable property under construction or completed immovable property. Important feature would be that it should have characteristics of immovability. Supply of real estate including sale and tenancy contract are considered as supply of goods.
- The detailed discussion on this is made in the Chapter – II: Levy of VAT.
- Water and all forms of energy are covered in the definition of supply of goods, 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.

Services: Anything that can be supplied other than goods.

VAT being consumption tax has been made very wide to cover consumption of all nature by expanding the scope to include anything within definition of service which is not in the nature of goods. Hence, transfer of title in goods is “supply of goods” whereas temporarily providing the goods for usage is “supply of services”. The distinction between goods and services is very vital from the perspective of eligibility of exemptions, place of supply provisions etc. It is relevant to observe that intangible properties which have been excluded from the definition of goods would get covered within definition of services.

It is pertinent to note that Services may include Goods but Goods does not include services.

Import: The arrival of Goods from abroad into the State or receipt of Services from outside the State.

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.

Note:

.....

Background Material on UAE VAT

Import of goods within the territory of UAE has been subject to Customs Duty as per “The Common Customs Law for the Arab States of the Gulf (GCC States)”. The definition of imports cover only goods under Unified Common Customs Law which is brought within the levy of VAT and along with import of services that are not covered by Unified Common Customs Law. Import of goods is when the goods are brought within the State from abroad which means not only from outside GCC countries but also from any of the GCC countries. Accordingly, import of goods from KSA to State would be covered within the definition of imports, subject of course to mutual co-operation, exclusions and exemptions, if any. Here one needs to distinguish between definition of imports as given under ‘the Decree law’ and ‘The Common Customs Law for the Arab States of the Gulf (GCC States)’. In the latter, importation of goods covers entry of goods into any Member State from outside the Council Territory in accordance with provisions of Unified Common Customs Law. The person whose name is listed as importer on the date of import for Customs clearance purpose is defined as importer under the VAT Law.

Similar to goods, receipt of services in the State from outside the State gets covered within the definition of import under VAT Laws.

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.

- UAE has large number of Free Trade Zones (FTZ) to promote the international trade and economic activities in the region. These areas are regarded as outside the State for customs purposes and any goods brought to the FTZ from mainland and *vice versa* are treated for customs purpose, similar to international trade. For VAT purposes, designated zones shall be considered outside the GCC states.
- The main difference between free zones and designated zones may be that of VAT applicability. VAT shall not be applicable on transactions in designated zones, subject to some exception, while the areas other than designated zones shall be considered mainland for the VAT purposes.
- The designated zones (DZ) are special areas which are notified through Cabinet Decision No. (59) of 2017 - As per notification, there are 20 Designated Zones in United Arab Emirates, which meet the conditions stipulated in the Executive Regulation of the Decree-Law.

Concerned Goods: Goods that have been imported, and would not be exempt if supplied in the State.

Note:

.....

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.

'Concerned Goods' and 'Concerned Services' have been defined in the context of importation of goods and services. Where any goods or services are imported in the State and they are not exempted in the State when supplied locally, these shall be referred as 'concerned goods' and 'concerned services' irrespective of their taxability status in the country of exportation. It gains relevance under reverse charge mechanism where liability to pay tax on import of goods or services would depend upon whether they are exempted or not when supplied within the State. A detailed discussion on Reverse Charge Mechanism is made in Chapter – II: Levy of VAT of this BGM.

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

Definitions from Cabinet Decision No. (52) of 2017 on the Executive Regulations of the Federal Decree-Law No (8) of 2017 on Value Added Tax

Direct Export: an Export of goods to a destination outside 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 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 resides in the State, and does not have a Tax Registration Number.

- Movement of goods from the State to outside State is considered as export of goods.
- Export of goods has further been classified into direct and indirect exports. The main difference between direct and indirect export of goods is that of the person responsible to carry on the transportation of goods, i.e. if supplier is responsible, supply shall be treated as direct exports; whereas, if customer is responsible for carrying on the transportation, it shall be treated as indirect exports.
- In case of direct or indirect exports, there is no impact from taxability point of view, however, documentary compliances differ in both instances. Conditions for qualifying

Note:

Background Material on UAE VAT

transaction as direct or indirect exports shall be explained later in the chapter relating to import-export mechanism.

- In case of indirect exports, there is an additional condition of customer being an overseas customer. Overseas customer may be any of the following:
 - Recipient of goods who does not have a place of establishment or Fixed Establishment in the State
 - Recipient of goods who does not resides in the State, and does not have a Tax Registration Number.
- However, in case of services, there is no distinction between direct and indirect exports. In simple terms, services are said to be exported when the recipient of services is located outside the State, subject to the provisions of the Law and its Executive Regulations.

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.

Definitions from Cabinet Decision No. (52) of 2017 on the Executive Regulations of the Federal Decree-Law No (8) of 2017 on Value Added Tax

Legal Representative: the manager of a company or a guardian or custodian of a minor or incapacitated person, or any person appointed legally to represent another person.

All natural and legal persons have been included within the definition of person.

When a person gets himself registered under the Decree Law; whether compulsorily or voluntarily, person becomes a taxable person. Further, a person who is liable to get registered as per Decree Law whether or not gets himself registered gets covered within definition of taxable person.

Legal representative may also be appointed by the taxable person for his representation or there may be special cases as specified where the appointment of legal representative becomes necessary.

Tax Registration: A procedure according to which the Taxable Person or his Legal Representative registers for Tax purposes at the Authority.

Note:

.....

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.

Tax Return: Information and data specified for Tax purposes and submitted by a Taxable Person in accordance with a form prepared by the Authority.

On making application for registration, each person shall be assigned a unique number referred as Tax Registration Number (TRN) which needs to be used for invoicing, communication with authorities and all other purposes under the Law.

Once a person is allotted TRN, he shall be considered as Registrant.

Tax Return is a form wherein information and data specified for Tax purpose has to be submitted by the taxable person periodically at given intervals.

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.

Tax Agent is a person who gets himself registered and listed in the register as per the procedures mentioned in the Cabinet Resolution no.36 of 2017 on the Executive Regulations of Federal Law No.07 of 2017(Tax Procedures) and he shall be bound with obligations and empowered with rights mentioned therein.

Tax Audit is conducted on the basis of decision taken by Federal Tax Authority considering that it is necessary for the protecting the integrity of the Tax system;likely Tax revenue at stake and the administrative and compliance burdens on both Federal Tax Authority and the person resulting from performing a Tax Audit.

Recipient of Goods: Person to whom Goods are supplied or imported.

Recipient of Services: Person to whom Services are supplied or imported.

Transactions involving more than two persons, could result in an ambiguity as to who should be treated as the 'recipient' for filing the return of inward supplies, paying tax on reverse charge

Note:

Background Material on UAE VAT

basis, determining whether the relationship with the supplier will impact valuation, etc. This requires determination of recipient of service/recipient of goods. VAT Law being based on the 'place of supply' of goods and services, 'recipient' would generally be the person who contracts with Supplier for the supply regardless of the site of delivery of the goods and the place of consumption of 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.

The Taxable Trader is defined with special reference to taxable persons engaged in main activities of distribution of water and all types of energies as specified in the Executive Regulations. Such person may be in any of the Implementing States.

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.

The following aspects need to be noted:

- Consideration is not only the amount that the recipient (of goods and services) pays but also refers to the amount that the supplier collects whether from the recipient or any third party in relation to the supply. This would be particularly relevant in dealing with complex arrangements in digital economy and new-age business. It is also relevant that consideration includes not only what has been paid but also which supplier may expect to receive in future.
- Consideration can be in the form of **money or other acceptable 'forms' of payment**. With technological advancement, there are many other forms of settlement of consideration which represent money such as wire transfer, online transfer, e-payment, pre-paid instruments or digital wallets. In view of the words 'other forms of payment', it can be understood as deriving its meaning from 'money' or expanded to include 'any form of consideration'. Interpretation cannot travel beyond the words used by the law-maker. Words of the definition should be read in its entirety and not by selecting parts of it although isolating certain words may be helpful to examine the effect it produces on the rest of the context. If 'anything' can be consideration then the reference to money in the later part of the definition would be rendered otiose. And if this later part of the definition must be given its due meaning, the definition cannot receive such a significant, profound and expanded meaning by interpretation with some grammatical liberties. When the law-making body was

Note:

.....

free to use clear expressions to include non-monetary consideration in the definition of consideration, the restrictive words used must also be admitted to be used deliberately.

- Other acceptable forms of payment would include the barter settlement for transactions as there have been increased number of such transactions in recent past in the U.A.E.
- Whatever is received or expected to be received by the supplier, should be in relation to supply of goods or services. This requires existence of nexus between supply of goods / services and consideration.
- There is no specific mention as to whether deposits form part of the consideration. There could be a possible view that lumpsum refundable deposits not directly attributable to supply of goods or service may not form part of consideration. However, deposits should be distinguished from advances as the later is very well within the purview of consideration at the time of receipt.

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.

- An activity may be within the purview of taxation law provided it is done in the course of business. A transaction shall be treated as conducting a business only if it is conducted in a regular manner i.e. a single stray transaction of sale of goods or services shall not be covered under the purview of business.
- Business displays intention, competence, qualification or preparedness, not accidental (activities), licensed organization, regularity, profit motive, etc. are indicative of Business.
- The word “independently” is very significant in the definition of business. One could infer the meaning of ‘independently’ with reference to Article 10 of EU VAT Directives (Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax), where the term ‘independently’ shall exclude employed and other persons from VAT in so far as they are bound to an employer by a contract of employment or by any other legal ties creating the relationship of employer and employee as regards working conditions, remuneration and the employer’s liability.
- The activities given in the definition are illustrative nature as they are preceded by the word “such as”. Hence, there could be any other activities of similar nature to be covered within definition of business.

Note:

.....

Background Material on UAE VAT

- Above activities may be carried out in relation to tangible as well as intangible properties.

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.

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.

Deemed Supply: Anything considered as a supply and treated as a Taxable Supply according to the instances stipulated in this Decree-Law.

- Taxable Supplies: Important features of taxable supplies are:
 - (a) There should be “supply of goods” or “supply of service”
 - (b) Such supply should be for consideration.
 - (c) The supply must have been made in the course of business.
 - (d) The supply must have been made by a person in the State wherein he is conducting business. The law makers have specifically chosen the word “person” instead of “taxable person” as there could be supplies where liability arises irrespective of registration status of supplier.
 - (e) Exempted supplies are not included within the definition of taxable supplies. However, zero rated supplies (i.e. Supplies rated “ZERO” may be eligible to recover input tax) would be taxable supplies.
- Exempted Supplies: Important features of exempted supplies are:
 - (a) The supplies must be made in the course of business. Activity which is not in the course of business does not get covered within the definition of exempted supplies.
 - (b) There is no tax due on the supply.
 - (c) The supplier cannot recover the input tax paid on inward supplies of goods or services used for providing exempt supplies.
- Deemed Supplies are such supplies which may not fall within the normal meaning of supply but by virtue of deeming fiction created in the law, would be considered as deemed supplies and subject to tax. The instances of deemed supplies and its exceptions are covered in Article (11) and Article (12) of the Decree law respectively.

Note:

.....

Input Tax: Tax paid by a Person or due from him when Goods or Services are supplied to him, or when conducting an Import.

Recoverable Tax: Amounts that were paid and may be returned by the Authority to the Taxpayer pursuant to the provisions of this Decree-Law.

Output Tax: Tax charged on a Taxable Supply and any supply considered as a Taxable Supply.

Due Tax: Tax that is calculated and charged pursuant to this Decree-Law.

Payable Tax: Tax that is due for payment to the Authority.

- Input tax is tax paid/payable by a person on goods or services which are supplied to him. This also includes the tax paid/payable on importation of goods or services under reverse charge mechanism.
- Recoverable tax is that portion of input tax which a taxable person can adjust against tax due on his supplies. There could be instances where input tax may not be recovered as being used for making supplies not in the course of business or for making exempted supplies or specifically excluded from the recoverability as per provision of the Decree Law or Executive Regulations issued thereunder. Registrant is only allowed to recover input tax, except for other Provisions relating to Recovery stated in Title Sixteen of The Executive Regulations.
- Output tax is tax charged on the taxable supplies. Tax payable under RCM is also covered within purview of Output Tax. Further, any tax charged on the deemed supplies are also termed as output tax.
- Payable Tax is net tax dues payable to Authority. This is net of output tax minus recoverable input tax deducted in the tax period.

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.

The Tax invoice is a document which records the transaction between parties and is required to have all details to be disclosed therein as are mandated by the Decree Law or Executive Regulations issued thereunder. The Tax invoice may be issued either physically or it could be an electronic document.

Note:

.....

Background Material on UAE VAT

Tax Credit Note is amendment to the Tax Invoice under circumstances as mentioned in Title Seven Chapter Four (Article 61) which results in the reduction or cancellation of taxable supply or tax thereon charged previously based on the tax invoice. Tax Credit Note is a medium for adjustment or correction in originally reported tax liability and can be issued under specified circumstances.

Government Entities: Federal and local ministries, government departments, government agencies, authorities and public institutions in the State.

Activities conducted with Sovereign Capacity: Activities conducted by Government Entities in their sole competent capacity, with or without Consideration.

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.

Government entities are specified entities in the State which are stated by

- Federal and local ministries,
- Government departments,
- Government agencies,
- Authorities and
- Public institutions in the State.

There is separate tax treatment for supplies made by the government entities depending upon the nature of supplies i.e. activities conducted in a non-sovereign capacity or in competition with the private sector.

Charities have also been defined to include such non-profit organisations which are listed/designated by the Cabinet decision. Such entities may not carry out economic activities in the course of business and are allowed to recover input tax. Cabinet Decision No. 55 of 2017 and

Cabinet Decision No. 15 of 2018 (on Amending), refers to the Charities That May Recover Input Tax.

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.

Note:

.....

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.

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.

- A person making taxable supplies is required to take registration if the value of taxable supplies or anticipated value of taxable supplies exceeds the mandatory threshold of registration. Where taxable supplies made by a person do not cross the threshold limit for mandatory registration but cross/expected to cross voluntary threshold limit, he may apply for voluntary registration.
- In lieu of registration as separate taxable persons, two or more related persons can get themselves registered as tax group where single registration shall be allotted to the entire group instead of individual registration for each of the person forming part of the group. Tax Registration as a tax group can be taken only if all the conditions specified in Article (14) of the Decree-Law are satisfied. Any transaction taking place between members of tax group shall not be subject to VAT implications.

Transport-related Services: Shipment, packaging and securing cargo, preparation of Customs documents, container management, loading, unloading, storing and moving of Goods, or any another closely related services or services that are necessary to conduct the transportation services.

The transport related services are intended to cover services which are incidental or ancillary to transportation of goods. This is relevant in the context of determining whether the services in relation to transportation would be covered under zero rated or taxable supply.

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.

Note:

Background Material on UAE VAT

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.

- Place of establishment denotes the place where business is legally constituted or where central decision making or management functions are undertaken. This could be registered office, corporate office or any other place satisfying the criterions.
- Fixed establishment indicates the place where business is carried on, other than the place of establishment. The following two elements are critical to determine whether a place is a 'fixed establishment':
 - (a) Having a sufficient degree of permanence; and
 - (b) Having a structure of human and technical resources.

The following aspects need to be noted:

- The person should undertake supply of goods or services or should receive and use goods and services in such place;
- Not every temporary or interim location of a project site or transit-warehouse will become a fixed establishment of the taxable person.
- Temporary presence of staff in a place by way of a short visit to a place or so does not make that place a fixed establishment;
- The fixed establishment should have integral connection with the making or receipt of supply. Mere presence of persons at one location for the purpose of temporary or non-integral functions i.e. accounting or billing etc., by the fact itself cannot be considered as existence of fixed establishment.
- The definition of fixed establishment specifically includes the branch office within its definition.
- The place of establishment or fixed establishment, as the case may be, is considered to be place of residence. This is relevant for determining the place of supply and place where registration has to be obtained.
- A person who does have a place of residence or does not normally resides in the State is considered to be non-resident person. A person making taxable supplies exceeding the

Note:

.....

mandatory threshold limit is required to take registration in the State. But there are specific provisions for non-resident to take registration and computation of threshold of the same.

Related Parties: Two or more Persons who are 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.

Transactions between related parties are prone to distortion and this requires specific provisions in the tax laws to curb such practices. The 'Related parties' have been defined to have following essential aspects:

- A. Where two or more persons are not separable from each other on account of:
 - a. Economic;
 - b. Financial; or
 - c. Regulatory leveland
- B. One of them can control other/s either by:
 - a. Law or
 - b. Acquisition of(i) shares or (ii) voting rights

Article (9) of the Executive Regulation defines Relates Parties in the context of registration as Tax Group. Refer Registration chapter for detailed discussion on related parties.

Customs Legislation: Federal and local legislation that regulate customs in the State.

The UAE Federal Custom Authority specifies the rules and procedures for import to and export from the State. These rules and procedures are derived from "The Common Customs Law for the Arab States of the Gulf (GCC Sates)" which specify the rules for the GCC member States. As per the UAE Custom Law, the territory has been divided into two - Mainland and Free Trade Zones. These Free Zones are considered outside the Customs Territories i.e. import and export duties are not applicable. However, if goods are exported from Free Zones to UAE Mainland, duties shall be leviable. Moreover, each Free Zone has its own Regulatory Authority and Laws subject to some regulations from UAE's Relevant Authority.

Note:

.....

Background Material on UAE VAT

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.

- ‘Voucher’, for the purposes of VAT, means an instrument which gives its holder a right to receive goods or services against the value stated thereon. At the same time it is an obligation for the holder to accept it as consideration (wholly or partly) for a supply. Therefore, a voucher is an asset for the recipient, and without a recipient, a ‘voucher’ would lose its meaning. Therefore, in the case of a supplier issuing a voucher to a recipient of goods, on his making a purchase from the supplier, the voucher is not being viewed as an additional outcome of the supply made to the recipient. Rather, it is an instrument that can be used in place of money (or other consideration) which can be used on effecting yet another inward supply. E.g. coupons, tokens, promo-codes, etc.
- Sometimes, instead of entitling the recipient to receive the goods or services, the voucher entitles the recipient to claim discount on the price of goods or services.
- With technological advancement, the voucher need not necessarily be in physical form. It can be in digital forms also so long as it satisfies the essential attributes to claim right to receive goods or services or discount on their prices.
- Sale or issuance of voucher will be considered as supply only when consideration received exceeds the advertised monetary value of voucher. In all other cases, sale or issuance of voucher will not be considered as a taxable supply. This is due to the fact that the voucher has value only at the time of redemption and is only a means of settlement of the dues at the time of purchase of goods or services.

Assets: Tangible assets, including equipment, machinery, stock and others, that the Authority has considered as owned, leased or used in connection with the conduct of business by any Person.

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.

- Assets is defined under Cabinet Decision no.36 of 2017 on the ER of Federal Law No.7 of 2017(Tax Procedures) which provides the assets should be tangible and shall be owned, leased or used in connection with the conduct of business. So the “assets” defined is the business assets and the personal assets shall not be covered under the same.

Note:

.....

- Capital assets is defined in Article (57) of the Executive Regulation, as a business assets 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.
- Where the useful life of asset is or more than the time specified in the Executive Regulations, capital assets scheme shall apply. Under Capital Assets Scheme, VAT borne on such assets shall be eligible for full recovery provided such inputs are used according to the provisions of Article (54) of the Decree Law. However, yearly assessment needs to be carried down by the taxable person relating to the use of such capital assets. Detail discussion on capital assets scheme shall be done in later chapters.

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.

- Separate Tax procedures have been issued vide Federal Law No. (7) of 2017 to provide for procedural and regulatory aspects of tax assessment, rights and responsibilities of tax payers and authorities and consequences for non-compliance of the law.
- Administrative Penalties may be imposed on any person either under this Decree Law or under Federal law on tax Procedure.
- Separate authority is to be constituted for tax assessment purpose and decision of the authority for concerning due penalties is called as administrative penalties assessment.
- Cabinet Resolution No.40 of 2017 provides the guidelines on the levy of the Administrative Penalties for violations under the tax laws in the UAE.

Excise Tax: A tax imposed on specific Goods.

The UAE has implemented excise tax under “Federal Decree-Law No. (7) of 2017 on Excise Tax”. Article (6) of “Cabinet Decision No. (38) of 2017on Excise Goods. Excise Tax Rates and the Method of Calculating the Excise Price” specifies the Tax Rate as 100% on Tobacco products and Energy drinks and 50% on Carbonated drinks. Excise Tax was implemented effective from 01 October 2017, vide Article (10) of the Cabinet Decision No. (38) of 2017. The tax is leviable on activities of production, imports, release of excise goods from designated zone and stockpiling of excise goods. Separate chapter on Excise Tax is covered later in this book.

Note:

.....

Chapter – II

Levy of VAT

Article 2 – Scope of Tax

Article 2 of Decree-Law: 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.

Introduction

The VAT Law seeks to cover under VAT the following:

1. Every Taxable Supply and Deemed Supply made by the Taxable Person.
2. Import of Concerned Goods except as specified in the Executive Regulation.

Not all transactions are liable to VAT under the VAT Law. The boundaries are set by this article in two ways:

1. Transactions that come within the definition – Taxable Supply – are liable to VAT and those transactions that (admittedly) do not come within the definition are forcibly brought within the definition by a fiction of law – Deemed Supply.
2. The persons who are to come within the operation of the law – Taxable Persons – are also specified.

Now, from the whole range of transactions that take place, we will need to delve into a very specific sub-set of transactions to identify where the liability to VAT stands attracted.

Analysis

Taxable Supply

Taxable Supply is defined in 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”*. From this definition, we can observe the following ingredients to be flowing into Article 2 regarding Scope of Tax:

- Goods or Services must be involved in a transaction of supply
- Consideration must exist as an equitable exchange for the goods or services
- Two Persons must be involved in the transaction
- Transaction must occur in the course of Business of the Person
- Such Business must be organized and undertaken in the State of UAE

- It should not be an expressly Exempt Supply

From the above paraphrased presentation of Article 1, further discussion, in detail, may be taken up.

Goods and Services

Goods and Services being defined in a mutually exclusive manner. As per Article (2) of Executive Regulation, following shall be considered as 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.

Services appear to include 'non-physical' property along with 'anything' else that can be supplied. Services must be understood not merely as a verb but a noun that is capable of encompassing all transactions that escape the definition of goods. As per Article (3) of Executive Regulation, 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.



Note:

Background Material on UAE VAT

It can be seen from the above representation that Services is a large set of transactions, as per Article (1) of Decree-Law, service is defined as “anything that can be supplied other than goods”.

Consideration

Consideration appears to be limited to money consideration. Though, it is defined with the words ‘all that’ is received or expected to be received ‘for’ the supply, the definition concludes with the words ‘money or other acceptable forms of payment’. Consideration in money can be paid in various forms such as cheques, bank drafts, online payment, credit cards and digital wallets, if approved. The practice of issuing “post-dated” cheques may be only a manner of security and may not be considered as payment of the consideration.

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) of Decree-Law, related to “Value of Supply” i.e. instances where consideration is not monetary, the value of the supply is calculated as the market value of the Consideration. Therefore, barter is to be entertained as a ‘form’ of money for the goods or services that are exchanged. In fact, arrangements involving ‘non-monetary inducements’ would also be consideration if they can be established to motivate delivery of goods or services. It is important to demonstrate that it is this consideration which motivated the supply and not a mere coincidental, simultaneous and cross-cancelling transaction that takes place in a particular case to be regarded as consideration.

Non-monetary Consideration

Due to the remarkable nature of implications flowing from the use of non-monetary consideration in VAT Law it is necessary to briefly discuss the implications. Please note that even in case of non-monetary consideration, Supply must still be established to fasten liability to tax.

When it is admitted that there is a valid contract having non-monetary consideration, a look at some illustrations can help understand the implications more clearly, namely:

- Warranty supply of parts to end customer through a dealership – the replacement parts are supplied ‘free’ to the end customer. At first, it is important to determine whether the parts replaced are actually covered by warranty in the supply contract or whether there is any replacement request entertained for out-of-warranty equipment for brand building exercise. Then, the warranty obligation lies only with the original equipment manufacturer (OEM) but the actual replacement is carried out at the dealership. When a warranty claim is made with the dealership by the end customer, the dealer seeks approval from OEM. Only after ‘in-warranty approval’ is received from OEM does the

Note:

.....

dealer replace the part. Now, the warranty replacement between OEM to end customer is not liable to VAT not because it is free but because the price for the replacement is built into the price of the equipment originally supplied and therefore tax has already been paid by OEM. However, the dealer who replaces the part does not carry any role in the warranty fulfilment. In fact, the dealer 'delivers' the part to customer but 'supplies' is made by OEM. Hence, there is another supply embedded here between dealer to OEM because dealer uses a tax-paid part from his inventory to replace it for the end customer. Alternatively, the OEM issues credit note to dealer for the part used in the warranty replacement. As such, warranty involves two supplies and neither of which are free. One is tax pre-paid (if original supply was after implementation date) and another is currently taxed though not involving end customer

- Physician's sample of drugs issued through sales representatives – these drugs are distributed by the physician during clinical consultation with patients. As such, the fee paid by patient to physician is one supply (whether taxable or exempt) but the supply by pharmaceutical company to physician is another supply (which is the supply referred in this discussion). To hold that cost of such samples is included in the price of units sold and therefore there is no requirement to again impose VAT based on Article (34) of Decree-Law on the samples, would go against the valuation methodology adopted in VAT. In other words, VAT law expects each transaction supply to stand the test of valuation on its own merit. If it is established that there is a non-monetary consideration flowing to the supplier then, samples will be liable to VAT as determined by Article (34) of Decree-Law. This would be true not only of drugs but samples of any kind that are permanently given away – amounting to Supply.
- Defaced samples of garments given to supplier by brand-holder – in comparison with physician's samples, defaced samples are those which are 'unfit' for resale or end-use. Such kinds of samples are given in B2B transactions for helping suppliers to study the expected final product to prepare quotation for further orders. As these samples have been deliberately defaced and rendered unsuited for resale or end-use, there can be no argument that consideration flows from recipient of defaced samples back to brand-holder. Accordingly, such transactions cannot be equated with 'saleable' samples given away for non-monetary consideration. Reference may be had to the previous discussion on the concept of non-monetary consideration existing in a commercial transaction. Distinction must be made of 'saleable' goods given away at 'no charge' and goods that are 'unfit for sale' being disposed off.
- Free-issue-material provided by client to contractor – is admittedly not a supply in itself, but the question that arises is whether there is any consideration flowing from the client to the contractor vis-à-vis the free-issue-material (FIM). Care should be taken in the

Note:

.....

Background Material on UAE VAT

drafting of the contract whether the work was awarded for a full rate and then deductions are made towards FIM by reducing the running-account-bill of the contractor or whether the contract itself was awarded for the reduced rate. The conclusion with regard to taxability of FIM depends on – whether there is any consideration flowing from the contractor to the client for having issued the said material or the material so issued is the object upon which the contractor is to carry out his supplies and fulfil his contracted obligations? If the contractor were merely required to account for the entire quantity of FIM received by him with complete liberty to apply the FIM for the client's project or on any other project, without any restrictions or embargo. For the issuance of FIM to be regarded as a 'transfer', it must be absolute and unhindered to constitute a supply in and of itself. Reference may be had to the discussion on supply again and examine if issuance of FIM comes within the grasp of any of the said forms of supply.

These illustrations do not cover all possible scenarios but lay down some pointers that need to be considered while determining the valuation and VAT impact of non-monetary consideration being recognised in the VAT law.

Person

Person includes natural persons and legal persons and such Persons must possess lawful authority to undertake the supply and with an active intention. Any transaction that accidentally takes place resulting in goods or services reaching another person would not attract VAT. Transactions by the Government in Sovereign capacity also can be liable to VAT as per Article (10) of Decree-Law.

But it is important to note that since 'consideration' is necessary to undertake Supply, we can infer that 'two' Persons are necessary to complete a Taxable Supply. It is not possible for one Person to pay the Consideration to himself. Further, branches of the same Business located in the state also do not satisfy this requirement of 'two' Persons and hence there cannot be a Taxable Supply between branches even if they are in different Emirates. Transactions between a Partner and a LLP would also not generally be liable to VAT as the Partner and the LLP are not 'two' different Persons.

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"

Business starts with an intention visible in the form of an organized effort demonstrating an ability to make a valid offer – to supply goods or services – to a potential customer, enter into any negotiations until acceptance and finally fulfil the offer by delivering the goods or services.

Note:

.....

Similarly, if an employee receives salary from the employer the receipt of salary cannot be treated as Business. Since an employee cannot perform his part of the job without the support and involvement of others in the organisation, it cannot be classified as independent, employee is performing his role for and on behalf of his involved & not at his / her individual capacity.

'In' UAE

Business 'in' UAE is another important aspect in this Article. Supply would be Taxable in this Part in the case of Person conducting Business 'in' UAE. The sole requirement for Taxable Supply is that the Business that recognizes a Supply to have been undertaken must be 'in' UAE. Business established in UAE with branches outside UAE will not come within the Scope of Tax because the Person (Entity) may well be 'in' UAE but for VAT to apply, the Business in relation to which VAT is levied must be 'in' UAE.

There is much clarity in these words where the attention is focused to the Business vis-à-vis the Supply and not the Person (Entity) or Consideration or any other factor.

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".

Deemed Supply

"Anything considered as a supply and treated as a Taxable Supply according to the instances stipulated in the Decree Law".

Even where one or more of the ingredients of Taxable Supply are missing in any activity or transaction, yet if the VAT Law considers such activity or transaction to be Deemed Supply, then for all purposes of imposition of tax it shall be treated as Supply and will come within the scope of federal decree law. VAT Law furnishes the missing ingredients through various Articles such as Articles (11) and (12) of the Decree-Law where those transactions which are not Taxable Supply are specifically regarded as Taxable.

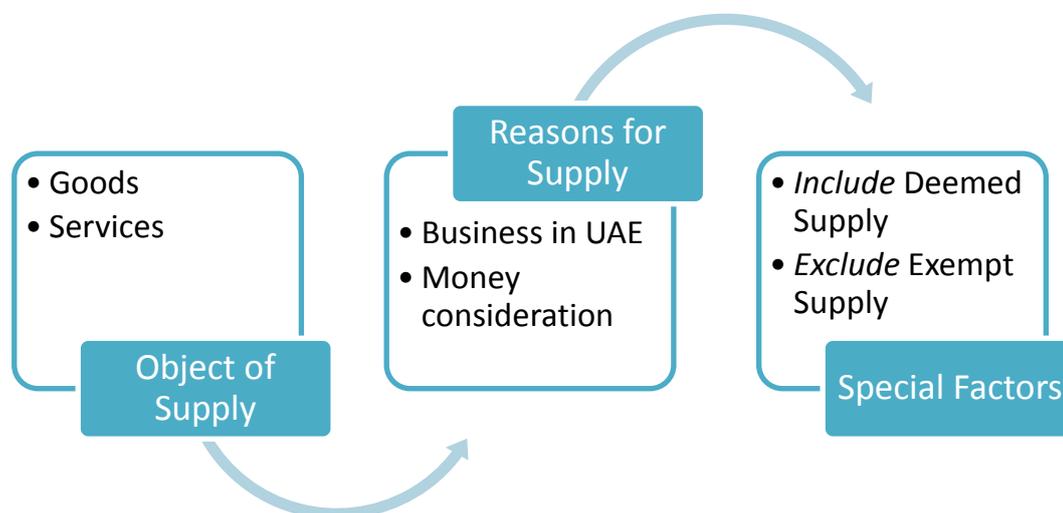
'Deemed' is a word that is powerful enough to convey the meaning that is not normally available to the word or phrase in relation to which it is used. Since such a powerful word is used in the VAT Law, the lacunae in the ingredients in the transactions that are 'deemed' to be a Taxable Supply will not prevail and come within the Scope of Tax.

Scope of Tax – Domestic

Now, it is clear that there are various transactions that may escape the incidence of VAT due to one or another ingredient not being present. Only when all the ingredients are present it will

Note:

be a Taxable Supply.



From the above representation, it can be seen that large number of transactions may fall outside the scope of VAT for want of one or another ingredient even though they may be undertaken in UAE. It is evident that the Scope of Tax applies in the Domestic limb of the Article, applies only when these specific circumstances exist.

Scope of Tax – Import

Import of Concerned Goods is also liable to VAT. 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 of import.

‘Arrival’ does not signify the ‘cause’, even if the goods reach state on their own, VAT would be attracted. It is important to identify the ‘cause’ so as to know if VAT applies even on ‘transit or transshipment’ cargo.

Even though the different ingredients in Domestic limb are missing here, the reference to Concerned Goods is sufficient to attract all those ingredients. It is interesting to note that Concerned Goods are defined to mean those Goods that ‘would not be exempt if supplied in the State’. So, Goods that would be liable to VAT ‘had they been’ supplied would be liable even when they are imported in the state. The ‘sequence chart’ provided at the end of discussion in Domestic limb would apply to Import limb with equal force.

Refer Chapter 8: Unified Customs Law for a detailed discussion on Import. The ingredients discussed in relation to Domestic limb will not apply in a transaction liable to VAT under Import limb.

Note:

.....

Conclusion

Scope of Tax contains two parts – Domestic and Import – as discussed above. A ‘standard rate’ of VAT is imposed on Taxable Supply and Import of Goods. Only transactions undertaken with ‘commercial intent’ would be liable to tax.

Article 3 – Tax Rate

Article 3 of Decree-Law: 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.

Introduction

Levy of tax is one aspect but the quantification of the levy requires two things - the rate of tax and the valuation – this Article provides the rate of tax that is to be applied in VAT.

Analysis

Standard Rate

All Taxable Supplies will be liable to VAT at 5 per cent.

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 Decree-Law itself. Further such amendment should also be agreed among the GCC member States as the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) provides for an uniform Standard Rate of 5% across the GCC.

It is also noteworthy that there is absolute clarity in the rate of VAT in UAE. All Taxable Suppliers – Domestic and Import – will be liable to the ‘standard’ rate of VAT. This single rate in itself may avoid a number of complexities and issues of classification.

Special Rates

This Article is subservient to Title Six – Zero-rated supply and exemptions – so that the purpose of those Articles is not in conflict with this Article. Accordingly, where Article (44) to (52) of the VAT Law exclude applicability of VAT on transactions that are zero-rated or are granted specific exemptions, the rate of tax prescribed in those Articles will apply and not the standard-rate prescribed in this Article.

Conclusion

VAT in UAE will be imposed at a standard rate of 5 per cent unless special rates are prescribed in the VAT Decree-Law.

Note:

.....

Article 4 – Responsibility to Tax

Article 4: 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.

Introduction

Tax levied is meaningful only when the persons who are fastened with the obligation to discharge this liability are identified. This Article deals with this important aspect.

Analysis

Taxable Person

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.

Recovery of Tax

It is common that the incidence of an indirect tax such as VAT is always passed on to customers when the Taxable Supply is made by charging VAT 'in addition' to the price. While this Article imposes the responsibility to pay VAT – Supplier or Importer – there is no mention of any 'right' to recover this tax from the customer.

Therefore, it is important to bear in mind that the 'right to recover VAT' is not a statutory right but a contractual right. And to this end, all contracts / purchase orders must be accepted on terms 'taxes extra' so that the negotiated price reaches the supplier intact. 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 and price paid will be considered as inclusive of VAT.

Forward or Reverse Charge

Later there is a discussion about reverse charge, in the context of Concerned Services, but right in this Article, it is noticeable that the VAT being imposed on the Importer is in effect a tax applied on reverse charge mechanism.

As per Clause (3) of Article (48) of the Decree-Law "If a Registrant makes a Taxable Supply in the State to another Registrant of any crude or refined oil, unprocessed or processed natural

Note:

.....

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.

Conclusion

The Tax imposed is the responsibility of the Taxable Person, Importer or Registrant as the case may be.

Article 5 – Supply of Goods

Article 5 of the Decree-Law: The following shall be considered as 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.

Note:

.....

Background Material on UAE VAT

- 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.

Introduction

Express 'purpose' of an arrangement resulting in Supply is provided in this article in respect of Goods. Goods as discussed earlier are physical property including real estate, water and specified forms of energy. There can be various commercial arrangements involving goods but not all of them can be brought to tax.

Analysis

Super-set of Supplies

This article does not specify forms of Supply but lays down the 'purpose' of any form of Supply. There can be many 'forms' that an arrangement can take but if its ultimate result is as specified in this article, then it would be Supply.

Illustrated 'Forms' of Arrangement	Ultimate 'Purpose' of Arrangement	Supply or Not
Sale	Transfer of ownership	Yes
Barter	Transfer of ownership	Yes
Free stocks/gift	Transfer of ownership	Yes
Tenancy contract of commercial property	Transfer of Right to Use	Yes
Hire-Purchase	Transfer of Right to Use with Transfer of ownership	Yes

There can be yet other arrangements that do not satisfy the requirements of Supply. It is therefore, important to examine the ultimate 'purpose' of the arrangement if it satisfies the requirements of the article in order to determine whether it is Supply or not.

Illustrated 'Forms' of Arrangement	Ultimate 'Purpose' of Arrangement	Supply or Not
------------------------------------	-----------------------------------	---------------

Note:

.....

Transfer	Compulsory acquisition	Yes*
Disposal	Discard unserviceable article	No
Destruction	Permanent loss of article	No
Transport loss	Uncompensated loss of article	No
Storage loss	Uncompensated loss of article	No
Stock transfer	Movement of goods	No
Trial/demo stocks	Test usage without transfer of ownership	No
Land rights	Not Goods	Yes

* Clause 1(b) of Article (2) of the Executive Regulation states "A transfer of ownership of Goods or of the right to use them from one Person to another Person shall include, transfer of ownership for a Consideration in a compulsory manner pursuant to the applicable legislations".

Where any arrangement does not satisfy the ultimate 'purpose' specified in this article, then such arrangement will not be Supply. Hence, it can be seen from this article that FDL lays down a 'super-set' that can be regarded as Supply. This article does not specify a list of transactions that will be regarded as Supply. It provides a 'test' or 'purpose' that must be identified by examining the facts in every arrangement in order to conclude if it would be a Supply or not.

Although 'compulsory acquisition' is not a sale even though there would be a transfer of ownership, the Executive Regulations proposes to regard such transactions as a taxable supply of goods. Further, rights-in-land are proposed to be treated as "supply of goods" in so far as tenancy rights in real estate are considered.

Goods

Real-estate - Goods are defined to include real estate, water and specified forms of energy.

Clause (1) of Article (21) of the Executive Regulation specifies 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 - is a natural resource that is free and unregulated. This word does not qualify the kind of water – river water, salt water, industrial water, potable water or distilled water. Nothing

Note:

.....

appears to restrict the coverage. Hence, water that no one can exercise proprietary rights over and is therefore excluded from the general understanding of physical property is expressly included in the definition. All forms of water are declared to be Goods.

Specified Forms of Energy - Energy is available in various forms and can even be industrially produced. But, energy generally is present in machines and in humans. Goods cannot possibly include energy because energy is the manifestation of an activity – man or machine – and requires some guidance. Due to the special nature of this article, the specific forms of energy are to be specified by Executive Regulation.

Clause (4) (c) of Article of the Executive Regulation 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.

Transfer of Ownership

Armed with this understanding of Goods, it is now important to discuss briefly about 'ownership' and 'transfer of ownership'. Ownership is the vested right over the subject matter with a person or entity. This right can be inherent or acquired. Rights are inchoate or in-information and become vested only after some event occurs, also referred to as vesting condition or event. Rights must be availed, or action taken to realize them. Rights that have not yet vested can be lost if no action is taken to realize those rights.

For example, a person who has won a lottery but came to know after 4 days of draw has the right to claim prize money on the date of draw but does not realize this right until after 4 days when he goes to recover his claim. If the time allowed (say, 10 days) has lapsed, he can lose his 'unrealized' right.

Ownership is when the right over the subject matter is realized. Ownership allows a person to hold the article, use the article and enjoy its benefits. He can allow another person to use and enjoy it. He can give away his right or even destroy the article freely. Therefore, ownership is not one right but a 'bundle of rights'. Transfer of ownership is a complete and irreversible alienation of all these rights without any hold or control or reversionary option. Transfer is complete only if it is absolute.

Articles are often attached with some responsibility or conditions such as duty to use it carefully or obligation not to cause harm to others or use it in certain specified conditions or locations. Transfer of ownership transfers these conditions too. Articles being attached with such conditions do not render the transfer any less absolute.

Transfer of ownership requires the following ingredients; if they are missing, it will fail:

Note:

- Two legally capable persons
- Legally valid ownership in existence
- Both willing for the transfer
- Clearly recognizable 'object' of transfer
- Permanent alienation of the object
- Legally acceptable consideration agreed

Right to Use & dispose of them as owner

Now, an article whose 'benefits of use' alone are given away by its owner to another person for the enjoyment by such other person is also 'transfer' but only of the 'right to use'. Please note that the other person who acquires this 'right to use' must not be limited as to the right so received by him. That is, the person who receives the right to use along with right to dispose the asset as owner shall be treated as a supply of Goods. Transfer is not complete if the transfer is not absolute. 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 taxi, we do not receive the right to use but the service of transportation. In order to give effect to transfer, not only physical custody but lawful possession must be handed-over to the receiver or his representative.

Deferred Transfer

This article also refers to a delayed or deferred transfer of ownership. It is common for arrangements to provide a time-based payment schedule along with an immediate delivery of lawful possession so as to enable receiver to enjoy the benefits of the article but place a condition that the absolute ownership is to pass only after all payments are made. This is not to retain possession over the article but to retain right of repossession in the event of a default but with a clear understanding that the receiver can commence enjoyment of the article from the commencement of this arrangement. Since, the benefits have reached the receiver, this article recognizes such an arrangement specifically to be a Supply.

Conclusion

This article recognizes three super-sets of transactions as Supply, namely:

- Transfer of ownership
- Transfer of right to use
- Deferred transfer of ownership

Please note a thorough understanding of 'inclusion' and 'exclusion' from the definition of Goods is extremely important in order to appreciate scope and coverage of Supply of Goods.

Note:

.....

Article 6 – Supply of Services

Article 6 of the Decree-Law: 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 Services:

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.

Introduction

Services are not 'services performed' in the form of a verb signifying some action being performed. Services are everything that is not goods. Service therefore can include transactions involving all those articles that are excluded from the definition of Goods as discussed previously. Supply of Services therefore requires a careful examination of the circumstances laid down in this article.

Analysis

Supply of Services

Not 'any' supply but 'every' supply that is not 'considered' a Supply of Goods is a Supply of Services. Also, 'provision of specified services' is also a Supply of Services. There are two aspects to this article.

Firstly, a transaction that is 'not' considered a Supply of Goods is a Supply of Services. Please note that for a transaction not to be considered a Supply of Good requires that it should first display all the ingredients of Supply and must be disqualified for a specific reason. If it was not at all a Supply, then it cannot become a Supply but of Services.

Note:

.....

Once the transaction is established to be a Supply though not of Goods, it then becomes a Supply of Services. There could be several reasons for a transaction to have failed to be 'considered' as Supply of Goods. In 'every' one of those instances, this article seeks to impose VAT by regarding them to be a Supply of Services. Supply of Services is not merely when the object of Supply is 'not' Goods. Supply of Services is satisfied even when entire arrangement is a Supply – it must be a transfer of ownership, transfer of right to use or deferred transfer – where the object is not Goods. There is no other 'transaction' referred to in the case of Supply of Services. A transaction may not be a Supply of Goods for only two reasons:

- Object of supply was not Goods
- Transaction was none of the three – transfer of ownership, transfer of right to use or deferred transfer of ownership

And in either case, it will be a Supply of Services. Goods which are exempted or zero-rated will not fall into Supply of Services because they are still considered Supply of Goods but either are not taxed (Exempt) or are taxed at zero rate.

Taxable Supply includes Supply of Services. Refer detailed discussion on Title Two that must be applied in relation to Services.

Therefore, it is required to examine the arrangement in a transaction and determine the reasons for not being considered as Supply of Goods. Such an exercise would yield valuable information to find out how a transaction can fail being regarded as Supply of Goods. And then applying tax on such transactions would be greatly simplified. For example, material handling facility allowed to an importer in a warehouse without granting necessary possession would not be a case of 'transfer of right to use' the cranes-hoists and as such can be treated as a Supply of Services.

Services

Services are defined as 'anything' that can be supplied excluding Goods. So, in order to be Services, it must be 'an object of Supply'. Supply for Consideration in Business in UAE is a Taxable Supply. Services are, therefore, those that can lawfully be supplied. In order to understand the definition of Services, it is important to understand definition of Goods and examine if the object here is not Goods then, can it be Services? For example, software (available for download) is non-physical property and does not fit the definition of Goods and as such would be Services.

Exclusion from the definition is not 'transactions' that fail to satisfy the definition but 'objects' that fail to satisfy definition of Goods. Services, therefore, will include all non-physical property and free non-proprietary objects. Articles 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

Note:

.....

scope of Services because these specific inclusions are by legal fiction. Once something is implanted into the definition of Goods (whether by legal fiction or otherwise), it gets excluded (by that same process) from the definition of Services.

Not to act / do

Executive Regulation, widens the definition of service, to include “not to participate in any activity, or not to allow its occurrence, or agree to perform an activity”. In the event consideration is received, & in return agreed not to participate in any event will be constituted as a service.

Share in Goods

Executive Regulations proposes to treat supply of indivisible share in goods to be a supply of services. With right to use and deferred transfer already being treated as supply of goods, this provision appears to be in need of clarity.

Conclusion

Supply of Services is a mirror image of Supply of Goods in the structure of the transaction, although the object of supply stands substituted here. Supply of Services demands a careful consideration of the contractual arrangement, in order to recognize that a supply could not be equated with Supply of Goods and arising out of that consideration to fall within Supply of Services.

Article 7 – Supply of Special Cases

Article 7: 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.

Introduction

Transactions that already come within Supply of Goods or Supply of Services are now excluded from that Supply and treated as not being Supply. This exception is conditional exclusion and it is restricted for specific reasons. This article provides the nature of this conditional exclusion of Supply.

Note:

.....

Analysis

Voucher

Voucher is a poorly understood but modern adaptation in trade especially in digital economy. Vouchers are often used interchangeably with three different practices and before clarifying which of these is truly a voucher, we may discuss these three:

- 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 at the same shop – here is a case where the 'issuer' of the points is the 'satisfier' of the incentive or benefit by reducing the liability (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 'discount'.
- When a customer pays money to purchase a 'gift-card' bearing the value of money paid which can be surrendered at the time of making payment towards a purchase – here is a case where the gift-card is a bearer instrument that represents 'stored value of money' that is accepted as payment of consideration. This gift-card (by whatever name called) is nothing but money. It is a 'form of money' and is included in the definition of Consideration.
- A retailer issues a multi-purpose voucher for value (advertised value) and sells it to a customer via an intermediary which acts as the retailer's agent. The customer pays the amount (which can be at par / premium or discount to the advertised value) to the intermediary, which passes the money back to the retailer after having deducted its commission. The intermediary also gives an invoice for its commission to the retailer. Finally, the customer redeems the voucher in one of the retailer's shops in return for goods.

Of the above three, the last two cases are defined as 'voucher'. Vouchers can be issued for surrender at the time of Supply of Goods or Supply of Services. Vouchers by themselves are neither Goods nor Services. Vouchers represent a point in the chain of transactions leading up to the completion of a transaction of Taxable Supply eventually. Vouchers that are unused may be allowed to lapse due to the terms of its usage and therefore the question of collecting tax on these Vouchers needs to be clearly validated based on contract & forfeiture clause stated in the issuance of voucher. Value of supply, at the time of sale of voucher will be consideration received in excess of its advertised monetary value.

Transfer of Business

Business is represented by the deployment of assets in various income-generating activities which involves various liabilities being admitted into this Business. It is like a moving train because financial information is only 'as at' a specific date and by the time this information

Note:

.....

Background Material on UAE VAT

reaches the users, the Business has moved on and the information has changed. Business is therefore the sum total of all aspects – assets including those that may not be recorded like goodwill and liabilities including those that are uncertain or contingent – represented in its financial information although as at a particular date.

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 and sell electronic goods in Sharjah and it may also have a service license to provide technology consultancy services in Abu Dhabi. Business is not the sum total of all activities of this LLC but the operational aspects – all assets and liabilities – of the trading business independent of the operational aspects of the services business without any overlap and interconnection. The LLC can be said to have two businesses – trading and services – and each can be continued or discontinued without dependence on the other.

Transfer of Business refers to the complete transfer of this Business in its entirety without leaving behind anything that forms an integral whole of this Business. In the same example, 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 but the cash from transfer. Owners are free to commence yet another business.

Transfer of the shares held by the Owners in the LLC is a case where the Business(es) continue to remain in the LLC but the Owners are replaced by New Owners and the sale proceeds go the Owners. Transfer of Business, on the other hand, refers to the transfer of the Business(es) by the LLC in favour of the Purchasers so that the sale proceeds come to the LLC and the Business(es) move out of the LLC to the Purchasers.

Exclusion

This article provides that the following transactions will NOT be considered a Supply, on transfer of Business with the condition that

- (a) buyer is a Taxable Person and
- (b) intended to continue the same Business

Accordingly, it can be seen that if the above two activities are not undertaken in the circumstances specified above, it would be a Supply.

Conclusion

In very specific circumstances, transactions involving issuance of voucher and transfer of business are excluded from Supply. It, therefore, merits considering the requirements or qualifications to enter this exclusion so as to be immune from VAT.

Note:

.....

Article 8 – Supply of more than one component

Article (8) of the Decree-Law: 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: The following shall be considered as 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.

Introduction

Note:

.....

Business transactions do not always present supply in a 'plain vanilla' manner. Often, goods or services or either can be bundled together and supplied for a single price. This may be to compel the supply of both jointly or promote the supply of one of them or for any other reason.

Analysis

Component

This article refers to the Goods or Services as a 'component' of the supply. It is very interesting terminology which indicates that each of them – goods or services – appear to fulfil the supply together and not individually. There need not be only two such components, there can be more. Further, there can be any combination of these components, that is, goods and goods or goods and services or services and services.

Whether the components are 'linked' to each other or can be 'individually' supplied is not specifically stated. For this reason, all transactions where two or more components are identified to be supplied attract this article.

One Price

Another interesting aspect that emerges from this article is that the 'price' at which 'all' components are supplied is a single unified amount. That is, although the components are individually in existence and identifiable, the price offered is not individual but consolidated.

One Price appears to be a pre-condition in order to attract this article in addition to the requirement for the existence of two or more components.

Specification

When two or more components are supplied for one price, the Executive Regulation entrusted with the function of specifying conditions applicable to the manner of treatment of such supply. Please note that even though there may be a supply – of two or more components for a single price – the conditions applicable to them require an Executive Regulation.

According to Clause (3) of Article (4) of the Executive Regulation

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.

Note:

.....

- 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.

A single composite supply may exist 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

As per Clause (5) of Article (4) of the Executive Regulations “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”.

Executive Regulations proposes to bring clarity in respect of supplies that involve multiple components:

Description	Single Composite Supply	Single Supply	Multiple Separate Supplies
More than one identifiable supplies visibly involved	Yes	No	Yes
Single price charged	Yes	Yes	Yes/No
One of the supplies is the ‘principal component’ among all others	Yes	No	No
All components supplied blend into each other such that none of them emerge to be a principal component	No	Yes	No
All other components supplied are necessary but not the principal component	Yes	No	No
All other components supplied assist in and become the means to enjoyment of the principal component	Yes	No	No
It is impossible to ‘split’ all components supplied	No	Yes	No
All other components supplied would otherwise not have been supplied or accepted by customer	Yes	No	Yes/No
Same supplier supplies all components	Yes	Yes	Yes

The above differentiation supports multicomponent supply in Article (8) of Decree-Law but need to be aligned a bit to avoid excessive subjectivity in the application of these principles.

Note:

.....

With a standard rate being applied to all supplies, the clarity expected may become significant in rates of VAT vary over a period of time.

Conclusion

It is recognized that One Price supply of several Components is not uncommon. Subject to conditions, tax applicability of principle supply will apply where, the price of the different components of the supply is not separately identified or charged by the supplier & all components of the supply are supplied by a single supplier

Article 9 – Supply via Agent

Article (9) of Decree-Law

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 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 direct supply by the agent and for his benefit.

Introduction

Agents play a significant role in facilitating commerce and their contribution is invaluable. Agency cannot be assumed. Agency must be express and sometimes its implicit existence must be unequivocal. Often, the term agency is unwittingly used even though the arrangement is on Principal-to-Principal basis. This article expressly provides the treatment of VAT to transactions involving Agents.

Analysis

Agent-Principal

Existence of an Agent presupposes the existence of a Principal. An Agent is one who has the authority to bind the Principal to obligations towards third parties. The Agent's actions, if they are within the scope of their agency, even without prior intimation can bring binding obligations that the Principal must fulfil.

Persons who are Agents for one thing can be assumed by third parties to be agents of all other things belonging to the same Principal. Agency can be created by 'holding out' to be an agent. However, if the agent makes promises to third parties beyond the scope of his agency, then the Principal is not obligated. Third parties generally inquire into the exact scope of agency before transacting with Agents and Agents generally disclose the scope of their agency.

Agent can do nothing more than the Principal and Principal can do everything that Agent can. Agent gets his authority by delegation from the Principal. Agent himself is not liable to third

Note:

.....

parties and does not take upon himself any of the consequences arising from the transaction. Agency can be summarized as 'delegated authority' and 'detached consequences'. If any person acts without duly delegated authority and accepts consequences himself, does not augur well with Agency and is rather indicative of a superior relationship.

Agency Transactions

This article provides for two situations:

- Where the Agent performs all activities 'in the name of' the Principal,
- Where the Agent performs all activities 'in own name',

And overcomes the fundamental effect of agency – bring binding obligations to Principal – by relying on the nature of representation made. That is, whether in the course of the activities, the Agent discloses the Principal or not.

When the Agent supplies in the name of the Principal, this article leaves the Agent aside and regards the supplies to have been made by the Principal. But, if the Agent supplies in his own name, this article limits all obligations to the Agent and does not travel up to the Principal.

When Agency contracts are entered into, for the reasons stated in this article, it becomes important for the Principal to clearly make known 'how' the Agent must undertake the supplies, as there are visible consequences by the fiction in this article. Accordingly, suitable measures to collect and manage funds must also be put in place so as to help Principal realize the proceeds from the supplies and discharge VAT obligations. And if the Agency is to be carried out in the name of the Agent, then the contract may need to be suitably prepared taking into consideration that VAT obligations rest on the Agent.

Rights, duties and obligations of Principal-Agent cannot be overruled by VAT law. The general law of UAE (discussed in detail in Chapter 1: Overview of VAT) continues to govern the commercial arrangement *inter se*. And without disturbing those commercial implications, for the limited purposes it is meant, a special or unique treatment is provided in respect of tax payable by the legal fiction in this article. As regards Supply *per se*, reference may continue to be had to the discussion in the earlier part of this chapter, even in respect of supplies regarded to be undertaken by the Agent under this article.

Activities undertaken by commercial agencies that do not satisfy the strict attributes of 'Principal-Agent' relationship but loosely go by the name 'agency' do not attract the fiction and hence the treatment prescribed in this article.

Taxable Supplies

There are more than one transaction involved in case of 'Supply via Agent'. For example, ABC

Note:

.....

Background Material on UAE VAT

LLC (Principal) appoints XYZ LLC (Agent) for distribution of Computers of all brands in EMEA region.

Supplies	Price	Supply in Agent's name	Supply in Principal's name
Supply of Computers by manufacturer to Principal	Dh 80	Supply (to Principal)	Supply (to Principal)
Receipt of stock of Computers by Agent from Principal	Dh 100	Supply (to Agent)	Not Supply
Supply of Computers to third party buyers	Dh 120	Supply (by Agent)	Supply (by Principal)
Commission Services of Agency to Principal	Dh 10	Not Supply (merged into Supply by Agent) *	Supply (to Principal)

** when the entire value of Supply of Goods is taxed in the hands of Agent, then the Commission earned by Agent from Principal cannot again be taxed as a Supply of Services. These Services are included into the value of Supply of Goods*

Conclusion

Agency must first be identified and then the 'name' that will be credited with the supplies so that it will be clear whether the Agent or Principal will be accountable for the due and proper discharge of tax applicable on the Supply of Goods or Services effected in this manner.

Article 10 – Supply by Government Entities

Article 10
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.

Introduction

Note:

.....

Government activities must be differentiated between 'Activities by Government' and 'Activities of Governance'. This article provides for making such distinction based on objective criteria or tests.

Analysis

If Government activities occur in the following two circumstances, then they are regarded as Supply for purposes of VAT:

- Activities in non-Sovereign capacity
- Activities in competition with private sector

Although the above are objective and can be administered by anyone, this article provides that a Cabinet decision may be sought to declare when an activity is supposed to be considered as part of either of these two area. The occasion to rely on Cabinet decision for such a declaration may arise when there is ambiguity as to whether an activity is non-Sovereign or in competition with private sector and, therefore, attracting this article. Only in these circumstances are the supplies 'by' Government taxable.

Supply 'in the course of' indicates that the entire chain of events that are unbroken and integrally interrelated to each other come within the sweep of this article. Private suppliers who supply Goods or Services to the Government are to take care that their supply continue to be taxable and it is only the supplies made 'by' the Government that are regarded as non-taxable if the specified circumstances do not exist.

Conclusion

Activities undertaken by Government require differentiation to examine the applicability of this article. It is important to note that the 'entire' activity covered by this article is immune from VAT even if there are elements involved that, on stand-alone basis, would not appear to come within the ambit of this article.

Article 11 – The Cases of Deemed Supply

Article (11) of the Decree-Law

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

Note:

- 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.

Introduction

When a supply does not come within the definition of Supply and should still be brought to tax, enlisting them specifically does not suffice. It requires furnishing the missing ingredients. But there are so many of them that it may be difficult to provide all those ingredients. And that's when 'deeming fiction' is used by law makers. Deeming fiction simply provides the meaning that otherwise would not have been available. In this article we find all the Cases of Deemed Supply.

Analysis

Specific Cases

Since the article lays down four specific classes of transactions, it makes it interesting to identify transactions that are included in these classes and those that still get excluded. And each of these classes needs to be carefully discussed because they are not interlinked.

Change of Asset-Use

When assets of a Taxable Person are 'no longer considered to be such', it is a case of Deemed Supply. Questions that arise are:

- What are the 'assets' involved here?
- Why would assets 'not' be considered assets?
- When exactly would this be deemed to be a Supply?

A Supply already made comes to be admitted by a Taxable Person as 'business assets'. Once these assets are so treated, input tax reduction would be availed unless disallowed for any reason. Then if these business assets, for any reason, are not to be considered as business assets, it would be deemed to be a Supply. 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.

Since this is a 'mere' change in the intended end-use of the business asset, it occurs

Note:

.....

immediately before business assets are diverted by the owners (for themselves or for others). If this diversion is 'for consideration', then it would anyway be a Supply. But if such diversion is 'without consideration', then this provision deems it to be a Supply.

Business assets may be capitalized as fixed assets or retained in inventory as current assets: for example, donations, gifts, samples, promotions, demo stock etc.

Please note that the above provision applies to 'Goods and Services'.

Stock Transfer

Taxable Person in one Implementing State (any GCC member country) 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 already getting taxed as part of another Taxable Supply, then this provision will not apply.

Please note that the above provision applies to 'Goods' only.

Non-business Use

Once input tax is recovered, there is a duty assumed by the Taxable Person to apply the supplies in making taxable outward supplies 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. The condition for permitting recovery of tax is that there will be a Tax Due on a further Supply. Any use for non-business purposes would effectively be a failure to satisfy this condition. The tax recovered is not to be restored but the use itself (not otherwise taxable) is deemed to be taxable.

Please note that the above provision applies to 'Goods and Services'.

There appear to be two clauses covering this aspect – change of asset-use and non-business use – and the difference between two clauses are as follows:

- Change of asset use applies where such change is 'without consideration'
- Non-business use applies only where input tax is 'recovered' and for any reason they are used for non-business purposes

These two clauses are not in conflict with each other but are complementary to each other.

As per Clause (3) of Article (11) of the Decree-Law, a supply of goods or service for purposes other than business shall be considered as deemed supply. In case of Normal Loss, it is considered to be loss normally incurred in ordinary course of operational process and hence

Note:

.....

Background Material on UAE VAT

may not be considered as Deemed Supply. In these cases it is advisable to create document / dossier from industry standards and past experience (with supporting sample records of physical count and how it was treated in books and industry). There is need for proper inventory records and record of physical verification done in order to ascertain the pilferage and normal loss of goods.

Stocks on Deregistration

On the date of deregistration, all supplies available will at once be deemed to be Supplied. Deregistration may become necessary for various reasons (refer detailed discussion in Chapter 5 xiii on registration / deregistration). There is no reference to whether 'input tax recovery' is involved or not. It appears this is assumed. But, even if not assumed, stocks on date of deregistration will be deemed to be a Supply.

Please note that the above provision applies to 'Goods and Services'.

Conclusion

A comparative review of the four classes which are deemed to be a Supply will provide a good overview:

Class of Deemed Supply	Applicability	Conditions	Remarks
Change of asset-use	Goods and Services	No consideration involved	Generally in business, it is accounting reclassification, & hence will not be considered as deemed supply. Example stock moved to asset.
Stock transfer	Goods	Not considered temporary transfer or included as supply by another person	Transfer-out or transfer-in within GCC Implementing States.
Non-business use after input tax recovered	Goods or Services		Is it okay to use for non-business use if input tax is not recovered.
Stocks on deregistration / shut-down of business	Goods and Services		Any stock / services available on the date of deregistration should be considered as deemed supply.

Note:

.....

			There is going to be a challenge to evaluate the value of services.
--	--	--	---

Article 12 – Exceptions to Deemed Supply

<p>Article (12) of the Decree-Law - Exceptions to Deemed Supply</p> <p>A supply is not considered as deemed in the following cases:</p> <ol style="list-style-type: none"> 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. <p>Article (5) of Executive Regulation: The following are the exceptions related to Deemed Supply:</p> <ol style="list-style-type: none"> 1. The supply shall not be regarded as a Deemed Supply in any of the following instances: <ol style="list-style-type: none"> 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.

Introduction

While cases of Deemed Supply have been very specifically provided in Article (11) of Decree-

Note:

.....

Law, Article 12 of Decree Law provides the exception list. This list has again been reinforced in Article 5 of Executive Regulation. If Taxable person is able to satisfy any one condition from the exception list, the supplies satisfying the condition will not be considered as deemed supply

Analysis

There are five specific classes of exception in this article where the transactions are NOT considered Supply. The opening words of this provision appear to indicate that the classes listed are 'deemed non-Supply' but before that, the nature of this exception may be considered.

No Tax Recovered

This provision is simple. If any supply is classified as deemed supply, the taxable person should look back at the input tax paid on the underlying good or service. If input tax paid on such good or service was not recovered, the supply which is being considered deemed supply, will no longer be considered deemed supply in line with Article 5(1) of Executive Regulation.

Classic example for this scenario is Sample Distribution out of opening stock lying on 01-Jan-2018. Assuming these goods were procured in 2017 and did not suffer VAT. Since no tax was recovered on such goods, the supply of sample will not be considered Deemed Supply

Exempt Supply

Once a supply is exempted for any reason, it is always exempt and even by deeming fiction cannot be rendered taxable. Salutory words are found in this provision. The provision exempting a supply from tax will prevail over any deeming fiction.

Capital Assets Scheme (CAS)

Article (60) of the Decree-Law, along with Article (57) & (58) of the Executive Regulation provides for this CAS where the extent of input tax recovery is regulated (refer Chapter II: Levy of VAT for detailed discussion on CAS). In case tax recovered is duly adjusted in accordance with CAS, then such supplies will not be deemed to be a Supply. Having specifically dealt with the tax recovery in respect of Capital Assets, the same supplies cannot again be subjected to tax.

Samples-Gifts

Deemed supply includes both these transactions but this provision excludes such transactions 'up to a value' to be specified by Executive Regulation from the operation of the provisions of Article (11) of the Decree-Law. Article (5) of Executive Regulation, provides the limit i.e. 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, then the supply

Note:

shall not be regarded as a Deemed Supply.

It is to be noted that, the supply shall not be regarded as a Deemed Supply, 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.

Conclusion

This article appears to carve an exception to Deemed Supply as well as Supply itself. A comparative table provides a good overview:

Exceptions to Deemed Supply	Affected Article	Remarks
No tax recovered	Article (11) of Decree-Law – non-business use	
Exempt Supply	Article (11) of Decree-Law– all classes	When exempt supplies are involved in deemed supply, no tax will be applicable
Capital asset scheme	Article (5) of Executive Regulation – supply	Specific provision of CAS will prevail
Sample gifts	Article (11) of Executive Regulation – change of use and non-business use	Not taxable upto value of AED 500 (for each recipient, within a 12-month period)
Overall threshold exemption	Article (5) of Executive Regulation – supply	Not taxable unto value (total of Output Tax payable on all Deemed Supplies for each Person for a 12-month period is less than AED 2,000).

Note:

.....

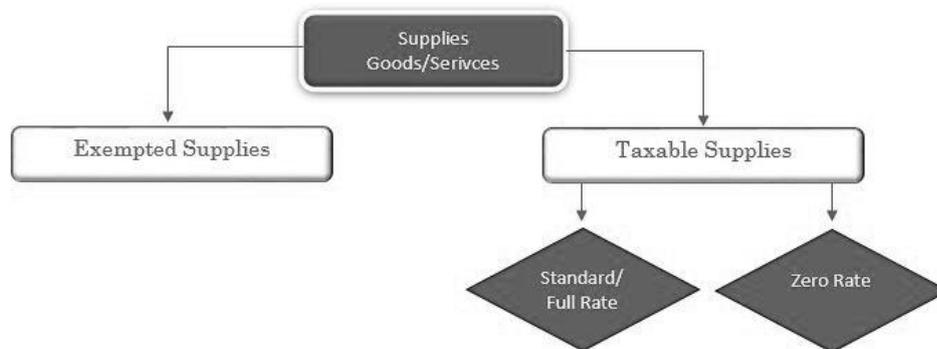
Chapter – III

Exempt Supply and Non-Supply

Types of Supply

Types of supply can be mainly categorized into exempt and taxable supplies. Taxable Supplies are under 2 categories i.e. Standard Rated i.e. @ 5% and Zero rated supplies. Article 45 and 46 of Federal Decree Law No. 8 of 2017 on VAT deal with Zero rated supplies and exempt supplies.

Classification of supplies under UAE VAT is presented below:



A. Difference between Taxable Supplies & Non-Taxable Supplies/Exempt Supplies

1. Taxable Supply-Standard Rated and Zero-Rated Supply

Standard-rated or zero-rated supplies are considered to be 'Taxable Supplies' under the VAT Decree Law. The supply of goods and/or services is generally subject to VAT at the standard rate (5%), unless such supply is specifically zero-rated (as per Chapter One of Title Six – Article (44) & (45)) or exempt (as per Chapter Two of Title Six – Article (46)) in terms of the VAT Decree Law.

A zero-rated supply is a taxable supply on which VAT is levied at the rate of 0%. Thus effectively no output tax is collected in respect of zero-rated supplies. Registered VAT entities making zero-rated supplies are entitled to claim their input tax deductions in respect of tax paid on goods or services acquired in the course of making such taxable supplies.

2. Non-Taxable Supply-Exempt Supply:

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.

Article (46) of Federal Decree-Law describes supplies that are exempt from Tax.

Thus, an exempt supply (i.e. not taxable supply) is the supply of goods or services on which no VAT is chargeable. Taxable person registered under VAT cannot claim an input tax deduction in respect of tax paid on goods or services acquired in the course of furtherance of making exempt supplies. A person making only exempt supplies cannot register for VAT as he/it is not providing taxable supplies as per the VAT Act.

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 above

As per Article 46, the following supplies are exempt from levy of VAT

1. **Financial services** that are specified in the Article (42) of Executive Regulations of this VAT Decree Law, which is defined as services connected to dealings in money (or its equivalent) and the provision of credit, where they are not conducted in return for an explicit fee, discount, commission, rebate or similar charge. The exempt financial services meeting the above conditions may include but is not limited to the following:
 - a. The exchange of currency, whether effected by the exchange of bank notes or coins, 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;

Note:

Background Material on UAE VAT

- 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, 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.

In addition to the above, the exempt financial services also include:

- (i) the issue, allotment, or transfer of ownership of an equity security or a debt security; and
 - (ii) the provision or transfer of ownership of a **life insurance contract** or the provision of reinsurance in respect of any such contract.
2. As per Article (43) of the Executive Regulations, the **supply of residential buildings** through sale or lease is exempt, unless it is zero-rated, where in case of lease, the lease period is more than 6 months or the tenant of the property is a holder of an ID card issued by the Federal Authority and Citizenship.
 3. As per Article (44) of the Executive Regulations, the **supply of bare land**; where "bare land" means land that is not covered by completed, partially completed buildings or civil engineering works.
 4. As per Article (45) of the Executive Regulations, **supply of local passenger transport** 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. 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.

The Following local Passenger Transport shall not be Exempted

- (i) If the local passenger transport 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.

Note:

.....

- (ii) Service of transporting passengers from a place in the state to another place by aircraft and constitutes "international carriage" as defined in the Warsaw International Convention rules relating to International Carriage by Air 1929.

Treatment of Islamic Finance Products provided as Financial Services

- Islamic finance products, under contract which are certified as Shariah compliant, which simulate the intention and achieve similar results 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.
- 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.

Exempt business: The following features emerge in case of a business which is fully exempt from levy of VAT:

1. Exempt supplies are not subject to VAT levy and hence, no VAT is calculated on their price.
2. No Input tax will be recoverable in providing VAT exempt supplies.
3. Value of exempt supplies will not be included in calculating taxable threshold limit.
 - a. **Registration:** No registration is required under this Decree-Law for a business engaged in providing fully VAT exempt supplies. However, in case of business which makes partly exempt supplies and partly taxable supplies, the business registration provisions will apply accordingly for taxable supplies and threshold will be computed accordingly. Any person registered or obliged to register for Tax purposes is termed as taxable person.
 - b. **Returns:** No returns are required to be filed under this Decree Law by fully exempt business. However, in case the person is carrying on partly exempt and partly taxable supplies, the Taxable Person is required to submit tax returns for each specified period containing all information and data as specified about supplies of all kinds (Including exempt supplies) provided during the relevant period and details of Input VAT reclaimed

B. Supply of goods and services at Zero rate:

Article (45) of Federal Tax Law describes supply of goods and services that are subject to Zero rate tax.

Note:

.....

Background Material on UAE VAT

The following items are subject to zero rates:

1. Export [direct or indirect] of goods and services outside the implementing states;
2. International transport of passenger or goods, which either starts or ends in the UAE or passes through its territory; it also includes transport-related services, provided in relation to such international transport of passenger or goods.
3. Air passenger transport in the UAE (if considered at "international carriage").under Warsaw Convention for the Unification of certain rules relating to International Carriage Act 1929.
4. Supply of air, sea and land means of transport for the transportation of passengers and Goods as specified in the Executive Regulations to this VAT Decree Law.as specified in Article (34) of the Executive Regulations of this Decree-Law, which are:
 - (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;
 - (b) 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; and
 - (c) Supply of a bus or train that is designed or adapted to be used for public transportation of (10) or more passengers.
5. Supply of Goods and Services related to the supply of the means of transport mentioned in Clause (4) of this Article and which are designed for the operation, repair, maintenance or conversion of these means of transport, subject to certain conditions and exclusions specified in Articles (35) of the Executive Regulations.
6. Supply of Aircrafts and 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 precious metal for investment purposes, as specified in Article (36) of the Executive Regulations, which means gold, silver and platinum of a purity of 99 percent or more and the metal should be in a form tradeable in global bullion markets.
9. First supply of residential buildings as defined in Article (37) of the Executive Regulations within three years of their completion, either through sale or lease in whole or in part.
10. First supply of buildings specifically designed to be used by charities either through sale

Note:

.....

or lease, used by such Charity solely for a relevant charitable activity (Article (38) of the Executive Regulations).

- 11. First supply of buildings converted from non-residential to residential either through sale or lease, 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 five years prior to the conversion work commencing. (Article (39) of the Executive Regulations).
- 12. Supply of crude oil and natural gas.
- 13. Supply of educational services by nurseries, preschool, school and higher educational institutions (Article (40) of the Executive Regulations). 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 Ministry of Education, Ministry of Higher Education and Scientific Research, or the competent government entity regulating the education sector in the Emirate in which the course is delivered.
 - b. The supplier of the educational services is an educational institution which is recognised by the Ministry of Education or Ministry of Higher Education and Scientific Research, or the competent government entity regulating the education sector in the Emirate in which 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.

Supply of goods and services by above referred educational institutions to the extent it is directly related to providing the zero-rated educational services subject to some exceptions. Printed and digital material provided by above educational institutions related to educational curriculum that are zero-rated.

- 14. The supply of specified preventive and basic healthcare services(Article (41) of Executive Regulations) that is generally accepted in the medical profession as being necessary for the treatment of the Recipient of the supply including preventive treatment; and related goods and services, which includes any pharmaceutical products or any medical equipment identified in a decision issued by the Cabinet. The supply of specified preventive and basic healthcare services shall be zero rated only in case they are 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. For this purpose, the following healthcare services would not be included, if:

[a] a part of a supply relates to staying or attending an establishment that has principal

Note:
.....

Background Material on UAE VAT

purpose to provide holiday accommodation or entertainment and the healthcare service is incidental, and

- [b] Elective treatment for cosmetic reasons other than prescribed by a doctor/medical practitioner for treating or prevention of a medical condition.

C. Supply of More Than One Component: Article (47) of the Decree-Law & Article (46) of the Executive Regulations define 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. 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 the Decree-Law, 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.

D. Non-Supply Items: These are items which falls beyond the ambit of 'Supply' boundary and hence, are outside the scope of UAE VAT Decree-Law. It can also be termed as 'Out-of-Scope' Supplies. There is no question of levying VAT on such supplies. Examples of out of scope supply are -

- Supply of goods or services, other than those specified in the VAT Executive Regulation
- Supply of goods made outside the UAE (For example, goods supplied from India to Nigeria);
- Supplies made by Unregistered business, whose turnover is below the mandatory threshold limit specified in the Article (7) of Executive Regulations;
- The transfer of Goods between Designated Zones shall not be subject to Tax if the following two conditions are met (subject to other conditions specified in Article (51) of the Executive Regulations):
 - (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.
- 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

Note:

.....

of another Good located in the same Designated Zone which itself is not consumed (subject to other conditions specified in Article (51) of the Executive Regulations).

- The supply by Government entities, if supply is made in the sovereign capacity and activity undertaken is monopolistic in nature. (Article (10) of the Decree-Law)
- Purchases made from an unregistered person (A natural or legal person). These purchases do not appear at all on the VAT Return, as they fall outside the scope of VAT.
- Exceptions to Deemed Supply (As per (Article (12) of Decree-Law), specifies conditions where supply will not be considered as deemed:
 - (a) If the value of the supply of the Goods, for each Recipient of Goods within a 12-month period, does not exceed the amount of AED 500, and the Goods were supplied as samples or commercial gifts.
 - (b) If the total Output Tax due for all the Deemed Supplies per Person for a 12-month period is less than AED 2000.
- The sale or issuance of any Voucher unless the received consideration exceeds its advertised monetary value (As per Article (7) of the Decree-Law).
- 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 (As per Article (7) of the Decree-Law).
- Wages and salaries paid to employees under contractual obligation.
- Capital induction or withdrawal from the business by owners/ shareholders.
- Any supply made by a member of the Tax Group to another member of the same Tax Group (As per Article (12) of the Executive Regulations).

Further, non-business supplies are also outside the ambit of Value Added Tax.

Note:

Chapter – IV

Transaction with GCC

1. Introduction

GCC i.e. Gulf Cooperation Council is a political and economic alliance of six middle eastern countries- Saudi Arabia, Kuwait, UAE, Qatar, Bahrain and Oman. The GCC was established in Saudi Arabia in May 1981. The objective of the GCC is to achieve unity among members based on their common objectives and their similar political and cultural identities. In line with their objective the GCC has come up with a unified agreement for VAT which sets out the **framework** under which VAT can be implemented in each of the GCC member states. Each member state can draft its own local law and implement VAT. The framework paves the way for implementation, allowing standard rate of VAT to be charged on most of the Supplies made within the GCC member states implementing VAT, with certain supplies of goods and services zero rated or VAT exempt to member states.

2. GCC VAT AGREEMENT is a framework agreement signed by all the six GCC countries.

Basic Features:

- Broad framework that mainly states provisions for intra GCC trade
- Gives countries discretion to choose treatment in certain sectors where it does not affect intra-GCC trade
- Mutual agreement on some provisions such as the standard rate of VAT and the registration threshold



3. Factors leading to introduction of VAT in GCC

- GCC countries have always been highly dependent on oil, the largest revenue contributor to most of these countries' economic growth. The region has witnessed an acute deterioration in its external and fiscal balances over the past three years primarily due to weak oil prices. Although large fiscal buffers provided some cushion to GCC countries, sustained weakness in oil prices has forced the Gulf nations to adopt a series of reforms.
- GCC countries' recent budget announcements included subsidy reforms and plans to diversify the economy to the non-oil sector and reduce wasteful expenditure.
- The GCC region's government, in their 2017 budget announcements, estimated higher revenues through diversification and an increase in oil revenues due to the anticipation of higher oil prices. Most GCC countries expect oil prices to average USD45-50/bbl in 2017. In November, 2017 we have witnessed a stable price of oil around USD 60/bbl.
- GCC countries signalled political willingness to address oil price volatility and deficit concerns. The price hikes are likely to increase revenues for the government. Rationalizing subsidies is expected to bring in fiscal savings and improve efficiency in the use of resources. It will also help governments channelize the funds toward broader fiscal diversification.
- GCC governments are taking various measures to increase non-oil revenue, such as divestment, the levy of taxes and fees, and the removal of subsidies from some sectors.
- Considering all the above issues, GCC countries plan to introduce a Value Added Tax (VAT) of 5% in January 2018 in a bid to increase government revenue which will be a steady revenue rather than volatile. According to IMF, revenue from VAT would contribute 2.1% to the UAE's GDP. Qatar and Kuwait are expected to generate around 1.1% and 2% of the GDP, respectively, through the implementation of VAT.
- Unless until all GCC countries implements the VAT as per GCC common agreement there will be perplexity among the business people to understand the difference taxability structure in the transactions between UAE-GCC and UAE-Rest of the world.
- The treatment of transaction between UAE and Implementing State under UAE VAT Law is been explained in this chapter.

4. Definitions - Article (1) of Common VAT Agreement of the States of the Gulf Cooperation Council (GCC)

In the application of the provisions of this Agreement, the following words and expressions shall bear the meanings set forth against each of them unless the context otherwise requires:

Note:

.....

- **Council:** Gulf Cooperation Council.
- **Agreement:** The Common VAT Agreement of the States of the GCC.
- **Member State:** Any country with full membership of the GCC in accordance with the Council's statute. . GCC Territory: All territories of the GCC Member States.
- **Local Law:** The VAT Law and any relevant legislation issued by each Member State.
- **First Point of Entry:** First customs point of entry through which Goods enter the GCC Territory from abroad in accordance with the Common Customs Law.
- **Final Destination Point of Entry:** Customs point of entry through which Goods enter the Final Destination State within the GCC Territory.

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

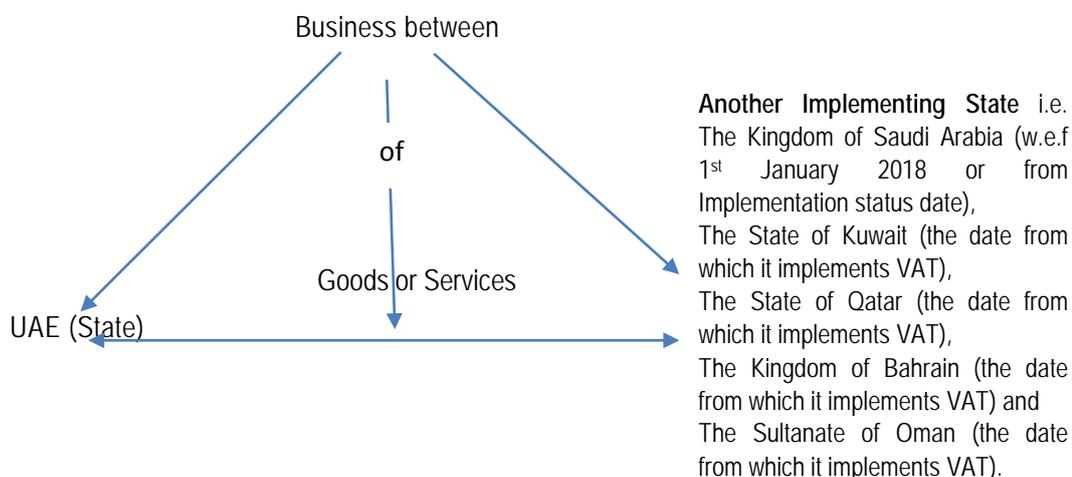
The UAE is part of a group of countries which are closely connected through "The Economic Agreement between the GCC States" and "The GCC Customs Union". The GCC group of nations have historically worked together in designing and implementing new public policies as we recognize that such a collaborative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

6. What does a business transaction between UAE and another implementing state mean?

- A business transaction between UAE (State) and another implementing state related to goods or services.
- The transaction should be of taxable supply as per definition of taxable supply in Article (1) of Decree Law.

Note:

.....



7. Scope of Tax – Article (2) of Decree Law.

- Every Taxable Supply and Deemed Supply made by the Taxable Person.
- Import of Concerned Goods except as specified in the Executive Regulation of this Decree-Law.

8. What could be considered as deemed supply while doing a transaction with another implementing state? - Article (11) of Decree-Law.

Clause (2) of Article (11) - The Cases of Deemed Supply

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.

Explanation: If any person transfers the goods which are part of business asset from UAE to any other implementing state, then such transfer will be deemed as a supply. However, such deeming provision will not be applied when such transfer is either a temporary transfer as per customs legislation **or** if it the stated goods or services was taxed as part of another taxable supply.

Note:

.....

9. Who is required to have mandatory Tax registration while doing a transaction with another implementing states (Article (13) to be read with Article (18), Article (27) and Clause (1) of Article 48 of Decree-Law)

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.

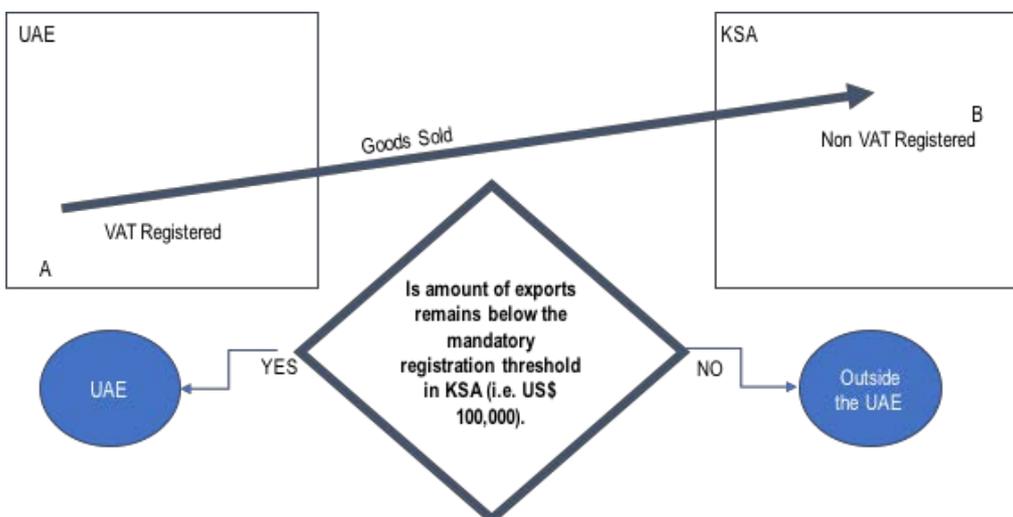
Article (27) - Place of Supply of Goods

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:
 - 1) If the supply includes exporting to a place outside the Implementing States.
 - 2) 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

Note:

.....

- this state does not exceed the mandatory registration threshold for said state.
- 3) 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:
- 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.
 - 3) 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.



Note:

.....

Background Material on UAE VAT

Explanation:

Sale to Unregistered Person in Implementing State:

- (a) If a person has a place of residence in UAE and provides taxable supplies to registered & unregistered person in KSA that exceeds the threshold limit under KSA VAT law, then that person (having place of residence in UAE) has to be registered under KSA VAT law and Charge KSA VAT.
- (b) If a person has a place of residence in UAE and provides taxable supplies to registered & unregistered person in KSA that DOES NOT exceeds the threshold limit under KSA VAT law, then that person (having place of residence in UAE), is not obliged to register in KSA. In this case, Place of supply is considered as UAE & due tax should be charged & collected in UAE.

Definition of Place of residence as given in Article (1) of the Decree-Law, reproduced hereunder:-

"The place where a Person has a Place of Establishment or Fixed Establishment, in accordance with the provisions of the Decree-Law."

Sale to Registered Person in Implementing State:

The supply is considered as outside the state, if it is export to a customer registered for Tax purposes in one of the Implementing States.

Place of supply examples:

Exporting State	Importer-Registered/Unregistered	The value of total exports by exporting dealer is below/above the mandatory registration threshold	POS is UAE or outside UAE
UAE	Importer - Not registered in his Implementing state	Below mandatory registration Threshold in implementing state of Importer.	UAE
Another Implementing State	UAE Importer - Not registered in UAE	Above mandatory registration Threshold in UAE.	UAE

Note:

.....

Exporting State	Registered / Non-Registered	The value of total exports by exporting dealer is below/above the mandatory registration threshold	POS is UAE or outside UAE
UAE	Importer - Not registered in his Implementing state	Above mandatory registration Threshold in implementing state of Importer.	Outside UAE
Another Implementing state	UAE Importer -Not registered in UAE	Below mandatory registration Threshold in UAE.	Outside UAE

10. Recoverable Input Tax – Where Goods are imported by a Taxable Person through another Implementing State:

Article (54) of Decree-Law - Recoverable Input Tax (only relevant Clauses)

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.

Article (52) of Executive Regulation - Input Tax Recovery in respect of Exempt Supplies (only relevant Clauses)

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.

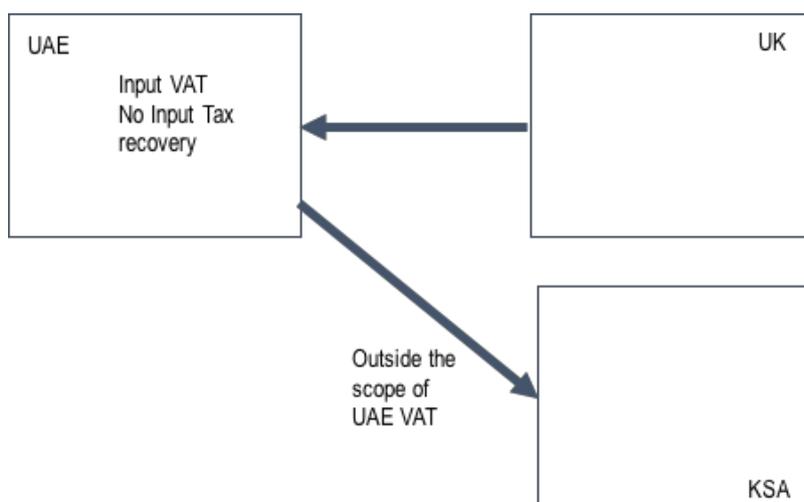
Note:

.....

Background Material on UAE VAT

- 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.

Explanation:



- (a) 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 i.e. tax paid by a Person in another Implementing State on the Import of Goods to the State through 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 specified conditions.

Example: Goods are imported in KSA(Implementing state) by an UAE entity, where final destination is UAE, any taxes paid in KSA (for VAT) cannot be recovered in KSA, however this can be claimed in the destination state i.e. UAE (subject to tax is allowed to be recovered in the state).

- (b) 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, i.e. any Tax paid by a Person in another Implementing State on the supply of Goods to this Person in that

Note:

.....

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 specified conditions.

Example: UAE VAT Registered Entity, visited KSA (Implementing State), purchased laptop by payment of tax, & subsequently transferred the purchased items to UAE (with due custom process). These goods are eligible for claim of input tax by the UAE entity (subject to other conditions of input tax is recoverable).

11. Evidence to be maintained for Supplies between the Implementing States:

Article (24) of Executive Regulation - 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.

Explanation: Any Supply between implementing states, should be supported by Official Evidence, Commercial Evidence & any additional information required by the Authority.

“Official evidence” means Export documents issued by the local Emirate Customs Department in respect of Goods leaving the State.

“Commercial evidence” shall include any the following:

- 1) Airway-bill.
- 2) Bill of lading.
- 3) Consignment Note.
- 4) Certificate of shipment.

Note:

12. Place of Supply of Water and Energy while dealing with other implementing states- Article (28) of Decree-Law.

- POS: Place of residence of the taxable trader
 - In the list of supply of water and all forms of energy, as specified in the executive regulation of UAE VAT Law ,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 purposes, where supply is done through a distribution system, the POS would be the place of residence of the taxable trader, if the distribution was made by a VAT registered person having a Place of residence in UAE to a taxable trader having a place of residence in another Implementing State
- POS: Place of Actual Consumption
 - The supply of water and all forms of energy specified in the Executive Regulation of this Decree-Law, 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 purposes, 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.

Explanation: In case of distribution of water and energy by a distributor who is registered in UAE and has a place of residence in UAE as per UAE VAT Law to a taxable trader who has a place of residence in KSA, the POS is Place of residence of the taxable trader i.e. KSA in our explanation. However, if such supply was made to a non-taxable person then the place of supply will be the place where it is actually consumed.

13. Place of Supply (POS) of Services Article (29) read with Article (30) and (31) of Decree-Law.

- Basic rule POS = Supplier's place of residence.
Exception to basic provision for Place of Supply of Services while dealing with other implementing states
 - **Case 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.

Note:

.....

Explanation: When a person in UAE is providing a service to a registered person in KSA according to KSA VAT Law and the registered person in KSA has a place of residence in KSA then place of supply would be KSA.

- **Case 2:** If the supplier of service is from another implementing state and the recipient of the service is a registered person in UAE then the place of supply, under UAE VAT law would be UAE

Explanation: A person from KSA (a non-UAE resident) is rendering services to a person registered in UAE as per UAE VAT law then POS would be UAE.

- **Case 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.

Explanation: A person from UAE is providing services of installation of goods in KSA, POS would be outside UAE.

- **Case 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 Tax registration number in another Implementing State, the place shall be where such means of transport were placed at the disposal of the lessee

Explanation: If a person not required to be registered in UAE as well as not required to be registered in another implementing states provide a service of supply of means of transport and place the means in INDIA, the POS would be Outside UAE.

- **Case 5:** For the Supply of restaurant, hotel, and food and drink catering Services, the place shall be where such Services are actually performed.

Explanation: If a UAE person runs a restaurant in KSA the POS of such restaurant service shall be outside UAE. i.e. the POS shall be in KSA.

- **Case 6:** For the Supply of any cultural, artistic, sporting, educational or any similar services, the place shall be where such Services were performed.

Explanation: A singer from UAE provided services in KSA at a cultural event then the POS would be Outside UAE, as per UAE VAT law.

- **Case 7:** For the Supply of Services related to real estate as specified in the Executive Regulation of this UAE VAT Law, the place of supply shall be where the real estate is located.

Explanation: In case of service provided as specified in executive regulation as per UAE VAT Law from UAE to KSA in relation to real estate situated in KSA the POS would be outside UAE, as per UAE VAT Law.

Note:

.....

- **Case 8:** For the Supply of transportation Services, the place of supply shall be where transportation starts. The Executive Regulation have further clarified that the place of the supply of each transportation service, where a trip includes more than one stop and consists of multiple stops, is also going to be the place where the supply of that transportation service commences. 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.
- **Explanation:** If a person providing transport services from UAE directly to KSA, the POS would be UAE, as per UAE VAT Law. If a person providing transport services from UAE to KSA, via Bahrain, the POS would be UAE, as per UAE VAT Law.
- **Case 9:** For telecommunications and electronic Services specified in the Article (23) of the Executive Regulation, 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.

Explanation: If the services are used in KSA for the services provided by UAE irrespective of where the payment is made, the POS will be Outside UAE.

14. Is Supply of Goods and Services from UAE to another Implementing State Subject to Zero Rate? - Article (45) of Decree-Law.

- Export of Goods and services either Direct or Indirect Export from UAE are applicable to zero rate provided such services are provided to other than another implementing state (Article (45) of Decree-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 would not be eligible for zero rate as specified in Clause (1) of Article 45 of the Decree-Law)
- In order to be a Zero rated Supply of Goods such goods basically shall be physically exported to a place outside the Implementing State or put into a customs suspension regime in accordance with the GCC Common Customs Law within 90 days from the date of the supply and other conditions specified in Article 30 of Executive Regulation of Decree Law has to be met in order to avail the Zero rate benefit. In order to be a Zero rated Supply of Services, the Services are supplied to a Recipient of Services who does

Note:

.....

not have a Place of Residence in an Implementing State and who is outside the State at the time the Services are performed or If the services are actually performed outside the Implementing States or are the arranging of services that are actually performed outside the Implementing States.(Article 31 of Executive Regulation of Decree Law)

- The provisions of Zero rated Supply in relation to Implementing State has been briefed above, for detailed explanation regarding the provisions of Zero Rated Supply kindly refer the concerned chapter.

Note:

.....

Chapter – V

Export

General Note on Exports under UAE VAT Law

Exports are generally well understood but in the context of UAE VAT Law, it is important to understand that export will be those supplies whose 'place of supply' happens to be outside UAE to the rest of the world i.e. outside implementing GCC countries accordingly, enjoy zero-rate on their supply as provided in Article (45) of Federal Decree-Law No. (8) of 2017 on Value Added Tax. Also, certain transactions, considered as special cases, are accorded the benefit of zero-rate on their supply by this Article. So, it's not just destination of their physical transportation of goods but the supply to transpire in such a manner that their 'place of supply' as appointed by Decree Law, to be outside UAE (and outside implementing State). Aspects relating to determination of Place of Supply is discussed later in this chapter.

To appreciate the scope of exports and zero-rate on their supply, it would help to peruse the definitions of certain terms:

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 conducted¹.

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

¹ The definition of **Place of Establishment** in Executive Regulation (ER) is '*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.*'. It can be observed after comparison that that in the Decree Law the definition of Place of Establishment uses the word 'and' whereas in ER its 'or'.

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.

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

Thus, to qualify as export, goods should be departing from UAE whereas to qualify as export of services, it is necessary that services should be provided to a person (i.e. recipient) whose place of establishment or fixed establishment is outside the UAE.

As per Article 50 of the Federal Decree-Law No. (8) of 2017 on Value Added Tax, the designated zones (Free Zones) that meets the conditions specified in the Executive Regulations, would be considered to be places outside the UAE. It is further clarified in Article (30) Clause 3 of the Executive Regulation 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” i.e. Any transfer of goods from one designated zone to another designated zone shall not be subject to VAT (subject to specified conditions under Article (51) of the Decree-Law. However, VAT benefit is available 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).

Determining the 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 under Article (29) & Article (30) 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.

Note:

Further, Article (20) to (24) of Executive Regulation also provides guidance on Place of Supply.

Place of supply for goods

As per Article (27) of Decree-Law, Place of Supply of Goods, will be considered as inside the state in following instances:

- (i) If the supply includes exporting to a place outside the implementing States (i.e. Any country outside UAE & Implementing state)
- (ii) If the recipient of goods in another 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.
(e.g. ABC LLC in UAE supplies goods to an unregistered recipient XYZ LLC in KSA (Assuming KSA as an Implementing State). If XYZ is not a tax registered dealer and the total sale to KSA of ABC is less than USD 100,000 (KSA threshold), then place of supply is determined to be UAE and tax is payable in the UAE.
- (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.
e.g. MNO LLC in KSA supplies goods to an unregistered recipient ABC LLC in UAE (Assuming KSA as an Implementing State). If ABC is not a tax registered dealer and the total sale to UAE of MNO is more than AED 375,000 (UAE threshold), then place of supply is determined to be UAE and MNO is required to complete the VAT obligation process in the UAE).

As per Article (20) of the Executive Regulation, 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.

Note:

Background Material on UAE VAT

This is as per Article 27 Clause 4 of the Decree Law which has been explained above in the Executive Regulations under Article 21. This situation is quite possible when goods are being sent to Hatta or Khor Fakkan as the goods will have to pass through Oman and re-enter the State again.

Table showing transactions that are treated as inside the state for place of supply:

TRANSACTION	ORIGIN OF JOURNEY	DESTINATION OF JOURNEY	ADDITIONAL FACTS OF RECIPIENT
Supply	UAE	UAE	Registered or Unregistered in UAE
Assembly	UAE	UAE	Registered or Unregistered in UAE
Supply	UAE	RoW	-
Supply	UAE	GCC	Recipient unregistered in GCC and supplies are less than MRT
Supply	GCC	UAE	Recipient unregistered in UAE and supplies are more than MRT

In the following cases, the supply is determined to have taken place outside the UAE:

- (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.

(e.g. ABC LLC in UAE supplies goods to an unregistered recipient XYZ LLC in KSA (Assuming KSA as an Implementing State). If XYZ is not a tax registered dealer and the total sale to KSA of ABC is more than USD 100,000 (KSA threshold), then place of supply is determined to be outside UAE.

- (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.

e.g. MNO LLC in KSA supplies goods to an unregistered recipient ABC LLC in UAE (Assuming KSA as an Implementing State). If ABC is not a tax registered dealer and the total sale to UAE of MNO is less than AED 375,000 (UAE threshold), then place of supply is determined to be outside UAE.

Note:

.....

- (iv) 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.

Table showing transactions that are treated as outside the state for place of supply:

TRANSACTION	ORIGIN OF JOURNEY	DESTINATION OF JOURNEY	RECIPIENT	ADDITIONAL FACTS OF RECIPIENT
Supply	UAE	Outside UAE	Any	-
Assembly	UAE	Outside UAE	Any	-
Supply	UAE	Within GCC	In GCC	Registered in GCC
Supply	UAE	Within GCC	In GCC	Recipient is unregistered in GCC and supplies are more than MRT
Supply	GCC	UAE	In UAE	Recipient unregistered in UAE and supplies are less than MRT

Place of supply for services

According to Article (29) of Decree-Law, 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.).

Further, there is Article (31) which determines the place of supply in case of tele-communication and electronic services.

Rate of Tax on Exports

According to Article (45) of Decree Law, supply of goods and services made by a taxable person would be taxable supply, subject to the zero rate. In Article (45), fourteen instances (such as exports, international transport etc.) are specified on which zero rate will be applicable. 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.

As per Article (30) of the Executive Regulations 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

Note:

.....

Background Material on UAE VAT

- 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.

Note:

.....

- 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.

Note:

.....

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.

Note:

.....

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 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.

All supplies which are subject to zero rate are treated as taxable supplies for the purpose of the law. Thus, to determine the mandatory and voluntary registration threshold, even zero rated supplies shall be included.

Recovery of Tax on Exported Goods

Any input tax paid by the business in making an export shall be recoverable by the Registrant. 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. Recovery of tax is the expression used for claiming credit of taxes paid on the inward supply of inputs used in the outward supply towards exports.

Record Keeping Requirements

As per Article (24) of the Executive Regulations, 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

Note:

Background Material on UAE VAT

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.

Additional Notes

Dubai Customs, vide Customs Notice No. (7/ 2017) – Procedures for Providing Exportation of Goods for VAT Purposes:

“Pursuant to the requirements of the Federal Tax Authority (FTA), and in order to facilitate procedures of proving exportation of goods through Customs exit points for value-added tax (VAT) purposes, the taxpayer must abide by the terms and procedures provided herein for proving export of goods;

Therefore, the following have been decided:

Article (1) – To prove exportation of the goods outside the country, the following procedures are required:

1. *Issuing a customs declaration in accordance with customs procedures applicable for proving export of goods outside the country.*
2. *Issuing authenticated Customs Exit/ Entry Certificate.*
3. *Actual examination (inspection) of goods (in terms of description, type, quantity, weight, country of origin,... tec.)*

Article (2) – The above procedure shall not be duplicated when claiming refund of customs duty and deposits from Dubai Customs and for providing exportation of the goods for VAT purposes for the same transaction. Othr procedures and conditions applicable for the purpose of customs duty and deposit refund shall remain unchanged.

Article (3) – This Notice shall be applicable on consignments and goods being cleared by Customs starting January 1st, 2018. All concerned departments and business units shall take necessary actions to implement it in their respective scope.”

Note:

.....

Chapter – VI

Designated Zones

Introduction

Designated Zones [DZs] will assume special significance, against the backdrop of implementation of Excise Tax and VAT in GCC countries over coming months. The GCC Framework Agreement endorsed by all member countries in February 2017, has left the tax treatment of businesses in the DZs to each country's discretion while framing its own laws. .

This background material highlights key regulatory aspects applicable to Designated Zones in the GCC in general, but with specific reference to the United Arab Emirates [UAE] which has already enacted Decrees (7) and (8) under UAE law for Excise Duty and VAT respectively and the Executive Regulations for VAT. This has wide ramifications on businesses operating from from the 20 DZs listed in the "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"

For the purpose of VAT, The Executive Regulations defines a **Designated Zone** under Article 51 Clause 1 (a) as "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"

On the other hand, Designated Zone under Article (1) of Excise Law [Decree No. 7 of UAE] is defined as any fenced area intended to be a Free Zone (no tax for imported and exported goods). The entry and exit are only through a designated road. It also includes any area designated by the Authority as being subject to supervision of a warehouse keeper in accordance with the regulation. Warehouse keeper has been defined to be any person approved and registered by the Authority in accordance with the executive regulation.

Implications of indirect tax statutes on Designated Zones

A. Customs duty

The UAE has ratified the GCC unified customs duty law under which all imports within a GCC country, including imports from a defined Free Zone into the mainland, are subject to a customs duty at a flat rate of 5% (with some exempt categorization). 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 generally exempt from Customs duty as these Zones are deemed to be outside the UAE.

With an aim to reduce and remove tariffs, the UAE through the GCC has signed numerous free trade agreements, including the Greater Arab Free Trade Area Agreement (GAFTA).

B. Excise Tax

Requirements of Designated zones for Excise Tax purposes

Designated zones for excise tax purposes are warehouses, zones or areas in which the levy of Excise Tax may be suspended (i.e., Excise Tax will not be levied in the designated zones).

Registration: In order for a warehouse, zone or area to be classified as a Designated Zone [DZ] under excise law, the warehouse keeper or the relevant zone or area authority will need to specifically register and apply for a license to operate as a Designated Zone.

Conditions: Bonded customs warehouses or free zones will not automatically fall outside the scope of Excise Tax. The specific criteria for a warehouse, zone or area to be eligible to apply for the license will be set out in the UAE Excise Tax Law. However, it is expected that the warehouse, zone or area will need to meet certain conditions in terms of area separation, control, and security over the area.

Excise Tax Levy: In accordance with UAE Excise Tax Law, Excise tax applies to certain goods produced, imported, removed from Designated Zone and stockpiled and only such businesses need to be registered for Excise Tax.

Although both VAT and Excise tax are indirect taxes, where VAT is a tax on goods and services on each stage of the supply chain, Excise tax is only paid to the government when the good subject to tax is imported or produced by the manufacturer. Once it is sold to the retailer, this price will include the excise tax, which is then passed on to the consumer by the retailer. Initially Excise tax of 50% will be levied on Fizzy Drinks and 100% on Tobacco and Energy drinks. Taxability and rates for other items are likely to be notified in future after Excise Tax law is implemented.

Same tax rules as for taxable businesses will apply to goods and services sold by businesses in the Designated Zones, if they do not meet or maintain the requisite conditions for exemption.

Inter-Designated Zone transfers and activities: Article (14) of the Law provides that Excise Tax is not expected to be triggered for transfer of goods from one Designated Zone to another Designated Zone provided the products are not released for consumption nor altered during the course of transport. Methods for storing, preserving, processing of goods in the DZ would be as specified in the Excise regulations.

Such transfer of goods from one DZ to another can be done without any tax payment subject to the procedures specified in the regulation.

Article (13) of UAE Excise law also specifies that the regulations would set out the conditions when the business so conducted within the Designated Zone shall be treated as being conducted in the State and consequently be liable to tax.

Note:

Registration as Warehouse Keeper: Any person who intends to operate or operates (as on 1st October) a Designated Zone shall apply as specified in the regulation, as he cannot operate as warehouse Keeper without registration. Exception from registration requirement is available to any person who either imports or releases from Designated Zone provided such person can demonstrate that he will not regularly conduct such activity as prescribed in the Excise regulation.

However, such person shall intimate the Excise Authority of any change in the circumstances such as intention to trade etc. as per the regulation. In such an eventuality, the person will be liable to pay the due tax and administrative penalties.

Violations and penalties: Failure to follow conditions for preserving, receiving, storing, processing and transferring of excise goods in a Designated Zone, is a violation that makes the person liable to penalties.

C. Value Added Tax

The VAT status of Free Zones, gives rise to some complex issues in terms of the implementation of VAT and consideration should be given to the following:

- Whether the Free Zone is categorized as Designated Zone as per Cabinet Decision (as not all free zones have been notified as DZ under VAT),
- VAT classification and treatment of goods and services obtained inside the Designated Zone, brought from outside the Designated Zone and from overseas.
- VAT treatment of entities trading / supplying goods and services in the Designated Zone.
- VAT treatment of supplies from one Designated Zone to another Designated Zone.
- Organizational and structural changes required if any, to optimize competitiveness.

VAT applicability in the UAE's Free Zones

Article (30) of the Executive Regulations which sets out criteria for Zero-rating of Exports, specifies 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 Export of those Goods.

Article (47) of the Executive Regulations that lays out general rules regarding Import of Goods, specifies that subject to any provisions in the Decree-Law No. 8 on VAT and this Decision, 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.

Note:

.....

Article (50) of Decree-Law, defines a Designated Zone as one that meets the conditions specified in the Executive Regulation of this Decree-Law and shall be treated as being outside the State.

Clause (1) of Article (51) of Executive Regulations on Value Added Tax” further elaborates Designated zone VAT applicability.

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.

Commentary: Cabinet vide Decision No. (59) of 2017, provided the list of approved designated Zones, elaborated in below section.

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.

Commentary: In the event goods are transferred between one Designated Zone to another Designated Zone under GCC Common Custom Law, VAT will not be applicable, subject to condition that goods are moving in the “as is condition” i.e. no alternation, change is done between the Designated Zones. Generally, these transactions are considered “Out-Of-Scope’ Transactions from UAE VAT perspective.

Note:

.....

Background Material on UAE VAT

VAT will not be applicable in these transactions, however to ensure compliance of transactions between one Designated Zone to another Designated Zone, owner of goods is required to provide guarantee for payment of tax, which is released on providing documentary evidence of entry in destination Designated Zone.

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 of another Good located in the same Designated Zone which itself is not consumed.

Commentary: In the event goods are sold within the same designated zone, no VAT is applicable, unless goods are used for consumption. Goods are not considered as used for consumption, if goods under GCC Common Custom Law and goods are incorporated into, attached or otherwise form part of product which in itself is not consumed. Generally, these transactions are considered "Out-Of-Scope" Transactions from UAE VAT perspective.

6. The Place of supply of Services is considered to be inside the State if the place of supply is in the Designated Zone.

Commentary: Designated Zone benefits are not applied to the services performed or received in the designated zone. For the purpose of services, Designated Zone is considered to be in the State.

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.

Commentary: Designated Zone, VAT treatment, may be challenging at times. It is important to understand the transaction along with Custom Law/ Regulations i.e. who is importer of record. Similar transaction can have differential VAT treatment in the law.

Example: Designated Zone company is selling goods at a registered entity in state

Note:

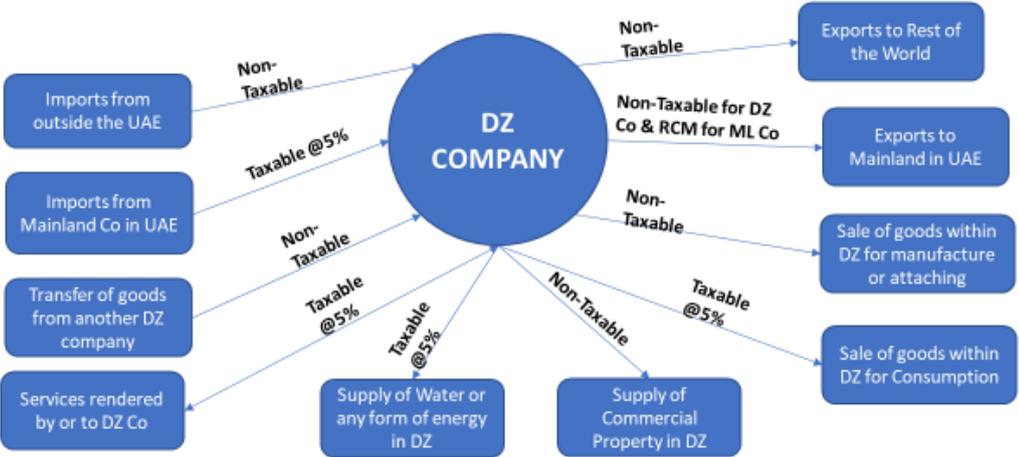
.....

(Mainland Company) – for the purposes of this, we need to identify who is importer on record (i.e. which entity is using import code to import goods, clearing goods from Designated Zone).

(a) Importer on record is Designated Zone company – in this instance, once goods are cleared from custom, goods are considered to be in state and standard tax invoice should be raised by Designated Zone entity to the Mainland entity. Designated Zone, entity needs to record purchases as Import (Under Reverse Charge Mechanism) and sales is subject to standard rated supply (subject to taxability of product).

(b) Importer on record is Mainland Company (State) – in this instance, goods sold by Designated Zone entity is considered as Out-of-Scope transaction and Mainland company will be recording purchases as Import in State (Under Reverse Charge Mechanism)

Designated Zones



Cabinet Decision on List of Designated Zone

“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”, provides the list of Designated Zones, 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.

Note:

Designated Zones (Abu Dhabi)

1. Free Trade Zone of Khalifa Port
2. Abu Dhabi Airport Free Zone
3. Khalifa Industrial Zone

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

Designated Zones (Sharjah)

1. Hamriyah Free Zone
2. Sharjah Airport International Free Zone

Designated Zones (Ajman)

1. Ajman Free Zone

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

Designated Zones (Ras Al Khaimah)

1. RAK Free Trade Zone
2. RAK Maritime City Free Zone
3. RAK Airport Free Zone

Designated Zones (Fujairah)

1. Fujairah Free Zone
2. FOIZ (Fujairah Oil Industry Zone)\

Note:

.....

Conclusion

For the purposes of goods, any transactions done within the designated zone and between Designated Zones, are not subject to VAT, generally these transactions are not considered to be done in the state. However if the goods are meant for consumption then the transaction done within the Designated Zone will still be chargeable to VAT at Standard Rate of 5%. Any movement or supply of goods from state into a Designated Zone shall not be considered an Export, and is subject to standard VAT treatment (as if supply is done in the state).

Regarding services, Designated Zone, does not hold any beneficial treatment and standard VAT procedures are applicable. Proper classification of goods and services, therefore, assumes significance which would rely on the terms of contract between the transacting parties. It is also important for the Registrant to carry out proper (“Know Your Customer”) KYC norms before embarking on any transaction.

Note:

.....

Chapter – VII

Date and Place of Supply

Article 25 – Date of Supply

Article 25: 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.

Introduction

As per Article 19 of the Executive Regulations, 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.

The tax which has been levied and needs to be assessed, will require a specific date to be established for the transaction for taxpayer and tax administration to carry out the quantification. This article provides for the manner of determining the 'Date of Supply'.

Analysis

In the case of supply of goods and services, the date of supply is established by this article. In other words, it is not entirely left at the discretion of the taxable person to determine the date of supply for a transaction. Taxable persons first need to look into which clause of this article is applicable for a supply and then ascertain the date so stated under that clause.

In a case where the transfer is under the supervision of the supplier, the date of supply will be the date when the goods are transferred. It is important to understand the arrangement for transfer of goods as agreed upon in the supply. The contract can contemplate how this

transfer is to be given effect. Transfer is not just delivery of custody of the goods, but recipient being put in lawful possession of the goods. Although transfer of property requires this kind of transfer to take place, not all cases of taxable supply involve such a transfer of the goods. For example, transfer of right to use, transfer at a future date, deemed supply, etc. Therefore, it is evident that this clause will not have universal applicability but will apply only to those cases where this kind of transfer is feasible. In cases where transfer is not so possible, it must be concluded that this article will not apply, and other clauses of this article must be looked into to establish the date of supply. This clause will apply only where the transfer is agreed to take place under the supervision of the supplier

In a case where transfer is not required to take place under the supervision of the supplier and the recipient himself takes up such responsibility, the date of supply will be the date when the recipient takes possession of the goods. Clearly, this provision requires that the recipient must not merely be in custody of goods but in lawful possession of the goods, the difference between custody and possession being that in the former, control over the goods passes to the recipient and in the latter control along with associated responsibility and liability passes to the recipient. It is important to confirm from the terms of the contract or other document that the collection of the goods by the recipient is specified in such a manner that it does not allow the right to reject the goods after they reach their destination which may be warehouse or factory or other premises of the recipient. In other words, all risks and rewards should have passed from the supplier to the recipient for this clause to be applicable. An example could be 'Ex- Works' sale of goods.

In case the supply involves an assembly or installation of the goods, the date of supply will be the date when the assembly or installation is completed. It is noticeable 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, the date when the services – of assembly and installation – are completed would be the date of supply in relation to the goods so transported (as well as the services of installation). This clause contemplates a situation where there may be delivery of goods to the customer, which is not the date of supply but a date when assembly or installation is to be undertaken. The completion of assembly or installation is also a question to be answered not by looking into the activity of assembly or installation carried out by the supplier but completion of acceptance tests and signing-off by the recipient that the assembly or installation carried out have been carried out satisfactorily so as to discharge the supplier from any liability or for the responsibility in relation to the goods. "Assembly or installation" is a generally understood term, but is not a static term as it varies from site to site, and customer to customer. What is the exact activity involved in assembly or installation must be determined from the terms of the contract and the goods to be assembled or installed understood from the relevant trade where it is not expressly provided in the contract.

Note:

.....

Background Material on UAE VAT

In the case of imports, the date of supply will be the date of import of the goods. Reference is made to customs legislation to provide the answer as to – what is this date of import? It is important to note that date of entry of the vessel into UAE should not be assumed to be the date of import. Date of import is a finding provided by the implementation or working of the customs legislation based on the peculiar facts in each case of import of goods. This much emphasis is given to the question of date of import only to highlight the fact that what may be the date of import apparently may not necessarily be the date of import as per customs legislation. This clause requires eliciting the information about date of import from customs legislation and not to furnish this information on the basis of personal observation of a transaction.

Sometimes goods are delivered to the recipient with an obligation on the recipient to accept and use them but with the flexibility to do so 'if and when' the recipient chooses. Such actions are commonly referred to as 'sale on approval'. The characteristic of such a transaction is that the goods are delivered by the supplier with an intention to sell but only if the recipient chooses. In other words, the decision to sell has been made by the supplier and for this reason the goods are delivered to the recipient but the decision to accept the sale has not yet been made by the recipient. Such transactions are very common in a 'buyer's market'. The date of supply in such cases will not be the date when the goods are delivered to the recipient but be the date when the recipient of the goods approves and accepts the same or on lapse of 12 months from the date of they are placed at the disposal of the recipient. Acceptance of the goods by the recipient can be communicated by the recipient to the supplier. Acceptance of the goods can also be established if recipient does anything to the goods so as to impair recipient's ability to return the goods to the supplier. In either case, the date of supply will be the date of such acceptance or impairment. Further, if recipient does not accept the goods within 12 months, even though the understanding may be that the recipient can continue to retain the goods without communicating his acceptance, this clause places a limit of 12 months because date of supply cannot be indefinitely kept in abeyance. Please note in the case of date of supply being left undetermined due to the period of 12 months not having lapsed, it will be necessary for the supplier to maintain satisfactory proof that the goods are in existence, safe keeping with recipient, good are in usable condition and without any form of deterioration so as to render it incapable of being returned when the recipient so chooses. A suitable system to monitor goods so sent to as little as the condition of the goods until acceptance or lapse of 12 months must be developed and followed. Date of supply in such cases must be exactly the date when the action is communicated by the recipient to the supplier as there may be an interval of time for such communication to reach the supplier. This interval of time must not be unreasonable.

In case of services, the date of supply will be the date of completion of the services. Services are so peculiar that many steps may appear to be the date of completion of the services.

Note:

.....

However, what is required is not the completion of the primary service but the entire service as contemplated in the terms of understanding or contract between the parties. It must be examined in each case what is the contractual understanding or the trade expectation as to the last step that defines services to be complete. Parties cannot create artificial steps to unnaturally redesign the activity that defines 'completion' of the service. A suitable system to record the date of completion of the service may be developed and maintained in order to substantiate the date of completion of the service, which will be the date of supply of the service. Please also note that many transactions involving goods are liable to tax as a service. In all such cases, it is imperative that the supplier is aware to apply this clause regarding date of supply of services and not the provisions applicable to supply of goods under this article.

In any of the above cases, the date of supply will stand determined if, before actual supply, either payment is received or tax invoice is issued. One may wonder how to resolve the conflict that this clause brings up. In other words, the question that may arise is, will the date of supply as determined by any of the above clauses be followed or the date of supply as specified in this clause be followed? Firstly, in cases where transfer of goods / completion of service takes place before payment is received/tax invoice is issued, this clause will not apply and the respective clause determining the date of supply will prevail. Secondly, in cases where transfer of goods/provision of service takes place simultaneously along with receipt of payment/issuance of tax invoice, this clause will again not apply. Lastly, only in those cases where receipt of payment/issuance of tax invoice occurs before the actual transfer of goods/completion of service, will this clause come into operation. It is very important to identify when this clause is applicable rather than to rush into applying this clause even though any of the other clauses of this article may already be applicable. The real question that arises is – when would receipt of payment/issuance of tax invoice take place before transfer of/completion of service? This would be a case where payment is received in advance or tax invoice is issued in anticipation of transfer of goods/completion of service. However, if transaction is not a Taxable Supply, mere receipt of payment cannot by itself suffice to attract tax based on the 'date of supply' provisions. Hence, mere receipt of advance cannot itself attract tax in the absence of supply. There may be various reasons why payment is received and none of them maybe in respect of a taxable supply for example, earnest money deposit, security deposit, lease deposit, etc. This clause therefore may be understood as providing the 'date' of a Supply only where no other 'date' can be determined for any reason. And when tax invoice has been issued, whatever may be the reasons, that would be the date of supply even though the transfer of goods/provision of service may not yet have occurred. Reference may be had to Chapter XV: Accounts and Records for detailed discussion on tax invoice and when it is required to be issued.

Further, it is to be noted that, if a supply consists of more than one component as per articles 4 and 46 of Executive Regulations, supply of each component is to be treated as a separate

Note:

.....

Background Material on UAE VAT

supply. Date of supply in such cases must be established individually applying the above principles.

This article provides seven specific cases along with the date of supply applicable to each case. Care must be taken to identify from the facts of a given case as to which of the clauses of this article are attracted and whatever may be the other facts, the date of supply cannot deviate from the one established by the respective clause in this article of the VAT Law.

Conclusion

Description	Applicability	Date of Supply
Transfer supervised by supplier	Goods	Transfer of lawful possession
Transfer without supervision by supplier	Goods	Collection with lawful possession
Assembly and installation	Goods	Completion of assembly or installation
Import under customs legislation	Goods	Date of Import as per customs legislation
Delivery towards 'sale on approval'	Goods	Acceptance or 12 months from date of transfer of goods or its placement at disposal of recipient.
Provision of services	Services	Completion of service
Receipt of payment/issuance of tax invoice	Both	Actual date

Article 26 – Date of Supply in Special Cases

Article 26
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.

Note:

.....

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.

Introduction

Apart from the cases discussed in the previous article, special provisions are required to deal with data supplied in cases which do not conform to the situations covered by article 25. Goods or services supplied on a continuous or on-going basis over a period of time are often known as continuous supplies. In such cases, as well as for supplies which are unique in some way as specified in article 7 and article 11 of the Decree-Law, date of supply is established under this article.

Analysis

This article is for special cases of supply and appoints the date of supply to be considered in each of these cases, namely:

In the case of contracts that are continuing in nature which provides for regular or intermittent payments required to be made before the completion by the supplier under the contract or issuance of invoices periodically. It is important to note that not all contracts which have an extended duration for the completion will come under the scope of this clause. It must be a contract whose performance can be seen to contain sub-parts and each of these may be entitled to payment or require issuance of invoice. If it is the 'standing contract' which is basically a single agreement containing multiple contracts in the form of a Master Agreement, such type of arrangements will continue to be covered by article 25. Once it is identified that this article will be applicable, it provides that the date of supply would be the earliest of:

- date of tax invoice
- due date of payment as shown in the tax invoice
- date of receipt of payment

Due date of payment as shown in the tax invoice generally cannot be earlier than the date of tax invoice itself. Reference may be had to article 67 of Decree Law, wherein the time limit of 14 days to issue tax invoice is only for supplies covered under article 25 and as such there is no time limit to issue a Tax Invoice for supplies covered under article 26.

Hence it is possible in a continuous supply contract, supplier could issue a tax invoice after the due date of payment as per the contract but before the date of receipt of payment. In such case, as per this article, due date of payment as shown in the tax invoice being earlier than the date of tax invoice will be the date of supply.

It is important to note that it appears very likely that one of the three events specified above will always occur first but, if we were to identify correctly long -term supply contracts that are

Note:

Background Material on UAE VAT

generally followed in business, it can provide for any of the other events specified above to occur earlier. Hence, identification of the supplier to whom this provision applies cannot be emphasized any more. It must also be noted that the contract that qualifies for the applicability of this provision should not be one where the interval of time between payment/invoice and date of supply are more than one year apart.

In the real estate guidelines issued by FTA, there are two main aspects on date of supply in the case of construction contracts;

- a. the certification of a construction project at a particular point in time will not trigger the date of supply for VAT purposes. However, the certification of a project is often linked to other obligation such as due date of payment, which may then trigger the date of supply.
- b. A retention clause in a construction contract allows customer to hold back a portion of the contract price once the work has been completed, pending confirmation that the supplier has done the work properly and has rectified any immediate faults that might be found. Often the retention amount is not payable by the customer until an agreed period of time has passed, and in some cases where the customer is not satisfied with the quality of work, the retention payment will be retained by the customer.

There are no special rules for determining the date of supply in relation to retention payments, therefore the normal date of supply rules must apply.

If the services are considered to have already been completed by the supplier, the date of supply will be triggered on the date the services were completed (or on the date of issuance of tax invoice or receipt of payment if earlier). However, if the services are not contractually treated as completed until such time that the sign off is given by the recipient, then the date of supply will be delayed until the earlier of:

- The time the retention payment has been made;
- The work has been signed off as complete; or
- The tax invoice has been issued.

This means that where the construction services are not contractually complete, VAT is due only to the extent of payments received or invoices issued during delivery of the services. The VAT applicable on the retention payment would not be due to be accounted for by the supplier until the time the retention payment is received by the supplier, or an invoice in respect of the retention payment is issued, whichever is earlier.

Where retention payment becomes due for payment to the supplier after 1 January 2018 which relate to supplies of services which were completed prior to 1 January

Note:

.....

2018, the payment received by the supplier should be outside the scope of VAT. Where a retention payment becomes due for payment to the supplier after 1 January 2018 and the supply is not considered to be completed until the retention is signed off, then VAT shall be applicable on the value of the retention payment received.

It is common to find that suppliers place machines containing goods that can be operated by customers and without the presence of a salesperson present, the machine itself dispenses the goods. 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 in order to activate the machine into dispensing the goods stored in such machine, it will be treated as the date of supply of the goods so dispensed to the customer.

In cases specified in article 11 – deemed supply - the date when the events specified in that article occurs, namely:

- deemed supply
- disposal
- change of use
- deregistration

Reference may be had to chapter II: Levy of VAT for a detailed discussion on article 11 to recollect the various types of supply

In the case of supply of voucher as specified in article 7 - special cases of supply - the date of supply is:

- issuance of voucher
- redemption of voucher

Reference may be had to chapter II: Levy of VAT for a detailed discussion on article 11 to refresh ourselves regarding the various special cases of supply, so as to identify the circumstances when issuance of certain types of vouchers would not amount to supply. Only the date of their redemption and not the date of their creation would be deemed to be the date of supply.

Conclusion

Date of supply is required only after the transaction is determined to be a supply liable to VAT. Mere occurrence of events specified in this article cannot remain when the transaction amounting to supply itself has not yet occurred. This principle has been well brought out

Note:

repeatedly so as to point out that supply must first occur in order for date of supply to be required. Date of supply is merely required to quantify the tax that has already been levied.

It is interesting to note that this article does not separately provide clauses for supply of goods and for supply of services. All clauses in this article apply uniformly whether the supply is of goods or of services.

Article 27 – Place of Supply of Goods

Article 27

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.

Note:

.....

- (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.

Introduction

Of all the important aspects to be determined, place of supply is most important because it is the determination of the place of supply that provides the information as to which state is entitled to collect the tax in respect of the taxable supply effected by the taxable person on the date of supply.

Analysis

Territory

VAT law imposes tax in the territory and this territory is not the geographical boundaries of UAE because economic activity involves cross -border trade. While dealing with cross-border trade, it becomes necessary to identify where the substance of the economic activity lives, whether within the territory of UAE or outside. This exercise of identifying the territory which is entitled to impose tax under this law is the exercise of determination of place of supply.

State-GCC-RoW

It is important to understand the relationship between the following jurisdictions:

- State – UAE
- GCC – reference is always to all implementing-member States from GCC
- Rest of World – reference is always to include non-implementing member States from GCC and rest of the world

VAT law provides a certain manner of treatment when supply is taking place between “State and GCC” and “State and RoW”. This is evident on a careful consideration of this article. In order to appreciate this principle, it is necessary to identify the place of supply appointed in the VAT law. While stating that the place of supply is ‘appointed’, it needs to be considered that place of supply is an expression used to refer to what the law considers to be the ‘tax collecting State’ and not the site where the supply actually takes place. It is a legally appointed place and not the ‘site of supply’ evident from the facts. If this legally appointed

Note:

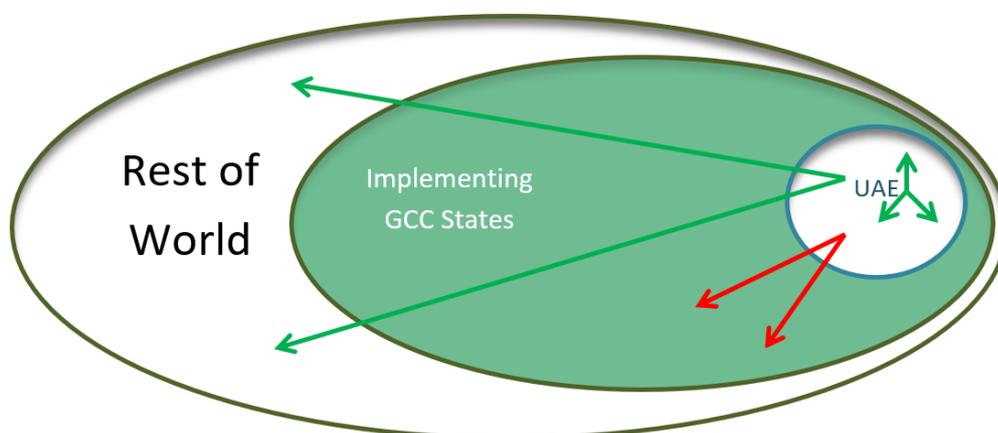
Background Material on UAE VAT

place of supply is 'within UAE' then VAT is payable and if the place of supply is 'outside UAE' then, VAT is NOT payable.

Destination of Supply

When a transaction is referred to as 'supply made', it can refer to the location of the supplier at the time of effecting the outward supply or refer to the location of the goods at the time of effecting the supply. Apart from import of goods reverse charge mechanism operates in its true sense under this VAT law applies only in the case of services.

Article 48 discusses 'Concerned Goods' in the context of reverse charge and goes on to indicate that reverse charge applies only to import of goods. Hence, while examining the concept of 'where supply is made' it would help in understanding this article to understand supply of goods excluding import of goods and supply of services.



Green arrows indicate that 'place of supply' is UAE in case destination is within UAE or outside GCC

Red arrows indicate that 'place of supply' is not in UAE in case destination is outside UAE but within GCC

Place of Supply

Place of supply is important to know whether tax is payable in UAE or not. If place of supply is within UAE then VAT is applicable on those supplies and the taxable person shall be liable to discharge VAT as prescribed. This article puts the places of supply in three categories, namely:

- where supply is made within UAE
- where supply is made outside UAE but within GCC

Note:

.....

- where supply is made to the Rest of the World (RoW)

From our earlier discussion regarding destination of supply principle, we have seen that this article creates a legal fiction regarding the principle to be followed. In relation to supply of goods, factual information as to the destination of the journey of the goods is relevant. The location of the buyer is not as important as the location of the actual recipient of the goods supplied. The buyer may very well be in any other location and that fact will be ignored in determining the place of supply. Recipient of the goods refers to the actual person (buyer himself or his nominee) and his role in a given supply is relevant. The whole discussion about the place of supply in each of the three categories identified above, has been summarised in the table below for ease of understanding.

Table A – Place of Supply ‘in UAE’

Transaction	Origin of Journey	Destination of Journey	Recipient	Additional Facts of Recipient	Place of Supply
Supply	UAE	UAE	Any	Registered or unregistered in UAE	UAE
Assembly	UAE	UAE	Any	Registered or unregistered in UAE	UAE
Supply	UAE	RoW	Any	-	UAE
Supply	UAE	GCC	In GCC	<ul style="list-style-type: none"> • Recipient unregistered in GCC • Supplies ‘less than’ MRT 	UAE
Supply	GCC	UAE	UAE	<ul style="list-style-type: none"> • Recipient unregistered in UAE • Supplies ‘more than’ MRT 	UAE

MRT means Mandatory Registration Threshold

GCC means Implementing State in the GCC

Where place of supply is ‘in UAE’ the supply will be liable to VAT notwithstanding the destination of journey of the goods.

Note:

.....

Background Material on UAE VAT

Table B – Place of Supply ‘Outside UAE’

Transaction	Origin of Journey	Destination of Journey	Recipient	Additional Facts of Recipient	Place of Supply
Supply	Outside UAE	Outside UAE	Any	-	Outside UAE
Assembly	Outside UAE	Outside UAE	Any	-	Outside UAE
Supply	UAE	Within GCC	In GCC	Registered in GCC	Outside UAE
Supply	UAE	Within GCC	In GCC	<ul style="list-style-type: none"> Recipient unregistered in GCC Supplies ‘more than’ MRT 	Outside UAE
Supply	GCC	UAE	UAE	<ul style="list-style-type: none"> Recipient unregistered in UAE Supplies ‘less than’ MRT 	Outside UAE

MRT means Mandatory Registration Threshold

GCC means Implementing State in the GCC

Where place of supply is ‘outside UAE’ the supply will not be liable to VAT as it would be an export as per article 45 and kindly refer to Chapter V for detailed discussion on export.

Exports from UAE

As regards exports, the place of supply is provided in article 27(3)(a)(1)/(2) and 27(3)(b)(1)/(2) and the same may be understood as follows:

Export from UAE to GCC		Export from UAE into R-o-W		
<i>Recipient un-registered in GCC</i>		<i>Recipient registered in GCC</i>	<i>Recipient registered in GCC</i>	<i>Recipient unregistered in GCC</i>
<i>Export ‘more than’ MRT</i>	<i>Export ‘less than’ MRT</i>			
Outside UAE	UAE	Outside UAE	Outside UAE	UAE

Note:

.....

Exports to Unregistered Recipients

From the perspective of unregistered recipients, the place of supply in article 27(3)(a)(2) and 27(3)(b)(2) and the same may be understood as follows:

Recipient of Supply Unregistered	Destination of Goods	Supply Below MRT	Supply Above MRT	Place of Supply
Unregistered in GCC	GCC	Yes	-	UAE
Unregistered in GCC	GCC	-	Yes	Outside UAE

Imports into UAE

As regards imports, the place of supply is provided in article 27(3)(a)(3) and 27(3)(b)(3) and the same may be understood as follows:

Import into UAE from GCC supplier (registered)		Imports into UAE from R-o-W
<i>Recipient unregistered in UAE</i>		
<i>Imports 'more than' MRT</i>	<i>Imports 'less than' MRT</i>	
UAE	Outside UAE	UAE

Imports by Unregistered Recipients

As regards imports, the place of supply is provided in article 27(3)(a)(3) and 27(3)(b)(3) and the same may be understood as follows:

Recipient of Supply Unregistered	Origin of Goods	Destination of Goods	Supply 'less than' MRT	Supply 'more than' MRT	Place of Supply
Unregistered in UAE	R-o-W	UAE	-	Yes	UAE
Unregistered in UAE	GCC	UAE	Yes	-	Outside UAE

Immovable property

Special mention is merited in respect of transactions involving immovable property because the definition of goods includes real estate. Immovable property is not synonymous with real estate. Immovable property is referred as 'real estate' only when it is an object of inventory in Business. Immovable property such as highway, mountain, river bank, desert land or bridge will never be referred to as 'real estate'. It therefore follows that some of these examples may have been 'real estate' at some point but ceased to remain 'real estate' once they were

Note:

.....

Background Material on UAE VAT

permanently established and came to be identified by a more accurate name such as highway, bridge or land. Further support may be had from article 45 and 46 which provides for an exclusion from VAT where time-based exclusion is provided in respect of real estate. Article 45 provides for zero rating of certain transactions involving immovable property and article 46 provides for exclusion from tax. Existence of exemption can indicate the extent of its inclusion within the levy of tax. Transactions listed in article 45 can be understood as included within the scope of supply of goods and transactions listed in article 46 can be understood to be clarified as not at all included within the scope of supply of goods. Further, Article 21 of Executive Regulation provides guidance on place of supply of services related to real estate wherein it states what real estate includes and examples of services connected with real estate.

Place of supply of goods in relation to real estate may be attended to with caution after considering all attendant facts related to the nature of the arrangement between the parties in relation to such real estate.

Conclusion

On a careful consideration of this article, the principle that may be understood are summarized below:

1. place of supply of goods is the destination of those goods
2. if recipient is unregistered in UAE (for imports) and GCC (for exports) and supplies are 'less than' MRT, place of supply will be the origin

Article 28 – Place of Supply of Water and Energy

Article 28

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.

Note:

.....

Introduction

Supply of water and energy (specified forms) does not follow the general principles of place of supply in view of the significance of economic activity involving water and energy. In this article we will find the specific provisions relating to place of supply of water and energy.

Analysis

As mentioned earlier, place of supply is a legal fiction appointing the authority to collect tax to be UAE or not. For this reason, in relation to supply of water and energy the following table may be referred:

Description	Supply By	Supply To	Place of Supply		Effective Place of Supply
Water and Energy	Taxable Person	Taxable Trader	Place of Residence of Taxable Trader	Within UAE	UAE
				Within GCC	Outside UAE
	Taxable Person	Non-taxable Person	Actual consumption	Within UAE	UAE
				Outside UAE	Outside UAE

Taxable trader is a taxable person in the Implementing States. Further, his main business is the distribution of water or energy.

Place of residence refers to the place of establishment of his business as per article 32. The most proximate location involved in the supply will be taken into consideration to identify the place of supply under this article.

Conclusion

Provisions of this article apply in specific cases where the supply is by a taxable person to a taxable or non-taxable person. This article does not apply to import or export of water or energy. When the specific cases covered by this article are not involved in a supply then place of supply cannot be determined under this article.

Article 29 – Place of Supply of Services

Article 29: The place of supply of Services shall be the Place of Residence of the Supplier.

Introduction

Services hold an important place in the VAT law and enjoy a very expansive definition compared to goods. Prescribing what the place of supply of services should be is not left to the facts of a case but the prescriptions of this article.

Note:

.....

Analysis

Place of Supply

The brevity of this article is remarkable both in clarity and the potency of the contribution that services are expected to make in the economic development of UAE.

Place of supply of services will be the place of residence, as determined in accordance with article 32, of the supplier of the services. Reference may be had to ‘Chapter I: Important Definition’ for detailed discussion on place of residence. It is sufficient at this point to mention that place of residence follows a hierarchy, namely:

- a. place of establishment of the supplier who has a single location in GCC
- b. fixed establishment located elsewhere and most proximate to the supply of services
- c. place of the usual residence

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 establishment of his business. They are merely the site of discharge of responsibilities and not the place of establishment.

Export of services and import of services are not to be subject to the general provisions of this article as they are separately discussed in the next article.

Conclusion

In relation to supply of services, VAT Law in UAE follows the “principle of origin”.

Article 30 – Place of Supply in Special Cases

Article 30: 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.

Note:

.....

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.

Introduction

Not only are export of services and import of services in need of specific provisions to determine their place of supply but there are also various other cases that are regarded as special. This article provides the legislative intention of the place of supply as appointed by the VAT law.

Analysis

This article carves out an exception to the previous and in so doing effectively overrides the notion of what the place of supply should be in these cases. It is therefore important to correctly identify whether the circumstances detailed in this article are rightly identified in each case and then the place of supply prescribed by this article can be applied.

Place of supply which is generally the origin of the supply in the following cases will be the destination of the supply, namely:

1. where the recipient is registered in another implementing state.
2. where a recipient carrying business and resident in UAE and the supplier is a non-resident in UAE. In this case it is not essential that either the supplier or recipient has to be registered for VAT in UAE. As long as the recipient is in business in UAE as well as has a place of residence in UAE and the supplier is a non-resident in UAE, place of supply will be in UAE.
3. where services in relation to goods such as installation are actually performed.
4. where services of lease of means of transport are given at the disposal of a recipient who is not taxable in UAE

Note:

Background Material on UAE VAT

5. where services of supply of food and drink are actually performed
6. where services of entertainment of culture, art, sports, education or others are actually performed
7. where services in relation to real estate are actually provided at the site or location of the real estate.
8. where services of transportation commence

It is interesting to note that the place of supply is determined not with reference to the supplier but to service. It therefore emerges that place of supply will not change based on the fact that the service is supplied by the principal supplier or any subcontractor. The place of supply continues to be guided by the services supplied and not the position of the supplier with reference to the ultimate consumer of those services. A word of caution here is that the nature of the services supplied by the supplier need not always be the same as those services received from subcontractors. If a principal supplier were to receive services from subcontractors whose services are of a completely different nature, then the place of supply corresponding to the services of such subcontractor will be applicable and not the place of supply as that of the principal supplier.

It is also not uncommon to find that in the course of supply of services, goods may also be received by the recipient and consumed, but the nature of supply continues to remain supply of services and not a supply comprising of more than one component as discussed in article 8. Facts of every transaction will provide the information necessary to determine whether article 8 is applicable or not. Accordingly place of supply under this article needs to be followed only if the component involved is a service listed in these special cases under this article.

Conclusion

Although the general rule regarding place of supply for services appears to be the origin, this article provides the exception to the principle. Place of supply of services in relation to special cases deviates from principle of origin to "destination principle: except in the case of transportation service.

Article 31 – Place of Supply in Telecommunication and Electronic Services

Article 31

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.

Note:

.....

- | |
|--|
| <p>(b) Outside the State, to the extent of the use and enjoyment of the supply outside the State.</p> <p>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.</p> |
|--|

Introduction

Telecommunication and Electronics services are a new and expanding area of economic activity. The remote and nonphysical nature of the services involved in this industry makes it difficult to determine the place of supply based on general principles and for this reason this article provides the specific manner of determining place of supply in relation to telecommunication and electronic services.

Analysis

At the outset, telecommunication and electronic services covered by this article are to be notified by Executive regulation.

This article very simply focuses on the location of use and enjoyment of the services and not the location of payment or contract. The manner of determination of the location of use and enjoyment requires a certain amount of evidence gathered from the supplier's digital network particularly where services are enabled with great amount of mobility along with use of portable devices. Supply of devices required for enjoying the services will be covered within the provisions dealing with place of supply of goods but the services enjoyed using those devices alone are covered by this article. Many telecommunication services are enabled using devices or chips or other articles which are placed in the hands of the consumer not to supply those articles to the consumer but to facilitate the access and use of the services offered by the supplier. For example, SIM card placed in the hands of a consumer always remains the property of the telecommunications services supplier. The consumer is not aware about the working of a SIM card when he purchases the SIM card as goods. The consumer merely contracts with the service supplier to provide telecommunications services and in order to avail those services, the supplier requests the consumer to carry, hold or install the SIM card in his mobile device. Telecommunication services are very sophisticated and accordingly examination of the contract is important but more importantly, understanding the nature of the telecommunication business becomes even more important in order to rightly identify what the object of supply involved is- Is it for supply of SIM card or is it for supply of telecommunication services by installing the SIM card in the consumer device? Distinction must be made between inseparable 'services and goods' and separable 'services and goods'. For example, SIM card and mobile telephony service cannot be separated whereas sale of mobile phone instrument and mobile -telephony services can be separated. Goods which are separable from the service will be liable to VAT as supply of goods whereas goods which cannot be separated

Note:

.....

Background Material on UAE VAT

from services will be liable to VAT by being included within the supply of services if the services are what the consumer expects from the supplier.

According to Article 23 of the Executive Regulations,

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.

Note:

.....

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.

Conclusion

Not all services involved in the Telecommunication and Electronics sector come within the operation of this article. Specified services alone will enjoy the determination of place of supply under this article based on the location of their use and enjoyment. Here too, we find that this article follows the destination principle similar to the previous article.

Note:

.....

Chapter – VIII

Tax Deduction & Payment

Value Added Tax, as the name suggests, is the tax on value addition made at each stage of supply chain. In order to ensure that tax is only on value addition, the tax paid on inward supply of goods or services is allowed as Input Credit to the taxable person and payment is required to be made only if tax on supplies made by taxable person during tax period exceeds the recoverable tax paid on inward supplies of goods or services for purpose of business.

In order to understand the tax deduction and payment concept, certain definitions like Payable Tax, Input Tax, Recoverable Input Tax and Tax Period need to be understood.

Definitions

Payable Tax: Tax that is due for payment to the Authority. The same shall be calculated in the manner specified in Article 53 of Decree Law.

As per Article (53) of Decree Law, 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.

In mathematical terms, for any tax period

$$\text{Payable Tax} = \text{Output Tax} - \text{Recoverable Tax}$$

Output Tax: Tax charged on a Taxable Supply and any supply considered as a Taxable Supply.

Input Tax: Tax paid by a Person or due from him when Goods or Services are supplied to him, or when conducting an Import.

Recoverable Tax: Amounts that were paid and may be returned by the Authority to the Taxpayer pursuant to the provisions of this Decree- Law. Article (54) of Decree Law stipulates the input taxes which are recoverable and Article (55) of Decree Law stipulates the conditions to be satisfied for deducting a recoverable input tax through tax return.

Tax Period: A specific period of time for which the Payable Tax shall be calculated and paid. The tax period may be Quarterly, Yearly, Monthly or any other period as may be specified by authority.

Output Tax

It is the VAT charged or collected by the registered person on taxable supplies or deemed supplies made by him or her during specific tax period. The registered person charges and collects Output Tax by issuing a Tax Invoice and clearly specifying the amount of tax on it.

Example 1:

Mr. X is a registered person and is engaged in trading in the following products. The details of products and total sales of each product in August, 2018 are as follows:

(Amount in AED)

Particulars	Product-A	Product-B	Product-C	Total
Tax Rate	Exempt	5%	0%	
Sales (Excluding Tax)	200	300	400	900
Tax Charged on Sale	-	15	-	15
Sales (including Tax)	200	315	400	915
OUTPUT TAX	-	15	-	15

Now once we have understood Output Tax, the next question which arises is

Does law allow registered person to change or alter the Output Tax once charged on Tax Invoice?

The answer is **Yes**. Article (61) OF Decree Law provides for instances/scenarios where Adjustment of Output Tax can be done

Adjustment of Output Tax

As per Article (61) of the Decree-Law, the registered person can make adjustments to the Output Tax on supply 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 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. There is an exception to this instance.

Exception: Where the place of supply was treated as supply made in the State, but due to movement of Goods, it turned out to be treated as supply to a tax registered customer in one of the Implementing States; the output tax charged shall not be adjusted on account of tax charged in error. **[Article 61(2)]**

Note:

.....

Example 2

Abdul Trading LLC (ATL) registered for VAT in UAE issued tax invoice and collected 100% payment from Basheer Construction LLC (BCL) registered in KSA for supply of construction material at 5% VAT, assuming that supply has to be done at a site available in UAE. Subsequently, the material was delivered to a site in KSA, instead of UAE site.

In above case, the output tax charged on tax invoice cannot be adjusted under Article 61(1)(e) stating that tax was charged in error as Article 61(2) categorically disallows such adjustment.

Conditions to be satisfied [Article 61(3)]

Any one of the following condition need to be met to adjust Output Tax

- a. Output Tax charged in the Tax Invoice does not match the Actual Tax that should be charged due to any of the instances mentioned above
- b. If the Registrant submits a Tax Return for the Tax Period during which the supply occurred and an amount was incorrectly calculated as Output Tax due as a result of any of the instances mentioned above.

Mechanism for Adjustment of Output Tax - Article (62)

- 1. **Output Tax due for the supply > Output Tax charged by the Registrant**
 - Registrant shall issue 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. **Output Tax due for the supply < Output Tax charged by the Registrant**
 - Registrant shall issue a Tax Credit Note according to the provisions of Article (70) of the Decree-Law.
 - Tax stated in Tax Credit Note shall be:
 - reduced in Output Tax for the supplier, and
 - reduced in Input Tax for the Recipient for the Tax Period during which the Tax Credit Note was received.

Example 3

In Example 1, Mr. X had charged the tax and remitted the same to Authority. After filing the return, the following transactions took place:

- (a) Case (a) One invoice worth of AED 50 (with 5% rate) was cancelled and recipient returned the goods

Note:

.....

- (b) Case (b) Due to certain reasons, one invoice (with 5% rate) worth of AED 40 was increased to AED 70
- (c) Case (c) It was noted that in one invoice sale value (with 5% rate) was wrongly mentioned as AED 80 instead of AED 40

Suggest the treatment and course of action to be taken by Mr. X in each of the above situations.

Solution:

Particulars	Sales (before adjustment)	Sales (after Adjustment)	Tax (before Adjustment) - Charged by X- (A)	Tax (after Adjustment)-due for supply- (B)	Difference (B-A)	Course of action & Treatment
Case (a)	50	-	2.5	-	(2.5)	X shall issue Tax Credit note & reduce Output tax
Case (b)	40	70	2	3.5	1.5	X shall issue new Tax Invoice & add to Output Tax
Case (c)	80	40	4	2	(2)	X shall issue Tax Credit note & reduce Output tax

Now once we have understood Adjustment of Output Tax, the next question which arises is

Does law allow registered person to adjust output tax on the unpaid amount of customer which becomes Bad Debt?

Adjustment for Bad debts

As per Article (64) of the Decree-Law, the supplier can make adjustment of tax on the Bad debts subject to the following conditions:

(A) Conditions-Supplier:

The registered supplier can reduce the Output Tax in a current Tax Period to adjust the Output Tax paid for any previous Tax Period, if all the following conditions are satisfied:

Note:

.....

Background Material on UAE VAT

- 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 have passed from the date of the supply; and
- d. The supplier has notified the Recipient of Goods and Services of the amount of Consideration that has been written off by him.

As per Article (64) of the Decree-Law, the recipient shall make adjustment of tax on the Bad debts subject to the following conditions:

(B) Conditions-Recipient:

The registered Recipient of Goods or Services shall reduce the Input Tax for the current Tax Period being claimed during any previous Tax Period where the Consideration has not been paid and all of the following conditions are met:

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

The amount of reduction by the supplier and recipient shall be equal to the Tax on the Consideration which has been written off.

The benefit of reducing tax liability on account of bad debts has to be duly supported by the documentary evidence both at the end of supplier as well as recipient to establish the satisfaction of above conditions.

Recoverable Tax

Having discussed the meaning and concept of output tax, we discuss the meaning of Recoverable Tax, as $\text{Payable Tax} = \text{Output Tax} - \text{Recoverable Tax}$.

To understand Recoverable Tax, we first need to understand Input Tax and Recoverable Tax is subset/portion of input tax.

INPUT TAX

It is the Tax paid by the registered person on the purchase of Goods or Services and also on business related expenses. The tax may be paid by the registrant either to its supplier on goods or services supplied to it or may be paid by it under reverse charge mechanism.

Note:

.....

However, it is to be noted that merely payment of tax on inward supply does not result in such tax being in the nature of recoverable tax. The test of recoverability of input tax has to be satisfied under Article (54) of Decree Law

Article 54(1) of Decree Law

Total Recoverable Tax for any tax period is the total of input tax paid for the goods which are used or intended to be used in the for the following:

- (a) **Taxable Supplies:** The tax paid by the person on inward supply which is used for making outward taxable supply is recoverable input tax for the registrant. A person engaged in the business may incur many expenses which may not be directly attributable to the making outward taxable supplies but such expenses may be in the nature of normal business overheads for the business. A question may arise as to whether there is need to establish the nexus of inward supply for making taxable supply for recovering input tax or tax paid on all inward supplies which are used in the course or furtherance of business i.e. overheads of business are also eligible for recovery of input tax. In our view, the scope of recoverability of input tax is wide enough to embrace all such overheads also. This view also finds support from the Real Estate Guide issued by FTA where it has been held that expenses incurred by the business for the common benefit of employees or cost of development of infrastructure are in the normal course of business and hence VAT on such costs should be recoverable as a general overhead cost of business. It is also relevant to note that the taxable supplies include deemed supply and zero rated supply also and accordingly input tax may be recovered for the inward supply of goods or services which are used for making such supplies.
- (b) Such supplies made outside UAE, which would have been taxable in UAE if made within UAE.: There could be some supplies which are outside the scope of UAE VAT i.e. where the place of supply of service is in rest of world. However, if the place of supply of same services is in UAE and is subject to tax in UAE, the supplier is allowed to recover input tax on the supply used for making such 'out of the scope' supply.

E.g. Good are purchased by UAE entity from China & sold to Kenya, in the transaction goods directly gets shipped from China to Kenya. In this case, transaction is considered as Out-Of-Scope transaction. However, if the similar goods were traded in UAE, the supplier was required to charge VAT on the same. In this case UAE entity, can recover any VAT paid on commercial property rental as input tax even though no VAT is charged on outward supply
- (c) Such Specified supplies made outside UAE, even if such supplies would have been exempt if made within UAE: As per Article (31) & (42) of Executive Regulation, to be read with this clause (i.e. Article (54) Clause (1) (c) of Decree Law). In the event

Note:

.....

Background Material on UAE VAT

interest income is earned from export (as per Article (31) of Executive Regulation), interest income will be considered as Zero rated supply. Input tax on such supply is allowed to be recovered, although interest earned in UAE, is considered as exempt supply.

Credit is available in few more cases under Article (54) of the UAE VAT Law. These are discussed hereunder

Article 54(2) of Decree Law

Input tax may be recovered for import of supplies from another GCC country whose final place of destination is the UAE and where tax has been paid in that GCC country, subject to conditions mentioned in the executive regulation. In this case even if the tax has been paid in the other GCC (implementing State), it has been deemed as recoverable tax for the purpose of UAE VAT Law, thus allowing an extended benefit to the taxable person in UAE.

Article 54(3) of Decree Law

When goods are acquired in another GCC country and then moved into the UAE by the same person, he can claim credit of tax paid in that country, subject to conditions mentioned in the executive regulations.

Conditions to be satisfied are: **[Article 52(3) of Executive Regulation]**

- 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 requirements that the Authority may specify

Having provided the credit of input tax in the above cases Article 54 specifies a few cases where credit of input tax could not be obtained. These are as follows:

Article 54(4) of Decree Law

No credit is available for tax paid on goods entering the UAE for the purpose of transit to another GCC country as envisaged in Clause (2) of Article (48) of the Decree Law.. In such cases credit would be made available in the GCC country where the goods is finally destined.

Article 54(5) of Decree Law

The executive regulations provides for further instances where tax credit cannot be claimed. This is covered in Article 53 of Executive Regulation which states as below

Note:

.....

Non-Recoverable Input Tax [Article (53) of Executive Regulations]

Input Tax shall be non-recoverable (not available) 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;

Note:

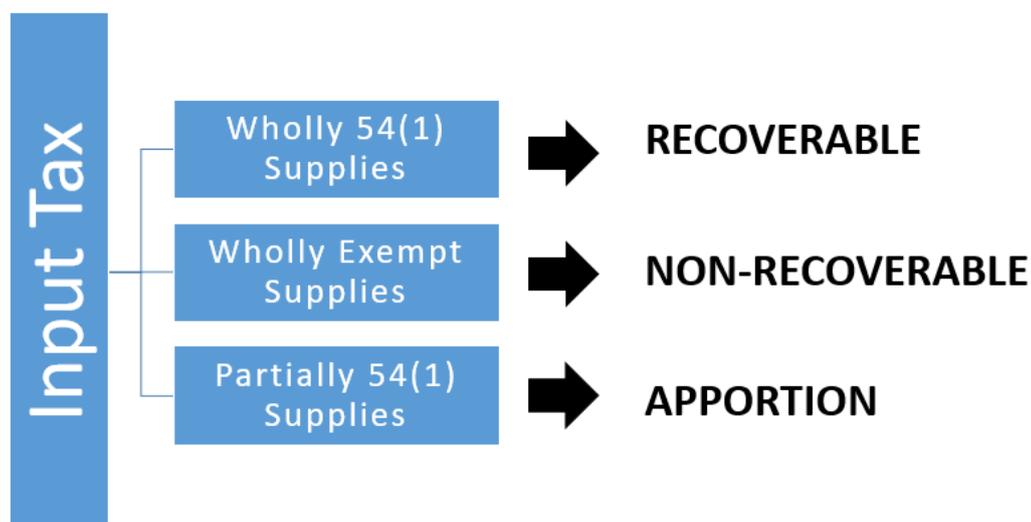
.....

Background Material on UAE VAT

- 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.

In summary, Input Tax which can be recovered stands as follows [**Article 55(5) of Executive Regulation**]

- 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.



Article 55(6) of Executive Regulation defines the process of apportion, which states that 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.

Note:

.....

- 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.

$$\text{Apportion} = \frac{\text{Recoverable Tax}}{\text{Recoverable Tax} + \text{Non Recoverable Tax}} \times 100$$

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 **[Article 55(7) of Executive Regulation]**

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 authorize the use of an alternative basis of calculation based on the list of accepted mechanisms issued by the Authority. **[Article 55(11) of Executive Regulation]**

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. **[Article 55(14) of Executive Regulation]**

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. **[Article 55(12) of Executive Regulation]**

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 55(15) of Executive Regulation]**

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. **[Article 55(13) of Executive Regulation]**

Yearly Adjustment of Apportionment

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. **[Article 55(8) of Executive Regulation]**

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

Note:

.....

Periods making up the Tax year, and an adjustment to the Recoverable Tax shall be made in the Tax Period mentioned in Clause (8). **[Article 55(9) of Executive Regulation]**

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. **[Article 55(10) of Executive Regulation]**

Tax Deduction of Recoverable Input Tax

Once the recoverable input tax is available, the same can be claimed as input credit subject to fulfillment of conditions specified in Article (55) of Decree Law.

Article 55(1) of Decree Law.

The input tax can be claimed against the output tax in the period in which both the following conditions are satisfied:

- a. The tax invoice or other duty paying document (in case of imports) has been received and kept in the records;
- b. Consideration for the supply has been paid in full or part there of.

For deducting recoverable input tax, both the conditions must be satisfied i.e. receipt of Invoice and making of payment. 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, 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 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.

Article 55(2) of Decree Law

Further, if any of the conditions are not satisfied due to which credit could be taken during a tax period then the same may be taken in the subsequent tax period when both the conditions are met.

However, if such input tax could not be deducted in the subsequent tax period then it cannot be deducted subsequently.

Note:

.....

The law clearly specifies that credit is available in the subsequent tax *“period”* and not *“periods”*. Thus, it is available only to the next period and not later.

From the above, it follows that entitlement to claim recovery of input tax is a right that arises in the tax return and not in the fact that recoverable taxes have been paid by the taxable person.

Failure to file tax return abrogates this right though the liability to pay Output Tax on the taxable supply continues until it is discharged.

Recovery of input tax if paid before registration (Article 56)

The taxable person can claim credit of input tax paid prior to tax registration, in the first return submitted after registration. Such claim can be made on:

- a. Supply of goods / services made to him prior to registration
- b. Import of goods by him prior to registration

It is 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 analyzing all the exceptions as discussed below and use of such inward supplies. After, filing of return of first tax period such recoverable tax credits could not be taken.

Further a proviso has been given under clause (1) of Article (56), which says that such recovery of recoverable input tax credit will only be allowed if such goods and services were used to make supplies that give the right to Input Tax recovery upon Tax Registration.

Right to input tax recovery shall arise if the goods/services satisfy the conditions prescribed under Articles (54) and (55) as discussed before.

In the following cases, input credit cannot be claimed in relation to goods/services acquired prior to registration:

- a. Receipt of goods / services for the purpose of making non-taxable supplies. It need to be noted that zero-rated supplies are taxable supplies)
- b. Tax credit related to part of capital assets 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.
- c. Service received more than 5 years prior to the date of tax registration. (Here credit in relation to goods has not been restricted, thus if goods are in possession and are being used as specified in Articles (54) and (55), credit will be available).
- d. Where the goods were moved to another GCC implementing country before tax registration.

Note:

.....

Input Tax Adjustment (Article 59 of Decree Law)

The regulations shall further specify the mechanism for adjusting input tax in cases where:-

- (a) the input tax is attributed to making taxable supplies, but the use / intended use is changed prior to making such supply
- (b) the input tax is attributed to making exempt supplies / activities outside conduct of business, but the use / intended use is changed prior to making such supply.

Article 56 of Executive Regulation

- 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

Note:

.....

mechanisms provided in Articles (55) and (57) of this Decision in which case those mechanisms will apply.

Special rules for Government Entities and Charities (Article 57)

The recovery of input tax for such entities will be decided on the basis of a Cabinet decision, but subject to the following exceptions:

1. Tax excluded from recovery as specified in the executive regulations (i.e. no recovery on items specified specifically as non-creditable in the executive regulation)
2. Tax paid on goods and services used to perform exempt supplies.

PAYABLE TAX

As discussed at the start of the chapter, Payable Tax for any Tax Period is an amount equal to the total Output Tax less the total Recoverable Input Tax over the same Tax Period.

$$\text{PAYABLE TAX} = \text{OUTPUT TAX} - \text{INPUT TAX}$$

If Output Tax is greater than Input Tax, then registered person have to pay tax to the Authority.

If Output Tax is less than Input Tax, then registered person have to reclaim the tax from the Authority.

Due Date and Procedure for Payment of Payable Tax

Article (64) of Executive Regulations

A Tax Return must be received by the Authority not later than the 28th day following the end of the Tax Period concerned or by such other date as directed by the Authority.

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.

The Authorities have recognized three different ways of payment of payable tax

- **e-Dirham Card:** It is a prepaid card which is an integral part of electronic payment system in United Arab Emirates (UAE), especially in terms of payment for government service fees.
- **GIBAN:** A GIBAN is a unique IBAN number that is given to every taxable person by Authority and fund transfer can be made from certain UAE financial institutions
- **Credit Cards**

Note:

.....

Due Date and Procedure for Recovery of Recoverable Tax

Article (74) of Decree Law

1. The Taxable Person shall carry forward any excess Recoverable Tax to the subsequent Tax Periods and offset such excess against Payable Tax or any Administrative Penalties imposed in subsequent Tax Periods until such excess is fully utilized
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.

Article (65) of Executive Regulation

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

Article (22) of Tax Procedures

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.

Where the Authority has approved a refund application, it shall within (5) business days of the approval,

- (a) Either make the appropriate payment to the Person
- (b) Or notify the Person that the Authority will offset the amount requested to be refunded against any other Payable Tax or Administrative Penalties due,
- (c) Or notify the Person that the refund will be postponed until all due Tax Returns are submitted to the Authority.

Example 4

FARMER → MANUFACTURER → WHOLESALER → RETAILER → END CUSTOMER
(Registered) (Registered) (Registered) (Registered) (Unregistered)

(Amounts in AED)

Particulars	Farmer	Manufacturer	Wholesaler	Retailer	End Consumer
Purchases (including VAT)	-	105	210	315	420
Tax on purchases		5	10	15	20

Note:

.....

(INPUT TAX) @ 5%-(A)					
Sales (Excluding Tax)	100	200	300	400	0
Tax on sales (OUTPUT TAX) @ 5%-(B)	5	10	15	20	0
Sales (including Tax)	105	210	315	420	0
PAYABLE TAX (B-A)	5	5	5	5	0

Hence the total vat tax paid to authority by various Registered Persons is AED 20

Example 5

Let us now assume that a wholesaler is selling 3 kinds of products the details of which are as follows:

Particulars	Product-A	Product-B	Product-C	Total
Category of goods	Non-Taxable (i.e. Exempted goods)	Taxable @ Standard Rate of 5%	Taxable @ Zero Rated	
Purchase Value (excl Tax)	100	200	300	600
Tax on purchases (INPUT TAX) @5%-(A)	-	10	-	10
Sales (Excluding Tax)	200	300	400	900
Tax on sales(OUTPUT TAX) @5%-(B)	-	15	-	15
Sales (Including Tax)	200	315	400	915
PAYABLE TAX(B-A)	-	5	-	5

Hence the total vat tax paid to authority by Wholesaler is AED 5

Note:

.....

Background Material on UAE VAT

Example 6

FARMER → MANUFACTURER → WHOLESALER → RETAILER → END CUSTOMER
 (Unregistered) (Registered) (Registered) (Registered) (Unregistered)

(Amounts in AED)

Particulars	Farmer	Manufacturer	Wholesaler	Retailer	End Consumer
Purchases	-	100	210	315	420
Tax on purchases (INPUT TAX) @ 5%- (A)	-	-	10	15	20
Sales (Excluding Tax)	100	200	300	400	0
Tax on sales (OUTPUT TAX) @ 5%- (B)	-	10	15	20	0
Sales (Including Tax)	100	210	315	420	0
PAYABLE TAX (B-A)	-	10	5	5	0

Hence the total vat tax paid to authority by various Registered Persons is AED 20.

Example 7

Mr. X is a registered person who is engaged in trading of various categories of supplies. Here are the details of his business during specific month. Calculate the Payable Tax

Particulars	Supplies (Outward)	Additional Tax Invoice Issued	Tax Credit Notes Issued
5 % Rated	5000	500	250
Zero-Rated	3000	200	180
Exempt	2000	100	320

Particulars	Supplies (Inward)	Tax Credit Note Received
5 % Rated	4000	800
Zero-Rated	2000	200
Exempt	1000	-

Note:

.....

Particulars	Supplies
Business Expenses relating to 5% rated supply	500
Commission paid on Exempt supply (Note: VAT was charged at 5% by the commission agent on AED 300 and was paid additionally)	300
Common Admin Expenses	250

Notes (a) Bad debts of AED 400 out of 5% taxable supply

(b) All the above amount is exclusive Tax

Calculate Payable Tax

Solution

$$\begin{aligned}
 \text{Recoverable Tax} &= 5\% \text{ of } 4000 \text{ Inward Supplies} \\
 &\quad - 5\% \text{ of } 800 \text{ Tax Credit Notes} \\
 &\quad + 5\% \text{ of } 500 \text{ Recoverable Business Expenses} \\
 &= \text{AED } 200 - 40 + 25 \\
 &= \text{AED } 185
 \end{aligned}$$

(Note: Though AED 2,000 supplies and AED 200 tax credit note is related to taxable supplies but since rate of tax is 0%, effectively no recoverable tax has been paid on the same)

$$\begin{aligned}
 \text{Non Recoverable Tax} &= 5\% \text{ of Commission Paid on Exempt Supply} \\
 &= 5\% \text{ of } 300 \\
 &= 15
 \end{aligned}$$

(Note: Though AED 1,000 is related to exempt supplies but since its exempt, effectively no tax has been paid on the same)

$$\begin{aligned}
 \text{Apportion} &= \frac{\text{Recoverable Tax}}{\text{Recoverable Tax} + \text{NonRecoverable Tax}} \times 100 \\
 &= \frac{185}{185 + 15} \times 100 = 92.5\% = 93\% \text{ [In line with Article 55(6)(b)]}
 \end{aligned}$$

$$\begin{aligned}
 \text{Total Input Tax Recoverable} &= \text{Recoverable Tax} + \text{Apportion} * \text{Tax on Common Expenses} \\
 &= 185 + 93\% \text{ of } (5\% \text{ of } 250)
 \end{aligned}$$

Note:

.....

Background Material on UAE VAT

$$= 185 + 93\% \text{ of } 12.5$$

$$= 196.625$$

Payable Tax = Output Tax – Recoverable Input Tax

$$= 5\% \text{ of } (5000+500-250) - 196.75$$

$$= 262.5-196.625$$

$$= 65.875$$

$$= 66$$

Note:

.....

Chapter – IX

Capital Assets Scheme

Article (60) of Decree-Law - 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.

Article (57) of Executive Regulation - 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) of Executive Regulation - 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.

Note:

.....

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 it is 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.

As per Article (60) of Decree-Law & Article (57) of Executive Regulations, any Business Asset amounting to AED 5,000,000 or more (excluding Tax) should be considered as Capital Asset

Note:

Background Material on UAE VAT

in the preview of VAT Law, this Capital Asset should have an 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.

It is to be noted that an expenditure or purchases 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.

Tax to be recovered based on below steps:

A. Capital Asset as Building (useful life 10 years)

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. total input tax incurred / 10 years = input tax for year 2 x difference between initial recovery percentage and actual taxable use

$$\frac{\text{Total input tax on capital item}}{\text{Adjustment period}} \times \text{Original Taxable use \% (-) Actual Taxable use \%} = \text{Additional VAT recoverable from FTA / additional VAT payable to FTA}$$

Example:

A Company has acquired a Building for AED 5,000,000 and the use of the building is 60% for Taxable Supplies and 40% for Exempt Supplies. In the fourth year the use of the building has changed to 70% for Taxable supplies and 30% for Exempt Supplies.

Asset	Value (AED)	Tax Paid on Purchase of Asset (AED)	Year	Taxable Income	Input Tax claimed (AED)
Building	5,000,000	250,000	1	60%	AED 150,000 can be claimed.
			2	60%	No adjustment
			3	60%	No adjustment

Note:

.....

Capital Assets Scheme

			4	70%	VAT Recoverable AED 2,500 (*)
			5	70%	VAT Recoverable AED 2,500
			6	70%	VAT Recoverable AED 2,500
			7	70%	VAT Recoverable AED 2,500
			8	70%	VAT Recoverable AED 2,500
			9	70%	VAT Recoverable AED 2,500
			10	70%	VAT Recoverable AED 2,500

Total input tax on capital item		X	Original use %	(-)	Taxable Actual	=	Additional recoverable from FTA /additional VAT payable to FTA
Adjustment period			Taxable use %				

(*)

$\frac{250,000.}{10}$		X	60% (-) 70 %	=	Additional VAT Recoverable AED 2,500
-----------------------	--	---	--------------	---	--------------------------------------

B. Capital Assets other than buildings (useful life 5 years)

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 –5: Adjust input tax recovery for that year based on that year's taxable use e.g. total input tax incurred / 5 years = input tax for year 2 x difference between initial recovery percentage and actual taxable use

Total input tax on capital item		X	Original use %	(-)	Taxable Actual	=	Additional recoverable from FTA /additional VAT payable to FTA
Adjustment period			Taxable use %				

Note:

.....

Background Material on UAE VAT

Example:

A Company has acquired a Machinery for AED 6,000,000 whose use is 80% for Taxable Supplies. In the third year the use of machinery has changed to 60% for Taxable Supplies.

Asset	Value (AED)	Tax Paid on Purchase of Asset (AED)	Year	Taxable Income	Input Tax claimed (AED)
Machinery	6,000,000	300,000	1	80%	AED 240,000 can be claimed.
			2	80%	No adjustment
			3	60%	VAT Payable AED 12,000 (#)
			4	60%	VAT Payable AED 12,000
			5	60%	VAT Payable AED 12,000

$$\begin{array}{r}
 \text{Total input tax on capital item} \\
 \hline
 \text{Adjustment period}
 \end{array}
 \times
 \begin{array}{l}
 \text{Original} \\
 \text{use \%} \\
 \text{Taxable use \%}
 \end{array}
 (-)
 \begin{array}{l}
 \text{Taxable} \\
 \text{Actual} \\
 \text{Taxable use \%}
 \end{array}
 =
 \begin{array}{l}
 \text{Additional} \\
 \text{VAT} \\
 \text{recoverable from FTA} \\
 \text{/additional VAT payable} \\
 \text{to FTA}
 \end{array}$$

(#)

$$\frac{300,000}{5} \times 80\% (-) 60\% = \text{Additional VAT Payable AED 12,000}$$

- The adjustment for the change in use is always to be done prospectively from the year in which the change occurred.
- The Capital Asset scheme will cease once the asset is sold or disposed off.
- In case of sale of business or change of status the new tax year shall commence with the new owner.
- Pre-existing assets qualify for the scheme with year of first use of the asset being Year 1.

Note:

.....

Chapter – X

Valuation of Supply

Value of Supply – Article (34) of Decree Law

Valuation of Goods or Services for consideration has to be done in order to determine the VAT payable / Chargeable on the value of Goods supplied or Services provided.

What is Consideration?

Consideration is defined in Article (1) of this Decree law inter alia 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”*.

The following aspects need to be noted with reference to consideration:

- A. It refers to the payment received by the supplier in relation to the supply. There is no reference as to the person who is required to pay consideration. Therefore, a third party to a contract can also contribute towards consideration.
- B. Consideration, therefore, is not the amount that the recipient pays but the amount that the supplier collects whether from the recipient or any third party. This would be particularly relevant in dealing with complex arrangements in digital economy and new-age business. It is also relevant that consideration includes both what is **received and expected to be received**
- C. Consideration can be in the form of **money or other acceptable forms of payment**. With technological advancement, there are many other forms of settlement of consideration. Two views have been expressed in Chapter I on Important Definitions which may be referred for a detailed understanding of consideration.
- D. Whatever is received or expected to be received by supplier, it should be in relation to supply of goods or services. This requires existence of nexus between supply of goods / services and consideration.
- E. There is no specific mention as to whether deposits form part of the consideration. There could be a possible view that lump-sum refundable deposits not directly attributable to supply of goods or service may not form part of consideration. However, deposits should be distinguished from advances as the latter is very well within the purview of consideration at the time of receipt.

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

If the entire consideration is monetary, the value of supply shall be the consideration less tax. Normally the consideration is considered inclusive of tax unless expressly it is stated to be exclusive of tax.

Value of Supply = Monetary Consideration– Tax (assuming consideration was inclusive tax)

If all or part of the consideration is not monetary, then the value of supply is calculated as the overall monetary part plus market value of the non-monetary part of the consideration, and shall not include the tax.

Value of Supply = Monetary Portion + Market value of Non-Monetary Portion – Tax (assuming total consideration was inclusive tax)

Market Value has been defined in Article (25) of Executive Regulations. Article 25(2) states that 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

In case the market value as per Article 25(2) cannot be determined; then 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. [Article 25(3) of Executive Regulation]

“**Similar Supply**” has been defined as 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 [Article 25(1) of Executive Regulation]

In case the market value as per Article 25(3) also cannot be determined; then the market value is 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 25(4) of Executive Regulation]

For consideration inclusive of VAT, the VAT amount to be calculated using the following formula

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

VALUE OF IMPORT - If a taxable person imports concerned goods or services for the purposes of his business, then he shall be treated as making a taxable supply to himself accordingly liable for applicable tax payment on the value of such supply under Reverse charge mechanism as per Article 48(1) of the Decree-Law.

Vale of Import of Goods (Article 35 of Decree Law)

Note:

The value of supply shall be equal to custom value pursuant to Custom Legislation, including value of insurance, freight, custom duty, excise duty (if any).

Value of Import = CIF Value + Custom Duty + Excise Duty (if any)

Example for reference:

In the case of normal import transactions,

Import value of Goods consist of

Value of Goods (FOB Value)	100,000
Add: Value of Freight and Insurance	10,000
	110,000
Customs Declared Value (CIF Value)	110,000
Add: Customs Duty (on the above)	5,000
	115,000
Total Value of Import	115,000
Add: VAT (on the above) @ 5%	5,750
	120,750

In the case of Excise dutiable items such as, Tobacco, Energy drinks etc.

Total value of Import (as above)	115,000
Add: Excise Duty @ 100%	115,000
	230,000
Total Import value of Excisable Goods	230,000
Add: VAT (on the above) @ 5%	11,500
	241,500

In the case of non-availability of value pursuant to above, value shall be determined based on the alternative valuations, as per Customs Rules similar to fair market value or catalogue value or value assessed by the UAE Customs authorities.

Value of Import of Services (Article 34(3) of 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

VALUE OF SUPPLY TO RELATED PARTIES – ARTICLE 36 of Decree Law

(This is an exception to other valuation rules Article (34) & (35))

Note:

.....

Value of supply or Import of Goods or Services between related persons shall be considered equal to the market value if the following conditions are met:

1. When the value of supply is less than the market value
2. If the Recipient (related person) doesn't have the right to recover full Input tax on the taxable supplies of goods or services received.

For example, A and B are related parties as per the given definition in Article 1 of this Decree law; wherein A is a supplier of water & electricity and B is engaged in letting/leasing out of both commercial and residential properties. A charged AED 10,000/- to B for supplies made in a month which has market value of AED 12,000/-

Case (i): A is supplying water & electricity services taxable at 5% to B. In this case, B is not eligible to recover full Input tax on the input services received from A because the said input services would also be used by B 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 12,000/- which is different from actual consideration charged.

Case (ii): In the above case, if the said services were used by B only in provision of letting out of commercial property which is fully taxable. B would be eligible to recover full input tax paid on the said input services. Thus, the provisions of Article (36) does not apply here and value of such supply will be the actual consideration charged i.e. AED 10,000/-.

The same example will also hold good if B was an unregistered party who is not liable to register for VAT and Article 36 will get triggered.

Value in Case of Related Party* = Market Value of Goods or Service

*subject to fulfillment of both conditions mentioned above

DEEMED SUPPLY – Article (37) of Decree Law

(This is an exception to other valuation rules Article (34) & (35))

If a taxable person purchases Goods or Services to make a taxable supply, but doesn't use the same for a taxable supply, then the value of the supply will be equal to the total cost incurred by the taxable person to make this deemed supply of Goods or Services. The instances of deemed supply are covered under Article 11 of Decree Law and exceptions for deemed supply are covered under Article 12 of Decree Law. As there is no explicit consideration charged in such cases, cost incurred for making deemed supplies itself is taken as consideration.

Value in case of Deemed Supply = Cost of Making Such Supply

Note:

TAX INCLUSIVE PRICES – ARTICLE (38) of Decree Law

In the case of taxable supplies, published prices i.e., displayed prices / advertised prices shall be inclusive of tax.

Article 27(2), 27(3) and 27(4) of the Executive Regulations states that 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.
- c. The supply of Concerned Goods or Concerned Services, which is subject to Clause (1) of Article (48) of the Decree-Law.
- d. The supply of Goods subject to Tax in accordance with Clause (3) of Article (48) of the Decree-Law

However, the price should be clearly identified as being exclusive of Tax in case of (a) and (b) above.

VALUE OF SUPPLY IN THE CASE OF DISCOUNT / SUBSIDIES – ARTICLE (39) of Decree-Law.

Discount

Value of a supply shall be reduced in proportion to discounts made before or after the date of supply. Two conditions need to be satisfied for reducing discount from the value of supply. The two conditions in line with Article 28(2) of Executive Regulations are:

- (a) The customer has benefited from the reduction in price.
- (b) The supplier funded the discount.

If both the conditions are satisfied, the discount can be reduced and the value of discount will be amount by which consideration is reduced [Article 28(3) of Executive Regulation]

However, any reduction in consideration will not be considered on account of value of any voucher which was provided for a consideration.[Article 28(4) of Executive Regulation]

Further, 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.

For example: A customer pays AED 300 for purchase of a voucher which is redeemable for a value of AED 300 on next purchase from the same hypermarket. On next purchase, the customer purchases a mobile handset priced at AED 2500 by payment of AED 1700 in cash and redeemed voucher of AED 300.

Note:

.....

Background Material on UAE VAT

In the above example, the value of discount is AED 500 only.

However, if the voucher would have been supplied initially without any consideration by the hypermarket to the customer; then at the time of redemption; the value of discount would have been AED 800.

Subsidy

Similarly, value of supply shall be reduced in proportion to the subsidies provided to the supplier by the Government.

However, 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. [Article 28(1) of Executive Regulation]

VALUE OF SUPPLY OF VOUCHER (Article 40 of Decree Law)

Article (40) of Decree Law states that 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.

Additionally, Article 7(1) of Decree Law states that 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, shall not be considered as a supply

It is to be noted that, "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.

Example

Actual receipt of consideration by supplier	AED	400
Less: Advertised Monetary value of voucher	AED	100
Value of Supply of voucher	AED	<u>300</u>

In this case, VAT has to be calculated on the Value of Supply of Voucher (i.e., AED 300). However, if the consideration would have been less than or equal to AED 100, this supply will fall under Article 7(1) of Decree Law and supply of voucher will not be considered as supply.

VALUE OF SUPPLY OF POSTAL STAMPS (Article 41 of Decree Law)

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.

Note:

TEMPORARY TRANSFER OF GOODS (Article 42 of Decree Law)

When Goods are temporarily transferred from domestic market to Designated Zone (DZ) or outside the state for completion of manufacture or repair in order to re-import them into the state, the value of supply when re- imported shall be the value of services rendered. In simple words, tax shall be charged on the total value addition made on such goods in the form of manufacturing or repairing.

For example,

Value when transferred to DZ/Outside State	=	AED 10,000
Value of services rendered /Value addition made	=	AED 5,000
Total value after manufacturing/ repair or further process	=	AED 15,000

Value of Supply When- Re-Imported = Value of services rendered/ value addition made = AED 5,000. Hence, VAT has to be charged on AED 5,000/-

Tax Based on Profit Margin – (Article 43 of Decree Law)

In case of profit margin business, in any period, a registered person has to calculate and charge tax based on the profit margin earned on the taxable supply.

Profit Margin Scheme is applicable only to a selective list of goods which has been subject to tax before supply. The selective list has been provided under Article 29(2) of Executive Regulation, which covers

- 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.

The scheme is not only restricted to the type of goods but also restricted based on procurement source or input recoverability. In line with Article 29(1) of Executive Regulation, the scheme is applicable only when goods under supply where

- 1) Purchased from a Person who is not a Registrant. **OR**
- 2) Purchased from a Taxable Person who calculated the Tax on the supply by reference to the profit margin **OR**
- 3) Input Tax was not recovered in accordance with Article 53 of Executive Regulation

Note:

.....

Background Material on UAE VAT

Under the scheme, profit margin is the difference between the purchase price and the selling price of the goods, and the profit margin shall be deemed to be inclusive of Tax [Article 29(4) of Executive Regulation]

For example, In case a second-hand car dealer buys a car for AED 20,000, and sells the car for AED 30,000, the profit margin earned is AED 10,000, and the VAT amount will be 476.19

$$VAT \text{ under Profit Margin Scheme (PMS)} = \frac{\text{Profit Margin}}{105} \times 5$$

$$VAT \text{ under PMS} = \frac{(\text{Selling Price} - \text{Purchase Price})}{105} \times 5$$

$$VAT \text{ under PMS} = \frac{(30,000 - 20,000)}{105} \times 5$$

$$VAT \text{ under PMS} = 476.19$$

In this case, the registered person has to notify the method of valuation adopted to the Authority. Also please note that if the second hand car dealer incurs an expenditure of AED 5,250 (inclusive of VAT) on repairs and upkeep of such car, then VAT incurred on such repairs and upkeep is not recoverable under Profit Margin Scheme.

Article 29 (5) of Executive Regulation states the records to be kept by the taxable person for such supplies and these records are:

- 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.

Note:

.....

Article 29(3) of Executive Regulation states that the taxable person should ensure that tax invoice stating the tax amount was not issued by the supplier at the time of procurement, else the goods will not qualify for Profit Margin Scheme.

Article 29(6) of Executive Regulation states that 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.

Note:

.....

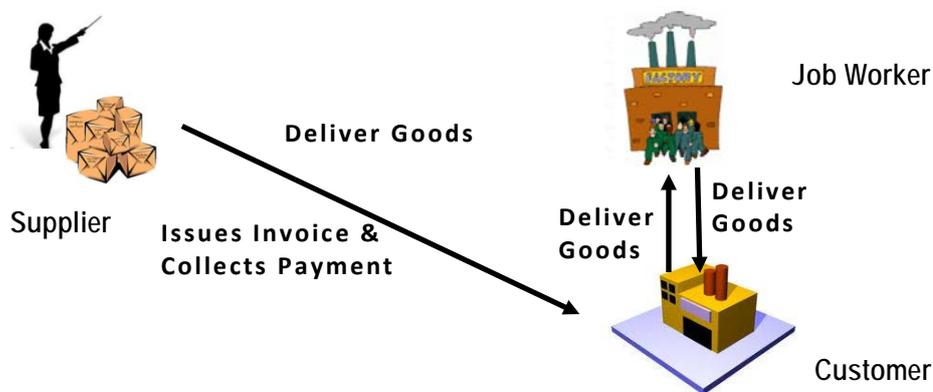
Chapter – XI

Job-work

Job-work is the activity of procuring the skill of the job-worker to perform any process for the completion activity on goods belonging to a customer. The relationship between the customer and job-worker is at arm's length and on principal-to-principal basis. There is no reason to assume a principal-agent relationship exists between the customer and job-worker. Further, the goods provided by the customer are not 'transferred' to the job-worker but 'issued' for carrying out the work allotted. Services of the job-worker is a taxable supply by the job-worker to the customer. Supply is of the job-worker's services and not sale of goods arising from the completion of job-work. Job-working contracts provide for the nature of work to be performed, consideration and quantity measurement of input and output. Damage of the goods sent and failure to return the goods sent for job-working will attract penalty approximating the cost of the goods sent that have not been returned apart from the job-worker not being entitled to charge for the work carried out on the goods which have been damaged. Such indirect forms of recovery of costs do not appear to come within any extended form of supply.

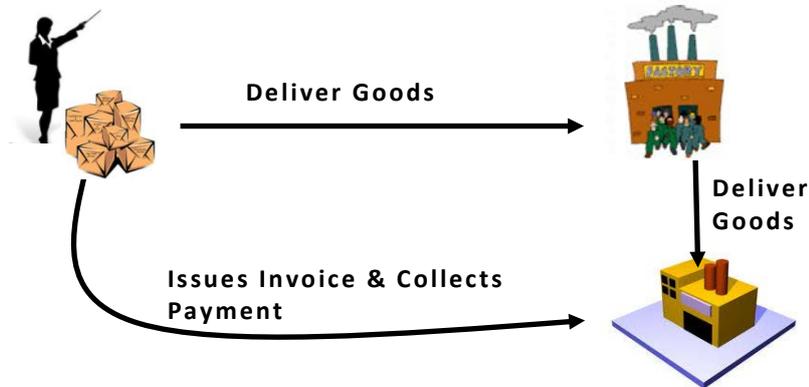
In Job-work; normally two types of scenarios occur

Scenario -1



Supplier supplying goods to its customer and then customer sends goods to its Job-Worker for processing and return

Scenario - 2



Supplier, on instruction of its customer, directly supplies goods to Job-Worker for processing. However, the ownership of the goods is with customer and job worker after processing the goods return the same to customer. If you closely look at the figures above, you will realize that this arrangement saves transportation cost. In Scenario -1, total trips are 3; while in Scenario – 2; the number of trips come down 2.

Apparently, UAE VAT law does not expressly provide any special tax treatment in respect of job-work in any of the scenarios. But the principles of place of supply provide the necessary guidance in each of the scenarios. Let us start with simple scenarios with two parties only i.e. Customer & Job Worker

Issue of Goods to Job-worker and Return after job-working

Location of Issuer #		Location of Processing #		Place of Supply		
				Issue of Goods for job-working	Return of Goods after job-working	Job-working charges
Customer	UAE	Job-worker	UAE	Not applicable	Not applicable	UAE
Customer	UAE	Job-worker	GCC *	Not applicable (temporary export from UAE)	Not applicable	UAE (reverse charge to extent of job work charges)
Customer	GCC *	Job-worker	UAE	Not applicable (temporary import into UAE) @	UAE (not export) @	UAE

Note:

.....

Background Material on UAE VAT

Customer	R-o-W	Job-worker	UAE	UAE (temporary import into UAE) @	UAE (not export) @	UAE
Customer	UAE	Job-worker	R-o-W	UAE (not export) @	UAE (imports) @	UAE (reverse charge)

* GCC is used as a common reference to Implementing States

Assumed to be duly registered in respective home-State

@ Expect exemption on import for job-work and re-export as conditional imports under article 105 of Section VII of under Customs legislation

Issue of Goods to Job-worker and Return after job-working

Location of Issuer		Location of Processing		Job-working charges	Remarks
Customer	UAE	Job-worker	UAE	UAE	This is as similar to Article 27(1) of FDL (8)
Customer	UAE	Job-worker	GCC	Outside UAE	Job is performed in GCC and the job-worker in GCC will invoice with their VAT
Customer	GCC	Job-worker	UAE	UAE	When Job is performed in UAE for any customer in GCC, job-worker in UAE will invoice UAE VAT as per Article 30(3) of FDL (8)
Customer	RoW	Job-worker	UAE	UAE	When Job is performed in UAE for any customer in R-o-W job-worker in UAE will invoice UAE VAT as per Article 30(3) of FDL (8)
Customer	UAE	Job-worker	RoW	UAE (reverse charge)	Job is performed in RoW and re-enter the UAE, VAT is applicable as if it is supplied as per Article 48(1)

Note:

.....

Note: 1. Issuer and job-worker assumed to be registered for tax purposes in their respective state

Now, let us see scenarios with three parties i.e. Supplier, Customer and Job Worker.

			VAT Implication on		
Supplier	Customer	Job Worker	Supply of Goods by Supplier to Customer	Supply of Goods by Customer to Job Worker (For Processing)	Supply of Goods by Job Worker to Customer (After Processing)
UAE	UAE	UAE	Supplier to charge VAT at time of supply	N/A	Job Worker to charge VAT on job processing charges at time of supply
			UAE VAT Implication on		
Supplier	Customer	Job Worker	Supply of Goods by Supplier to Customer	Supply of Goods by Customer to Job Worker (For Processing)	Supply of Goods by Job Worker to Customer (After Processing)
UAE	UAE	GCC*	Supplier to charge VAT at time of supply at applicable rate	Supply takes place under temporary transfer. No VAT Implication	VAT to be charged under reverse charge mechanism on job processing charges
UAE	UAE	ROW	Supplier to charge VAT at time of	Supply takes place under temporary	VAT to be charged under

Note:

.....

Background Material on UAE VAT

			supply	transfer. No VAT Implication	reverse charge mechanism on job processing charges
UAE	GCC *	UAE	Not Applicable #	Supply takes place under temporary transfer. No VAT Implication	VAT to be charged on job processing charges at applicable rate
UAE	ROW	UAE	Supplier to charge VAT at time of supply at applicable rate. Considering export of goods, the rate of tax may be zero.	Supply takes place under temporary transfer. No VAT Implication	VAT to be charged on job processing charges at applicable rate
GCC *	UAE	UAE	VAT to be charged under reverse charge mechanism on import of goods #	N/A	Job Worker to charge VAT on job processing charges at time of supply
			UAE Vat Implication On		
Supplier	Customer	Job Worker	Supply of Goods by Supplier to Customer	Supply of Goods by Customer to Job Worker (For Processing)	Supply of Goods by Job Worker to Customer (After Processing)

Note:

.....

ROW	UAE	UAE	VAT to be charged under reverse charge mechanism on import of goods #	N/A	Job Worker to charge VAT on job processing charges at time of supply
-----	-----	-----	---	-----	--

* GCC is used as a common reference to Implementing States

Assumed to be duly registered in respective home-State

Exercise

In similar lines, please fill in VAT Implication for Scenario 2 and test your understanding

Supplier	Customer	Job Worker	Vat Implication On	
			Supply of Goods by Supplier to Job Worker on Instruction of Customer	Supply of Goods by Job Worker to Customer (After Processing)
UAE	UAE	UAE		
UAE	UAE	GCC *		
UAE	UAE	ROW		
UAE	GCC *	UAE		
UAE	ROW	UAE		
GCC *	UAE	UAE		
ROW	UAE	UAE		

* GCC is used as a common reference to Implementing States

Note:

.....

Chapter – XII

Transitional Rules

Article (80) specifically deals with Transitional Rules. If the supplier receives consideration or part thereof or issues an invoice for Goods or Services before the Decree Law comes into effect i.e. 01 Jan 2018, the date of supply shall be the same as the effective date of the Decree Law i.e. 01 Jan 2018 in the following instances if they occur after the effective date of the Decree Law i.e. 01 Jan 2018:

- 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

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 follow:

- 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.

Clause (3) of this Article states that the Executive Regulations will 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 (70) of the Executive Regulation specifies the Transitional Rules that are applicable to all transactions.

Introduction

VAT law was introduced with the intention not to interrupt the continuity of ongoing business transactions. To take care of continuity, transactions that have already been contracted prior to the effective date of implementation of VAT law and concluding after the introduction of VAT requires to be suitably addressed. For this reason, this Article lays down the applicable rules.

It is also important to bear in mind that prior to the implementation date of VAT law, UAE did not have any tax applicable to transactions carried out in the normal course of business. Therefore, transactions may have been entered into without contemplating the levy of any tax and this too requires a suitable transition rule.

Analysis

Taxability

The transition rules that are prescribed under this Article require the monitoring of activities that amount to supply as specified in Title Three, from Article (5) to Article (12) of Decree-Law. It is declared under this Article that even though consideration may have been received prior to the date of implementation and even though invoice may have been issued prior to the effective date, the transaction will be liable to VAT if any of the following activities occurs after the effective date:

- a. transfer of goods by supplier
- b. collection of possession of goods by recipient
- c. completion of assembly or installation of goods
- d. declaration before customs for import of goods
- e. acceptance of goods in case of sale on approval

Transitional Rules under Article (70) of the Executive Regulations:

Clause (1) defines “acceptance by Recipient of goods” means the point at which the Recipient of Goods considers that the supplier has completed his obligations to him.

Clause (2) states that 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. In other words the transitional provision will not apply to the entire amount of consideration.

Clause (3) states 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 Clause (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.

The provisions of Article (25) relate to Date of Supply in general while the provisions of Article (26) relates to Date of Supply in special cases. These are discussed in detail in the Chapter “Date of Supply”.

Clause (4) states where Date of Supply has been triggered in respect of a supply of Good or Service and part of the supply was before the Decree Law coming into effect and partly thereafter, the Date of Supply shall be treated as taking place after the Decree Law comes into

Note:

.....

Background Material on UAE VAT

effect for that part of the supply actually taking place after that date. In other words, the fulfillment of the contractual obligations or customary obligation of the transactions needs examination and only the part that relates to the actual time period beyond 01 January 2018 shall be treated as being relevant for application of the VAT Law.

Clause (5) states that a payment of consideration before the Decree Law comes into effect will 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.

Collection of tax

As explained in an earlier Chapter the right to collect tax from the customer is not statutory right but contractual right of the supplier, in respect of transactions already entered into prior to the effective date. And in the absence of any specific provision in the contract, it is provided in this Article that the consideration agreed shall be inclusive of tax. Accordingly, the supplier will have to pay for the tax from within the consideration itself and not be entitled to recover tax in addition to the consideration agreed.

This provision is significant, as on the date of entering into the contract, though it would not have been possible for the parties to agree that the recipient is liable to pay in addition to the consideration, a further amount towards VAT. But this Article does not provide any relief to such predicament. It therefore becomes necessary that in respect of contracts being entered into even prior to the effective date that suitable clauses relating to VAT would apply if the actual activity of supply occurs after the effective date.

Clause (6) of Article (70) of the Executive Regulations state that in the case of Clause (3) of Article (80), 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 subject to conditions:

- 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 the input tax incurred on the supply either in full or in part.

As per Clause (7), of Article (70) of the Executive Regulations, Clause (6), stated above, shall apply only 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 supply.

Within 20 business days of receiving an information request under Clause (7), stated above,

Note:

.....

the recipient of goods or recipient of services shall reply to the supplier in writing with the information requested.

As per Clause (12), 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 and the remaining consideration relating to the supply should be treated as Tax inclusive.

As per Clause (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 Decree Law comes into effect.

Clause (15) states that a GCC State will be treated as an Implementing State if the GCC State treats the State similarly as an Implementing State and is full compliance with the provisions of the Common VAT Agreement of the States of Gulf Cooperation Council.

Conclusion

Transition rules are necessary so as not to frustrate contracts or compel termination if they have already been entered into prior to the effective date. This Article lays down clearly the manner of treatment that will be extended under the VAT law in respect of ongoing contracts i.e. contracts/ transactions which have been initiated in pre-VAT era and to be completed in VAT era. In short, in most of the transactions, the date of supply will be the implementation date; In case of doubts in transition, the written request to the FTA could be a good option for resolution within the framework of law.

Note:

.....

Chapter – XIII

Registration

Article (13) of Decree-Law: Mandatory Tax Registration

Statutory provisions

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.

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.

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.

Introduction

Article (13) provides for mandatory registration for every person effecting taxable supplies. Registration of a business with the tax authorities implies obtaining a unique registration code, which shall be known as the Tax Registration Number (TRN), from the concerned tax authorities so that all the data relating to a business entity can be aggregated and correlated. In any tax system, this is the most fundamental requirement for identification of the business for tax purposes and for having any compliance verification mechanism.

Analysis

Every person having a place of residence in the State of UAE or any other implementing State shall be required to get registration if the total value of supplies made by such person exceeds or is expected to exceed the mandatory threshold limit as mentioned in Article 19.

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 establishments whose current 12 months turnover is below the mandatory threshold limit need to regularly monitor the moving-12 month turnover to ascertain if it has reached the threshold limit so that they can promptly take action for registration, if required.

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. The term 'likely' should not be understood as hopeful but imminent due to (say) contract awarded which would take the turnover over the threshold.

As per Article (19), the value of taxable supplies, in the mandatory threshold limit, include zero rated supplies as well (as discussed earlier). However, if a person is engaged only in making zero rated supplies, The Authority (FTA) may except a Taxable Person from mandatory Tax Registration [detailed discussion under Clause (1) of Article 15]

It's important to understand the definitions of "Place of Establishment", "Fixed Establishment" & "Place of Residence", as per Article (1) of Decree Law definitions are reproduced below:

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 the Decree-Law.

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 instances where a non-resident makes supply of goods or services to another consumer/unregistered person in the State in the course of his business.

The mandatory threshold limit for the purpose of tax registration has been set at AED 375,000. Moreover, as per Clause (2) of Article 50 of the Common GCC Agreement, the Ministerial Committee has the right to amend such limit after it has been in force for three years.

Important provision of mandatory registration under Executive Regulations:

- Executive Regulations (as per Article (7) of Decree-Law) reiterate that the mandatory registration threshold will be AED 3,75,000/-
- The Person required to register 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.

Note:

.....

Background Material on UAE VAT

- In case of failure of a person to apply for registration when he becomes liable to do, the Authority shall register such person with effect from the date on which the Person first became liable (obliged) to be registered.
- Failure by a person to apply for registration where he is otherwise compulsorily required to be registered is subject to penalty as per Executive Regulations. Detailed discussion may be referred in the separate chapter on “Penalties”.
- 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.
- Where a Person expects that his supplies will exceed the mandatory registration (in accordance with the Decree-Law) 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.
- 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.

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.
- Whenever application is made for registration as per above at the time of Decree Law coming into force, 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.

Note:

.....

Article (14): Tax Group

Statutory provisions

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.

The Executive Regulation of this Decree-Law will determine the instances where the Authority may reject the application to register a Tax Group.

Any Person conducting Business is not allowed to have more than one Tax Registration Number, unless otherwise prescribed in the Executive Regulation.

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.

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.

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.

A. Analysis

The VAT Law has provided an **option** for persons conducting business to apply for registration as a tax group. Persons can apply for Tax registration as a Tax group if all of the following conditions are fulfilled:

- o Each person should have a place of establishment or a fixed establishment in the State of UAE.
- o Such persons should be related parties as per the definition mentioned in this VAT Law
- o 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

Note:

.....

Background Material on UAE VAT

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:
 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.
- c) "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.
- d) 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.

For example, 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".

Such tax group shall be 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 them an advantageous position where such persons could reduce their compliance and cash flow burdens.

The Authority has the right to assess the relation of persons based on their economic, financial and regulatory practices in business and register such persons as a tax group i.e. identify whether concerned persons are related persons or not. This sub Article gives the powers to the Authority to register a person under Tax Group if the Authority feels the need and justification for doing so.

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.

Note:

.....

- 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.

These questions of fact need to be proved in each case to qualify for registration as Tax Group. The advantage is that transaction among entities in the Tax Group will not be liable to VAT and cross-utilization of recoverable input tax will be possible. Also, one or more entities, for specific reasons, may be excluded from the Tax Group although part of the group.

B. Procedure for Registration as 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 the Executive Regulations.

Note:

.....

Background Material on UAE VAT

- (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 the Executive Regulations.
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.

C. Amendment to a Tax Group

There could be instances where related legal persons have got themselves registered as Tax Group but intends to make amendment to the Group. The Tax Group members may request the Authority to add or replace any member to or from the Tax Group in accordance with the rules and regulations of the Executive Regulations of this VAT Law. The application for amendment in the Tax Group may be made in any of the following cases:

- Add another Person to become a member of the Tax Group.

Note:

.....

- Remove one of the members of that Tax Group.
- Nominate another member of the Tax Group to be the representative member with the consent of the other member.
- Deregister that Tax Group.

The application for amendment in the Tax Group may be accepted by the Authority from either the first day of the Tax Period following the Tax Period in which the application is received or any date as determined by the Authority. 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.

D. 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.

E. Aggregation of Related Parties

There could be instances that where persons are closely related to each other as a result of their economic, financial and regulatory practices but have segregated their business with an intent to avoid the clutches of law, the Authority has power to disregard their individual status

Note:

.....

and aggregate such related parties to take registration as Tax Group. The provisions of aggregation is given in Article 13 of Executive Regulations as below:

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 (15): Registration exceptions

Statutory provisions

The Authority may except a Taxable Person from mandatory Tax Registration upon his request if his supplies are only subject to the zero rate.

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.

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.

Analysis

As per the Mandatory Registration requirement under Article 13, *inter alia*, a person making taxable supplies shall be required to be registered under VAT. As per the definition of the taxable supplies, such supplies include all supplies excluding exempt supplies i.e. 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 notwithstanding that the value of

Note:

.....

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 excepted from compulsory registration. However, if such person wishes to claim refund of recoverable input tax, he may choose to apply for registration. The person willing to claim exception from registration on account of only making zero rated supplies shall apply to the Authority in a manner and by means specified by the Authority. 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.

If such person makes any changes in business i.e. if he makes any supplies or Imports of Goods or Services that are subject to Tax at the standard rate which mandates him to take registration under Article (13), he has the obligation to inform the Authority within not more than 10 business days of making the supply or import which is taxable at the standard rate. Such person has to take registration on his ceasing to be entitled to claim exception from registration. If the person is taking benefit of this Article without being entitled to do so, he shall be liable to pay due tax and administrative penalties.

Article (16): Tax Registration of Governmental Bodies

Statutory Provisions

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.

Analysis

Cabinet decision to be issued under Article 10 (2) for registration of Government entities and the same cannot be cancelled without a corresponding Cabinet decision.

The Cabinet Decision shall be issued which shall specify the government entities whose activities are not in the sovereign capacity and are covered under clause (1) of Article (10) of the Decree-Law. The entities so listed shall apply for tax registration under this Article.

Article (17): Voluntary Registration

Statutory provisions

Any Person who is not obligated to apply for Tax Registration according to this Chapter **may** apply for Tax Registration in the following cases:

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 12month period, has exceeded the Voluntary Registration Threshold.

Note:

.....

Background Material on UAE VAT

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.

Analysis

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 that cascading effect of taxes does not take place. This becomes relevant where a person is engaged in business activity below mandatory registration threshold limit (but eligible under this Article), and 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.

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

- o Where the person intending to opt for registration establishes that the **value of total supplies** made by him in the preceding 12 months have exceeded the voluntary registration threshold limit i.e. AED 187,500.
- o If the value of supplies has not exceeded but the **expenses incurred** by such person within this time has crossed voluntary threshold limit.
- o If he anticipates that the **value of supplies** which are subject to tax is expected to exceed the voluntary limit in the next 30 days.
- o 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. 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.
- o 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.
- o 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.

Note:

.....

- 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 tax and which are incurred in the State by a Person who has a Place of Residence in the State. This requires assessment by the person intending to apply for registration to carry out assessment of all his expenses as to whether it is taxable or not.
- It is to 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. Expenses incurred in the capacity other than in the course of business is not includible in the threshold of voluntary registration.

Article (18): Tax Registration for a Non-Resident

Statutory provisions

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 the Decree-Law.

Analysis

A non-resident person who is otherwise liable to get registered is required to obtain registration in accordance with Article (13) or Article (17) of the Decree-Law.

In determining the turnover, such non-resident person is not required to include the value of goods or services imported in the State where liability to pay tax is upon the importer.

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, importer who imports goods or services in the State. For example, a company based in UK provides design consultancy and construction supervision services to a developer based in UAE. In the course of provision of service, the UK company is required to depute its engineers also at site. The bill is raised from UK 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 (represented through his engineer) is not required to include the value of such supply for the computation of the threshold limit.

Note:

.....

Article (19): Calculating the Registration Threshold

Statutory provisions

To determine whether a Person has exceeded the Mandatory Registration Threshold and the Voluntary Registration Threshold, the following shall be calculated:

- The value of Taxable Goods and Services.
- The value of Concerned Goods and Concerned Services received by the Person unless covered by Clause (1) of this Article.
- 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.
- The value of Taxable Supplies made by Related Parties pursuant to the cases stated in the Executive Regulation of this Decree-Law.

Analysis

The specific supplies that will be considered for determining the mandatory or voluntary threshold limit, as the case may be, are provided in this article. Value includes not only the monetary consideration paid for the various supplies but where supplies are made for non-monetary consideration, such consideration is also to be included in determining the registration threshold.

Special attention is required in identifying transactions not adequately presenting themselves in the books of accounts (due to consideration being in non-monetary form) and including them while determining whether the registration threshold has reached or not.

Article (20): Capital Assets

Statutory provisions

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.

Analysis

This Article is required to determine whether a person has crossed the mandatory or voluntary threshold limit for the purpose of Article (13) and Article (17) of the Decree-Law respectively.

For the computation of total value of supplies, only the value of taxable supplies is to be included. Such taxable supplies shall include zero rated supplies but exclude exempt supplies made by a person. For example, if a person is making only exempt supplies worth AED

Note:

.....

700,000 and makes one taxable supply amounting to AED 100,000, the value of supplies for the purpose of calculation of threshold shall be AED 100,000 only. As this is lower than the mandatory or the voluntary threshold limit, there is no requirement for the person to get registered under Article (13) or (17).

However, if such person was making zero rated supplies instead of exempt supplies, the value of supplies shall be AED 800,000 and such person shall have to be registered under Article (13) of this Decree- Law.

Also, the value of concerned goods or concerned services shall be included in the value of taxable supplies unless covered by clause (1) of this Article. Concerned goods or concerned services are those goods or services which are imported into the State and would otherwise be taxable if supply is received from within the State. Note that such concerned goods and concerned services are taxable under reverse charge mechanism under Article 48(1) if made by a taxable person.

The value of supply as mentioned under Article 7(2) of the Decree Law shall be taken in the hands of the acquirer for the purpose of determining the threshold limit.

Also, any supplies between related parties shall be included in the value of taxable supplies based on the instances mentioned in the Executive Regulation of this VAT Law.

Further, the value of supply of capital assets made by a taxable person shall not be included in the registration threshold limit, whether voluntary or mandatory.

Article (21): Tax De-Registration Cases

A Registrant shall apply to the Authority for Tax Deregistration in any of the following cases:

- If he stops making Taxable Supplies.
- 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.

Note:

.....

Analysis of all provisions related to Tax Deregistration:

Deregistration in case of voluntary or mandatory registrations

There could be instances where a person who has got himself registered may need to get himself de-registered on discontinuance of business or due to value of supply falling below the threshold limit. In such cases, the person shall apply for deregistration within 20 business days of its occurrence. The provisions are as below:

A registrant has to **mandatorily** apply for tax de-registration if he stops making taxable supplies or the value of such supplies is less than the voluntary threshold limit in the preceding 12 months. However, if his anticipated supply or expenditure in the coming 30 days is expected to reach voluntary registration threshold, he may choose not to deregister himself.

The registrant may also apply voluntarily if the value of supplies is between the voluntary threshold limit and mandatory threshold limit.

A person who has obtained voluntary registration is not permitted to apply for deregistration within 12 months of the date of registration.

The procedure to apply for Tax Deregistration is as below:

- The Registrant must apply to the Authority for de-registration within (20) business days of the occurrence of any of the event as mentioned above.
- The Authority shall accept a Registrant's application for deregistration where following two conditions are met:
 1. The Registrant stops making supplies referred to in Article 19 of the Decree Law. Supplies covered in Article 19 are those supplies which are included in the computation of threshold for registration.
 2. Where the value of supplies made or expenses incurred by the Registrant over a period of previous 12 months is less than Voluntary Registration Threshold i.e. AED 187,500/- and the Authorities are satisfied that his Taxable supplies or taxable expenses expected over next 30 days are not expected to exceed Voluntary Registration Threshold.
- If the deregistration application is approved, the Authority shall cancel the Tax Registration of the Registrant with effect from (i) the last day of the Tax Period during which the Registrant has met the conditions for deregistration or (ii) from such other date as may be determined by the Authority.
- Where a person fails to apply for deregistration in two conditions mentioned above where he is compulsorily required to deregister the Authority shall deregister the Registrant with effect from the last day of the Tax Period in which the Authority became

Note:

.....

satisfied that the conditions have been met or from any other date determined by the Authority.

- It is pertinent to note that a registrant cannot be deregistered unless he has:
 1. paid all due taxes payable by him;
 2. paid all Administrative Penalties due by him;
 3. Filed all the return required to be filed under Decree Law or Tax procedure Law
- 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 required to be filed him as mentioned above.
- However, if the business is carried on by an appointed Trustee in bankruptcy procedure, then goods or services forming part of the assets of Registrant shall not be deemed to be supplied by him and is not required to be included in his last VAT return
- 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:
 1. The date requested by the Registrant in the application; or
 2. The date on which the request is made if the Registrant did not indicate the preferred deregistration date.
- Where a person has been deregistered by the authority, such person is required to be notified by the Authorities within 10 business days of making decision to deregister such person.
- Deregistration does not exempt the Person from his obligations and liabilities that were applicable under the Decree-Law while he was still a Registrant.

Deregistration in case of Group Registration:

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.

Note:

.....

Background Material on UAE VAT

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 based on economic, financial and regulatory practices
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.
6. Deregistration does not exempt the Person from his obligations and liabilities that were applicable under the Decree-Law while he was still a Registrant.

Note:

.....

Chapter – XIV

Tax Return Filing

Duration of Tax Period: Article (71)

Tax period is a specific period of Time for which the taxable person shall calculate and pay tax. According to Article (62) of the Executive Regulations 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 has specified the tax period for each Tax Payer (In some cases, return period was amended after issuance of the TRN & same is updated in the online FTA Dashboard, of entity login). The Tax Payers are broadly divided into three groups whereby the quarter ends in January, April, July and October for the first group; February, May, August and November for the second group and March, June, September and December for the third group.

As per Clause (2) of Article (62) of the Executive Regulations 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.

Clause (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.

Submission of Tax Returns (Article 72)

Who has to file a Tax Return?

Tax return needs to be filed / submitted by:

A Taxable Person - Any person registered or obligated to register for tax purposes, who makes a supply of taxable Goods or Services or a deemed supply excluding Exempt supply.

According to Article (64) of the Executive Regulations the salient features of the Tax Returns are as follows:

1. Filing of VAT return has to be done online through FTA portal or as directed by FTA.
2. For large businesses, the tax return is required to be filed on monthly basis. Therefore, they have to file return before 28 of the next month.

Background Material on UAE VAT

3. Normally, Tax return has to be filed every quarter within 28 days from the end of the quarter.

Example: Return for the first quarter of 2018 ending 31st March 2018 needs to be filed before 28th of April 2018 and so on. If it is on monthly basis, then return for the month of January of 2018, needs to be filed before 28th February 2018 and so on.

A person whose registration has been cancelled must provide a final Tax Return for the last Tax Period for which he was registered.

A taxable person shall settle Payable Tax in relation to a Tax Return using means specified by the Authority i.e.:

- **e-Dirham Card:** It is a prepaid card which is an integral part of electronic payment system in United Arab Emirates (UAE), especially in terms of payment for government service fees.
- **GIBAN:** A GIBAN is a unique IBAN number that is given to every taxable person by Authority and fund transfer can be made from certain UAE financial institutions
- **Credit Cards.**
- Tax is also permitted to be paid through exchange houses like Al Ansari Exchange and few others.

Where recoverable tax for a tax period exceeds the Due Tax for the Tax period, the excess recoverable tax may be repaid to the Taxable Person in accordance with the relevant provisions.

The Tax Return shall contain the following:

- (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 at standard rate by the Person in the Tax Period and the Output Tax charged.
- (e) The value of Imports during the tax period
- (f) The value of Taxable Supplies subject to the zero-rate made by the Person in the Tax Period.
- (g) The value of Exempt Supplies made by the Person in the Tax Period.
- (h) The value of any supplies subject to Clauses (1) and (3) of Article (48) of the Decree-Law.

Note:

.....

- (i) The value of expenses incurred in respect of which the Person seeks to recover Input Tax and the amount of Recoverable Tax.
- (j) The total value of Due Tax and Recoverable Tax for the Tax Period.
- (k) The Payable Tax for the Tax Period.

Details of supplies made in each Emirates need to be conveyed.

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 Authority.

Late filing of return may attract penalty.

A Government entity may be permitted to file a simplified tax return as per the cabinet decision that may be decided upon.

Correction of errors made in previous return period can be carried out. The taxable person must disclose this error to the FTA within 30 days of becoming aware of this error and include in the Tax Return to be submitted immediately after noticing and correcting the error.

Each taxable person shall be responsible for the accuracy of the information and data in the Tax Return and in all the correspondence with the Authority.

VAT Return Form 201: Guidelines issued by FTA for the users:

The Tax Return is to be filed in Form VAT 201 which is available for use for every Registrant as soon as the Tax period comes to an end. For instance, if the first tax period of a Registrant is 1st January 2018 to 30th April 2018, the VAT 201 Form will be available for use from 1st May 2018 onwards.

Some of the common requirements for Tax Return VAT 201 is as follows:

1. The VAT Return Form VAT 201 has distinct boxes in which specific information is needed to be filled. All mandatory fields have to be filled without leaving them as blank. All other boxes where there is no information to be filled should be filled with Zero as none of the boxes or spaces can be left blank in the Return Form. All figures have to be reported in AED to the nearest fils upto two decimals.
2. Errors in calculation of payable tax of above AED 10,000 should be reported under the Voluntary Disclosure Scheme
3. Errors in calculation of payable tax of not more than AED 10,000 can be corrected in the subsequent tax return

Note:

.....

Background Material on UAE VAT

Box 1 relates to Standard Rated Supplies which needs to be reported Emirate wise :

- (a) For all businesses which are established in UAE the Standard Rated supplies should be reported based on the place of supply closely related to the place of the Fixed Establishment of the Registrant.
- (b) For unregistered businesses the emirate wise reporting should be done based on the place where the supply was received by the Recipient.

The Net Amount of the supply should be reported in the Amount Column and the VAT Amount should be shown in the VAT column. The figures reported under Box 1 should be extracted from the software to reflect the same amount as reflected therein as the total amount for the tax period.

There is an adjustment column for making adjustments in the form of deductions from the box 1 Standard Rated Supplies. There are only two items permitted to be shown under the adjustments column are

- (a) **Bad Debts** Tax Amount should be reported for each Emirate, where applicable,
- (b) adjustment column can also be used by a seller of **commercial property** for adjusting the output tax on commercial property which is already paid by the buyer.

Bad Debts related deduction will have to be made when the conditions stipulated in Article (64) of the Decree Law are satisfied.

Items that can be included under Box 1 are as follows:

1. The Supply of goods and services subject to VAT at 5%
2. Supplies of goods and services at a discounted rate (after deducting the discount value)
3. Deposits received as part payment
4. Sales through vending machines
5. Inter-company sales (where you don't have a tax group registration in place)
6. Supplies made to staff, for example canteen takings, private use charges, etc)
7. The sale of business assets
8. Deemed supplies
9. Reimbursements of expenses from customers where you have recovered the VAT on expenses as a separate supply and made a recharge of cost to customer
10. The full value of goods sold under the profit margin scheme even though VAT due is calculated on the profit achieved

Note:

.....

11. Sales from non-resident persons who are registered for VAT purposes in UAE, where the importer is not responsible for calculation and settlement of the tax
12. Supplies of goods located in Designated Zones where the goods are consumed within the Designated zones
13. Reductions in value due to credit notes issued
14. Errors that are allowed to correct for previous tax periods

Items that are to be excluded from Box 1 are as follows:

1. Sale of goods located within Designated Zones, which are not consumed within the Designated zones
2. Out of Scope supplies
3. Zero Rated supplies – exports, Zero rated educational services, Zero rated healthcare services
4. Disbursements

Box 2 is for Value of tax refunds provided to tourists under the “tax refunds for tourists scheme”. Report under the ‘VAT Amount’ column the amount of VAT that has been refunded to the tourists. The registrant should **use this box only if they are a retailer and provide tax refunds to tourists in the UAE under the “tax refunds for tourists scheme”**. The amount reported in this box should always be a negative. This amount will reduce the total Output Tax Liability. If Registrant is not authorised to handle refunds for tourists, this box should remain with the **Nil value already pre-populated**.

Box 3 is meant for reporting the tax liability under the Reverse Charge Mechanism for goods that are imported without customs declaration. This box is also meant for reporting the liability under Reverse Charge Mechanism for import of services. Value in this box will be Net Value and the VAT Value of the Output Tax due on these supplies – if the Taxable person is entitled to recover the Input Tax against these imports then it will be shown under Box 10

Please exclude imports of goods into UAE which are subject to 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 is meant for declaring the value of supplies of goods and services which are subject to VAT at 0% (Zero rated supplies). VAT on the supply is calculated as Nil and hence Net Value of Supply needs to be declared.

Include the following:

1. Exports of goods and services outside the UAE

Note:

.....

Background Material on UAE VAT

2. Local supplies of certain educational services and related goods and services
3. Local supplies of certain healthcare services
4. Supplies or imports of investment precious metals
5. Supplies of crude oil and natural gas

Box 5 is meant for reporting all exempt supplies. Only the Net Value of the supply is required to be declared in this box as there is no VAT on the supply

Include the following:

1. Local supplies of certain financial services
2. Supplies of residential buildings through sale or lease, other than the ones subject to Zero Rate of VAT
3. Supplies of bare land
4. Supplies of local passenger transport

Box 6 shows the Net Value and Output Tax due on the goods which have been imported into the UAE. The figures in this box are pre-populated based on the customs declarations made using the Import Code which is linked to the registrant's TRN. **The Amount will include Customs Duty and Excise Tax paid on goods imported.** Output Tax Amount will also be auto-populated in the "VAT Amount (AED)" column. **Agent importing goods** on behalf of non-registered persons should be responsible to pay tax – hence will be reflected under this box.

Box 7 is used when the information included in Box 6 is incomplete or incorrect. Adjustments can be made as needed and you should be able to justify the same to FTA. The amount is to be shown as positive or negative as the case may be. The Net Amount and VAT Amount field should be filled as the case may be. If the amount declared for VAT under Box 6 does not include Customs Duty and Excise Tax and hence is incorrect, then the adjustment can be made in Box 7. If goods imported are taken at 5% but it is actually Zero Rated then you can adjust in Box 7. **Use the View Details button next to Box 6 to check all the details and decide on any adjustments to be made in Box 7**

Box 8 will automatically calculate the totals of all the above boxes from box 1 to 7.

Box 9 is for entering all amounts subject to Standard Rate of VAT for which you would like to recover the Input Tax. The total net value of the standard rated purchases on which you are seeking to recover VAT should be reported in the Amount (AED) column. The VAT amount 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. You should

Note:

.....

also include any required adjustments to Recoverable Tax under the Adjustment (AED) column

Items to be included in Box 9 are as follows:

- Goods or services purchased for business purposes from VAT registered suppliers that were subject to VAT @ 5%
- Goods or services which were purchased at a discount
- The total price that you have paid for 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 note received from suppliers
- Errors that you are allowed to correct for previous tax periods

Items to be excluded from Box 9 are as follows:

- 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 – entertainment expenses, motor vehicle cost, etc.
- 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 and not in 9**
- Purchase of goods located within DZ which were not consumed in the DZ or subsequently imported into the UAE
- 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

The Adjustments column in box 9 should be used for making only three adjustments as listed below:

- Record any adjustments made to the input tax due as a result of any claim for Bad Debt Relief made by your supplier

Note:

.....

Background Material on UAE VAT

- Record any input tax apportionment annual adjustments
- Record any Capital Assets Scheme Adjustments

Box 10 allows you to recover any VAT which has been paid as output tax under reverse charge mechanism which was declared in Boxes 3, 6 and 7 of the VAT Return. Only recoverable portion should be shown in the Recoverable VAT Amount column.

Box 11 then automatically calculates the total of the values declared in Box 9 and 10.

Box 12 shows the total value of Output Tax that is due for the Tax Period which will be calculated as the sum of the VAT and Adjustments column in the Outputs Section.

Box 13 shows the total value of Input Tax that is recoverable for the Tax Period which will be calculated as the sum of the VAT and Adjustments column in the Inputs Section.

Box 14 shows the "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 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 **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 of time.

Box 15 is for making request for refund. Option is available in the VAT Return to request for a refund of the excess recoverable tax. **If "Yes" is selected, you will be required to complete the VAT refund application in Form VAT311 after submission of the VAT Return.** If "No" is selected, 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: This section is applicable for specific taxable persons. If this section is not applicable to you then answer "No" for this section. The additional reporting requirements does not have any financial implication on the VAT Payable or Recoverable amounts and it does not impact the VAT Return Totals

Profit Margin Scheme: This section is applicable for taxable persons who have used the Profit Margin Scheme during the Tax Period. Select "Yes" only if you have used the Profit Margin Scheme

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 (*) mark is mandatory field and must be filled in order to save or submit the form. If you attempt to save or submit without filling mandatory fields you will get a popup message under the relevant field indicating that additional details are required.

Note:

It is recommended to save the progress as you complete the form. Click on “**Save as Draft**” button at the bottom of the screen. You will be logged out of the system after 10 minutes of inactivity. When you “save as draft” the form will not be submitted and will be open for edit.

Submit the Return: Review all the information entered on the form after completing the mandatory fields and confirming the declaration. Once you are certain that all the information is correct, click the “**Submit**” button at the bottom right hand corner of the screen. Upon submission you will receive an email to confirm submission.

Note:

.....

Chapter - XV

Accounts and Records

Documentation, records, accounting and their vital importance

The fundamental challenge of any tax legislation is the maintenance of accounts and records.

UAE VAT law also prescribes standard documentation required as per its VAT law. Executive regulations provide more detailed noting of the records that are required to be maintained; the form in which this to be done; etc. and Federal Law No. (7) of 2017 on Tax procedures and its Executive Regulation provides the list of accounting records to be maintained and procedures of maintenance of the same.

While the type of documentation might vary depending on the nature of business, there are certain broad perspectives which are discussed herein.

Definitions in law

Before delving into the accounts and records required for UAE VAT, let's revisit some definitions of documents prescribed as per the law especially on records/documents defined by the law.

Article (1) of Decree-Law & Executive Regulation, i.e. definition provision has the following relevant definitions –

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.*

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.*

The law envisages one to issue an invoice within 14 days of the taxable event/date of supply (Article (67)).

This invoice record could be written (manual) or an electronic one.

Article (65) prescribes the conditions and requirements for issuing a Tax Invoice which are as follows:-

- A Registrant making a Taxable Supply shall issue an original Tax Invoice and deliver it to the Recipient of Goods or Recipient of Services.
- 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.

Article (59) of the Executive Regulation of this Decree-Law specify the following:

- Data to be included in the Tax Invoice.
- The conditions and procedures required to issue an electronic Tax Invoice.
- Instances where the Registrant is not required to issue and deliver a Tax Invoice to the Recipient of Goods or the Recipient of Services.
- 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.
- Instances where another Person may issue a Tax Invoice on behalf of the registered supplier.

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.

It is expected that the standard contents of the invoice will be there with the Tax registration number (Article (79)) and the taxable value on the invoice, product/service wise and the tax incidence of the same by the issuing person. This is more elaborately discussed in Article (59) of the executive regulations where the following have been specified as the contents of a tax invoice.

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. Where a Recipient of the supply is a Registrant, the name, address, and Tax Registration Number of the Recipient.
 - 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.

Note:

.....

Background Material on UAE VAT

- 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.

It may be impractical for small business or the same content as above to be made applicable for petty cash or across the counter supplies for which the law has envisaged a simplified tax invoice which shall have the following contents viz.

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.

The above mentioned simplified tax invoice may be issued by –

- 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 (b) would apply to small entities/counter billing based on the transaction threshold on the other hand clause (a) is applicable to sale to an unregistered person for goods/services under the UAE VAT law.

If there are wholly zero rated supplies then there is no mandate as per law to issue a tax invoice but alternate documentation/records are a must to manifest that there were supplies of zero rated goods/services.

Summary monthly invoice if issued for multiple supplies done to same person do not warrant issuance of individual invoices as long as these multiple supplies fall in the same cut off period/month. This is a relief where concurrent supplies are made during a month then instead of making individual invoices, one can resort to summary invoice on month-on-month basis.

The tax authorities may also waive the requirements of a standard invoice if they are satisfied that there are sufficient records maintained to take care of trail of the transaction. This clause exists prima facie to do away unnecessary rigmarole in duplication of documentation.

Note:

.....

Electronic invoicing is permitted provided there is adequate storage facility and authenticity established of the said electronic invoicing. So using digital signatures and issuing electronic invoices are permitted.

In an exceptional case, the buyer may also issue a tax invoice labelled "Buyer created tax invoice" in which case the seller is not warranted to issue any tax invoice which is also expected to contain standard invoicing requirements as mentioned above. This clause also obviates the need to handle some unique situations where the seller is not able to issue tax invoice or delays raising of invoice. For going in this mode, the buyer and seller must agree with each other in writing. In such cases, if supplier raises an invoice then also it will not be taken as a tax invoice, Buyer created Tax Invoice will only be identified as Tax Invoice.

An Agent may raise an invoice on behalf of the principal in which case the principal should not issue any invoice.

Invoicing within GCC states, is expected to carry the tax registration number of the supplier alongside the state of sale/state of receipt and such other information as designated by the tax authority.

Similar mirror image provisions have been incorporated for tax credit note as well vide Article (60) of the Executive Regulations. As per Article (60) the Tax Credit note has to provide the sufficient information to identify the supply to which the Tax Invoice relates. By this provision there is responsibility on the taxable person to link the Tax Invoice issued in respect of the Tax Credit Note issued. This is to have check over improper reduction of output Tax liability where there was no original Tax liability.

The linking of the Tax Invoice to the Tax Credit Note will have a huge impact on Fast Moving Consumer Goods manufacturers, wholesalers where the taxable person can't easily identify the Tax Invoice against which the Tax Credit note is issued due to phenomenal quantity of invoices been issued daily.

Invoices and credit notes shall be rounded off to the nearest fills.

Software and ERP's will need to be configured to take care of this appropriately which by and large is standard existing feature in all software/ERP's.

Since the tax rate is uniform @ 5%, the logic of capturing product/service wise may look irrelevant at the outset. Having said that there is a tax on imports as well as availability of input tax credit under the law thus there may be an invoice to invoice matching done across entities with their tax registration numbers. This in turn warrants even capturing the product/service category based on some generic classification which is naturally bound to be the Harmonized system of nomenclature (HSN) which is universal as the product description of the seller is equal to be the same as that of the buyer; so is its value; the tax; and so on.

Note:

.....

Background Material on UAE VAT

Similarly, for any reduction in the tax due to discount or reduction in taxable value, the law envisages a credit note to be issued on similar lines of an invoice.

Natural corollary is also that these are controlled documents in a continuous serial number with periodical cut offs duly identified to prove to tax authorities that there are no missing numbers thus there is no tax avoided/evaded. The cut off will enable control return filing and omission of documents.

Unlike invoice and credit note, voucher has been used in a loose form in the definition meaning it not only refers to a document but is also an acknowledgement for right to receive goods or services also enshrining possibly discount vouchers.

It is this invoice, credit note and the vouchers which are likely to constitute records under the law apart from ancillary information as well.

Violation or Non-compliance of issuing Tax Invoice/Tax Credit Note/Alternative document (i.e. document issued for transaction between Implementing states) will attract administrative penalties as provided in Table 3 of Appendix to Cabinet Decision No.40 of 2017. The extract of the same is as follows:

Administrative Penalty (AED)	Description of Violation
.....
.....
.....
(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

Detailed record keeping has been proposed under Article (71) and (72) of the executive rules which enshrine the following tenets –

Note:

.....

Records are to be maintained to satisfy provisions of the law on a general basis. This would mean preserving all records, vouchers, invoices, credit notes, contract copies, returns, audit reports, assessment orders, notices etc.

In respect of real estate records are expected to be retained for 15 years after the end of the tax period to which they relate to.

Records pertaining to specific Emirate wise shall also be maintained. To identify the supply taking place in an emirate, following principles should be taken care of –

1. Where goods are collected by recipient from a physical place or a location or service is performed at a physical location then it will be deemed that supply has taken place in the emirate where this physical location is situated i.e, origin based concept.
2. In cases other than above it shall be in the emirate where recipient has his place of residence based on the destination based concept.
3. In case of delivered goods, it shall be the emirate where delivery has occasioned to the recipient.
4. In any other case, place of residence of supplier.

Such records and averments be maintained in the “Premises” of the taxable person generally. Premises has been defined as the place where business is practiced, goods are stored or records are maintained temporarily or permanently.

Such records need to be maintained for capital goods/assets as well due to the staggered credit available on the same. Minimum records need to be maintained for at least 10 years as stipulated under Clause 2 of Article (60) of the Decree Law.

Further record maintenance also needs to be in sync with penal provisions where the law has envisaged a 5 year normal documentation period and a 15 year extended documentation period in the event of a suspected evasion. In a case knowing how tax authorities trigger audits/scrutiny assessments it is better if records or electronic archiving is resorted to especially for large businesses to ensure meeting the 15 year extended timeline. (Article (42) of Tax Procedures Law).

Article (78) under Chapter 10 of Federal Decree Law No.08 of 2017 speaks of record keeping.

Further this record keeping provision shall be irrespective of record keeping prescribed under any other law.

Legally this section mandates following records as minimum requirement:

Note:

.....

Background Material on UAE VAT

A Taxable person has to maintain the following records –

- *Records of all supplies and Imports of Goods and Services.*
- *All Tax Invoices and alternative documents related to receiving Goods or Services.*
- *All Tax Credit Notes and alternative documents received.*
- *All Tax Invoices and alternative documents issued.*
- *All Tax Credit Notes and alternative documents issued.*
- *Records of Goods and Services that have been disposed of or used for matters not related to Business, showing Taxes paid for the same.*
- *Records of Goods and Services purchased and for which the Input Tax was not deducted.*
- *Records of exported Goods and Services.*
- *Records of adjustments or corrections made to accounts or Tax Invoices.*
- *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.*
- *A Tax Record that includes the following information:*
 - *Due Tax on Taxable Supplies.*
 - *Due Tax on Taxable Supplies pursuant to the mechanism in Clause (1) of Article (48) of this Decree-Law.*
 - *Due Tax after the error correction or adjustment.*
 - *Recoverable Tax for supplies or Imports.*
 - *Recoverable Tax after the error correction or adjustment.*

What the above record keeping warrants

The above provision of the law can be understood in a simpler/sequential manner.

There are different types of taxes as envisaged by law for different types of transactions/events. For instance, there is tax on –

- The seller/service provider
- The Importer of goods/services – reverse charge mechanism
- Tax on agents acting for principal
- Tax on agents acting on their own

Note:

.....

- Zero tax or exempted transactions within designated zones.
- Tax on telecommunication and electronic services
- Tax on domestic transport of goods
- Tax on capital goods
- Tax based on profit margin – compounding scheme
- Tax on deemed sales/services/supplies
- Tax on transactions between Designated Zone and Mainland.

The above is not an exhaustive list, but will be good enough to explain the requirements of record keeping/accounting needs under the law.

A tax paying entity is likely to have following transactions broadly –

Output tax

- Sales
- Service rendering

Input tax

- Purchase
- Service procurement

There may be multifarious products/services in the above category.

Within the above buckets there might be taxable transactions where liability is on a normal levy or on reverse charge basis.

Similarly, there may be zero rated transactions, VAT exempted transactions and taxable (non-exempted) transactions under each of these buckets.

There might be sales/services to designated zones.

This has to be further broken down vendor wise/customer wise for purchase/sale transactions as there may be a tax registration code wise transaction matching/ arising from the availing of input tax credit and cross check/self-audit mechanism as required by law.

To sum up, the documentation or the accounting needs will be –

- Customer (or) Vendor wise
- Product/Service
- Quantity/Volume
- Price

Note:

.....

Background Material on UAE VAT

- Nature of tax
- Taxable value
- Tax amount
- Tax registration number of both supplier and customer
- Type of exemption (if any)
- Type of levy
- HSN product/service code
- Capital goods tax (if any)

Additional points on record maintenance

Since the law envisages a staggered tax credit on capital goods with a record maintenance of fixed assets for at least 10 years, the requirements of this provisions will need to be borne in mind for record maintenance which normally should exist in the fixed asset register.

Transitional provisions also call for record maintenance especially in cases where contracts might have been entered into before VAT law come into effect while actual sale of goods/rendering of service might follow a later date.

Grandfathering provisions of continuing contracts before 31stDecember, 2017 may need to be noted especially with their sale/service continuing post implementation of VAT law as these will be at taxable at Standar Rate or Zero Rate of VAT.

Similarly, maintenance of stock records and cut off of stocks batch wise before VAT law and post VAT law coming into place will pose some challenges as normally there is no input VAT available on pre-VAT stock as there was no tax paid on these.

Writing off bad debts is also covered in the law under Article (64), where a cut off of 6 months from the date of supply is given to write off non-recoverable bad debts with an added caveat that this has to be communicated to the recipient which becomes difficult in practice. This will also warrant immaculate record maintenance.

Absence of record will mean the tax authority will deny the input tax credit or will levy an additional tax on the output transaction apart from other penal consequences depending on the gravity of the situation. For instance failure to keep the required records will attract a penalty of AED 10,000 for the first time and AED 50,000 for repetition as stipulated in the Cabinet Decision No.40 of 2017 under the Table of Violations and Administrative Penalties.

The above calls for cumbersome record maintenance. While it may appear difficult on the outset with the use of ERP's and Computer database software it is not an impossible task.

Note:

.....

Entities may have to draw their road map to sound their customers and vendors accordingly of the above. Similarly, this may also warrant changes in the ERP and the accounting software.

Article (5) of Executive Regulation of Tax Procedure Law specifies that every 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. As an exception 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.

It is the liability of the Taxable person to arrange for the translation to Arabic and also for the accuracy and correctness of the translation. The Authority shall have the right to rely on the translation provided.

The Penalties for violation / non-compliance is humongous and it will impact the going concern of the business of the Taxable person. Ensuring the compliance of the law is the responsibility of the Taxable person.

It is necessary for every business to understand their responsibility of maintaining the prescribed documentation strictly. If the taxable person doesn't stick with the compliance of the provisions of documentation then it will impact the business inadvertently. So instead of the pursuing the documentation compliance as an additional burden of expenses to the business it should be treated as a measure of avoidance of unnecessary enormous penalties.

Note:

.....

Chapter - XVI

Audit and Assessment

The right of the Authority to perform a Tax Audit (Article (17) of Federal Law No.7 of 2017 on Tax Procedures)

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.

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.

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.

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:

- 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;
- 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;
- 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.

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.

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.

A criminal case can be initiated only upon an application from the Director General.

The Executive Regulations of this Law shall specify the necessary procedures related to the Tax Audit.

Analysis

VAT Law works on self-assessment basis wherein, the information/details furnished by tax payers are considered to be correct unless otherwise established. The taxable persons in this regime, themselves declare the amount of tax payable to or recoverable from the FTA in their tax returns. One of the methods for authorities to ensure the correctness of declaration is to carry out the audit of records of taxpayers to ascertain the extent of compliance of law.

Tax audit is conducted by the member of the Authority's staff appointed as a Tax Auditor. It involves scrutiny of commercial documents of the person conducting business. The Authority has the right to conduct Tax Audit whenever they deem fit to do so. It is performed to avoid the instances of tax evasion stated under Article (23) of the Federal Decree Law No. 7) of 2017 on Excise Tax; Article (77) of the Decree Law No.8 of 2017 on Value Added Tax; and non-compliance of the provisions of Federal Law No. (7) of 2017 dealing with procedural aspects or the tax laws.

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:

- Tax audit is necessary for protecting the integrity of the tax system.
- Responsibility of the person, or anyone associated with him, to comply with the law and Tax Law.
- 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.
- 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 after considering all above aspects, the decision taken by Authority shall be final and it cannot be challenged by any person.

Tax audit shall be performed at a place where the books of account and related documents are stored; it may be the office of the person or his place of business or any other place where such documents are kept. The Authority must inform the concerned person (auditee) at least **five days prior to the conduct of audit**. The basic aim among others for informing the auditee may be to temporarily suspend his business activities on the prospected date, retrieval of documents related to business from different sources (if any) and their collection at a single place.

Note:

.....

Background Material on UAE VAT

However, the tax auditor is allowed to enter the premises and conduct the audit without prior notice, in any of the following instances:

- The Authority has reason to believe that the auditee is involved in tax evasion.
- The Authority has reasons to believe that temporary closing of the business shall not hinder the tax audit.
- The person who has been informed about the audit attempts to hinder the conduct of tax audit in a proper manner.

Prior written consent of Director General need to be obtained by the tax auditor to conduct the audit as mentioned above.

In case the Auditor has to access the place of residence of the auditee, approval of public prosecutor is required.

The notice of Tax Audit to the given person shall include the following information as provided in Article (13) of Executive Regulations on Tax Procedures:

- The consequences of obstructing the Tax Auditor in the exercise of his duty.
- In case the Tax Audit is being carried out in accordance with Clause (4) of Article (17) of the Tax procedures law, written notice need to be given at the beginning of tax audit to the following:
 - a) Occupational tenant of the premises if he is present at the time of beginning of 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 to a prominent place in the premises.

Article (18) of Federal Law No.7 of 2017 on Tax Procedures : 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 (14) of the Executive Regulations on Tax Procedures specifies the following:

Power to remove and retain Original Documents or Assets or make Copies Thereof i.e. the

Note:

.....

Tax Auditor has the power to obtain original documents and if required make copies of them or remove them for a period specified by the Tax Auditor for the completion of his work, or make copies of it during the removal period. The Auditor may exercise his power only if he notifies the person of the matter.

In case of documents taken away by the Authority, they need to provide a record for the details of the documents taken away within 10 business days to any of the following:

- a) Owner of the document
- b) Occupational tenant of the premises in which the document were removed.
- c) Person who had the custody or control of the document immediately before removal.

The record as to the taking away of the documents shall include the following:

- a) Purpose of removing the document.
- b) Nature of document so removed
- c) Location where document is stored and the conditions of storage.
- d) Period for which it is expected to be retained by the Authority.

Further, as per Article (15) of the Executive Regulations 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.

Article (16) of the Executive Regulations on Tax Procedures, specifies the following in respect to storage and providing access to Documents and Assets removed in the audit:

- 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.

Note:

.....

Background Material on UAE VAT

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 (19) of Federal Law No. (7) of 2017 on Tax Procedures: 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) of Federal Law No. (7) of 2017 on Tax Procedures: 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) of Federal Law No. (7) of 2017 on Tax Procedures: 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.

Note:

.....

**Article (23) of Federal Law No. (7) of 2017 on Tax Procedures:
Notification of the Tax Audit Results**

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.

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.

The Auditor may demand original copies of the business documents for verification purposes. Such original copies shall provide for the conclusive evidence as to whether the information represented by the photocopies, facsimiles or any such document is true or not.

Audit shall be conducted during the official business hours of the Authority, but in some cases it may be carried on beyond the official hours by decision of Director General, if the conditions specified in Law or to be specified in the Executive Regulations of this law permits. The Auditee is required to cooperate with the auditor and other staff members for the successful completion of the audit.

In case some new information is obtained on the documents previously audited which might impact the audit result, audit may be conducted again on these documents.

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 audit.

The auditee has opportunity to 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. The authority is required to provide the requested information within (10) business days in the following manner:

- A paper or electronic copy of the Document or data requested.
- The original Document or data requested if such Documents or data belong to the Person subject to the Tax Audit who made the request.

There is privilege for the Authority not to provide the following documents:

- Documents or data which would reveal internal correspondence or decisions made by the Authority.
- Any confidential information or data related to any other Person or Persons.

Note:

.....

- 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. However, 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 (24) of Federal Law No. (7) of 2017 on Tax Procedures: Tax Assessments (Tax Procedure Law)

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:

- The Taxable Person failing to apply for registration within the timeframe specified by the Tax Law.
- The Registrant failing to submit a Tax Return within the timeframe specified by the Tax Law.
- 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.
- The Taxable Person submitting an incorrect Tax Return.
- The Registrant failing to account for Tax on behalf of another Person when he is obligated to do so under the Tax Law.
- 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.

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.

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.

The Executive Regulations of this Law shall specify the information or data that must be included in the Tax Assessment.

As discussed earlier, VAT is self-assessment basis where the registrant is required to furnish all requisite details in the periodical returns.

However, there could be instances where Authorities may feel 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.

Note:

.....

The notification for tax assessment by the Authority shall contain sufficient information and include at least the following information:

1. In case of Tax Assessment:
 - 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. In case of Administrative Penalty Assessment:
 - 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.

There could be instances where the authorities are not in a position to raise the exact tax demand. In such cases, the demand may be raised for estimated tax liabilities. In future, whenever precise details are available, final tax demand may be raised within 5 days of additional information being available.

Administrative assessment penalties shall be imposed for non-compliance of the provisions of Article (25). However, the registrant has the option of voluntary disclosure under Article (10) of

Note:

.....

Background Material on UAE VAT

Tax Procedures Law of any error committed and of which he is aware i.e. within 20 business days from the date when the tax payer becomes aware of the error. But, if such registrant deliberately provides wrong information or data to the Authority or creates hindrance in the performance of their duties in any manner, he shall be liable to pay tax evasion penalties under Article (26) of this Decree Law.

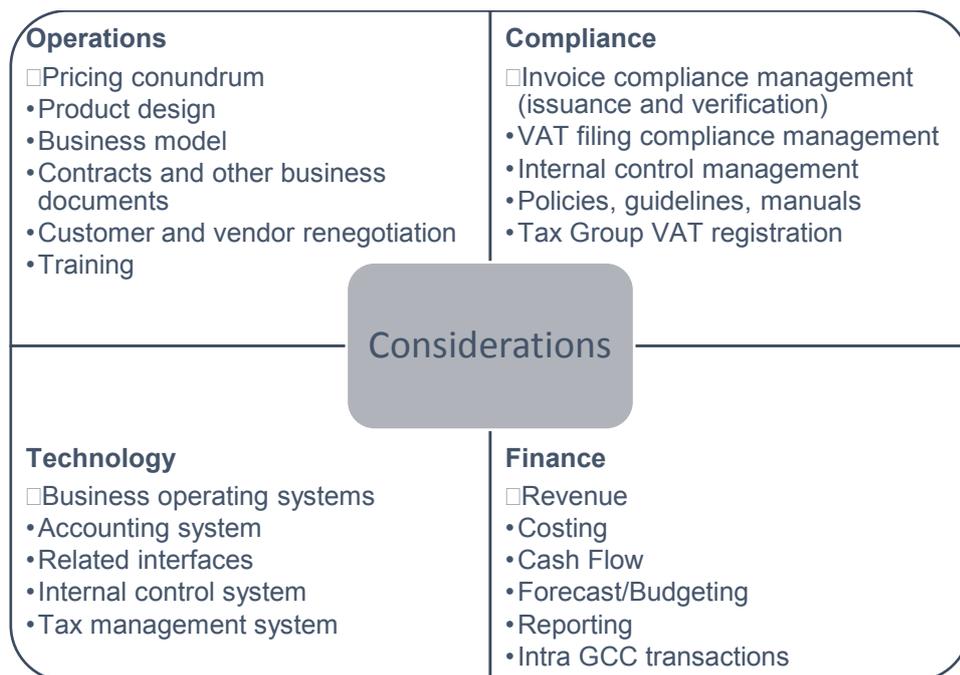
Note:

.....

Chapter - XVII

Automation

- We discussed in the earlier chapter the rigmarole of document maintenance and accounting records. One way to leverage this is by use of ERP or accounting software especially in case of large volume transactions. As to how this automation can help us or be enabled to comply with the legal provisions is the epitome of this write up.
- There are many ways to handle/setup automation in VAT or in indirect taxes. There is **no one best fit all solution** as this is amenable to the ERP or software requirements and varies from entity to entity and needs of the law across locations/countries. But by and large how this setup is warranted or is likely done in an accounting software is what is dealt herein.
- Requisites of the setup. The following are some of the points to be borne in mind before doing any automation for VAT.



- Print requirements of the law have to be thought over as the law normally warrants disclosing product wise units, price, taxable value, tax rate, tax amount and the total tax alongside other standard details on an invoice. Emirate wise sales data to be maintained and provided in the VAT Return as required by the law.

Tax Related Considerations

1. Transition
 - a. Transition provisions of tax liability on Advances and Invoices without Supply
 - b. Consolidating and Reconciling Books stock with physical stocks
2. Pre-Live
 - a. Testing the readiness of the software
 - b. Integrating with other applications within the organisational environment
 - c. User Training on the application usage
3. VAT Go Live
 - a. System configuration to consider above table
 - b. System Audit of Implementation.

An effective adoption of technology relies on following factors:

Before implementation (pre-go-live)	During implementation	After implementation (post-go-live)
<ul style="list-style-type: none"> • Understanding the requirements and communicating the same to all relevant stakeholders. 	<ul style="list-style-type: none"> • Ensuring that right skills and knowledge are available at all stages of implementation. 	<ul style="list-style-type: none"> • Advance planning for training and support to be provided.
<ul style="list-style-type: none"> • Understanding the need & method to integrate technology into the finance system. 	<ul style="list-style-type: none"> • Ownership of various stages of an implementation should be agreed upfront (e.g. design, build, report and testing). 	<ul style="list-style-type: none"> • Efforts for continuous improvement of the system.
<ul style="list-style-type: none"> • Clarity on the processes needed to support the systems & technology implementation. 	<ul style="list-style-type: none"> • Communicating with process owners & any other stakeholders likely to be impacted at different stages of the implementation. 	<ul style="list-style-type: none"> • Communicating the ownership for system and data maintenance between tax, finance and IT departments.

Note:

.....

Steps in VAT Implementation

1. Entity Level Configuration
2. Master level configuration
3. Compliance Configuration
4. Reporting & Reconciliation

Entity Level Configuration

Currently there being no tax laws so there wouldn't be any data records of the tax masters. At the entity level / company level, the basic definitions of

- a) Activating the Tax Structures
- b) Defining the Tax Registration Number
- c) State & Jurisdiction
- d) Tax Group Reference
- e) Trader Type
- f) Tax Documents Layout
- g) Encryption and correctness of record maintenance for required period under law.

And other functionalities to be setup in the company level.

Master level configuration

Master level configuration always follows 3 levels approach for any tax Configuration

1. Party Configuration
 - a. Customer
 - b. Vendor
2. Product Configuration
 - a. Income: Ledger / Stock Unit
 - b. Expense: Ledger / Stock Unit
3. Tax Configuration
 - a. Liability & ITC

Note:

.....

Background Material on UAE VAT

Understanding Party Configuration

- All data of customer and vendor is maintained normally in a customer/vendor database or Master record table.
- It is crucial that there are no duplicate records in the customer/vendor database table. Weeding the duplicates is the first and foremost need of any automation for VAT or for any MIS as this brings better quality in reporting/handling.
- Once the consistency has been brought in, the following data / attributes to be ensured for each master
 - TRN
 - State & Jurisdiction
 - Trader Type (Registered / Un Registered)

Sample Configuration

Category	Customer/Vendor name	Code	Tax regn no.	Group	VAT status
Customer	ABC	1201	123456	External domestic	Taxable
Customer	XYZ	1202	98765	Related party	Taxable
Customer	PQR	1203	423456	External import	Taxable
Vendor	ZYX	9005	875686	Assets	Taxable
Composite	CBA	1205	999123	Branch office	Exempt

Product Configuration

- Dealer deal in goods and/or services, in some cases the transactions are with stock units and on services without stock units. The transactions without stock units, the product configurations are done at ledger level, else at product level.
- Further in product level reverse charge mechanism shall be configured based on the registration status of the customer for specified goods under Article 48(3) of Decree Law.
- Product/service master also exists in any database which basically contains the inventory or the services that the entity renders, its nature etc. this table is coded or linked with the Harmonized System of Nomenclature (HSN) codes and the tax rates. The tax rates are also maintained in a Master table product commodity wise. To recap HSN coding is a globally accepted product/commodity nomenclature prescribed by

Note:

.....

World Trade Organization (WTO) to bring in uniformity in customs classification regulations across the world.

- Finer aspects of capital goods, services, export customers etc. may need to be flagged using additional fields on the database to one's needs.

Sample Product master configuration

Product/Service name	Category	Product ID	HSN Code	Unit of measure	Unit price in USD	Tax rate	Tax deferral flag	Deferral years
Interest	Services	.....	9906.00.00	Others	3.00	N/A		
Toilet soap	Goods	.....	3401.19.41	Units	1.50	5%		
Electronic toys	Goods	.....	9503.00.00	Units	10.00	5%		
Forklift	Capital goods	.....	8427.10.00	Units	10,000	5%	Yes	5
Maintenance	Services	.....		Lumpsum		5%		
Transportation	Services	.....		Lumpsum		0%		

Other Configurations

1. Bundled Product: Whenever there are multiple products bundled system configuration to be done for Composite Supply of Goods or Services, what is finally sold shall be categorised as Goods / Services.
 2. Configuration of extracting the emirate-wise place of supply which is required for the reporting requirements of VAT return and also for the purpose of Record keeping provisions as per Article 72 of Executive Regulation.
 3. Movement other than Sale: when goods are sent on
 - a. 'Sale or Approval' or Job work configurations to be made to track the movement for return of the product and further sale.
 - b. Movement between the branches should be classified as Non-Taxable
- In short, a filter mode across tables and their mapping is what will help one to generate the required end output for VAT compliance.
 - Importantly, the layouts for different type of Tax Invoices like "Simplified Tax Invoices", "Tax Invoices", "Tax Invoices issued raised by Buyer" and "Tax Credit Note" layouts in compliance with the statute shall be inhibited in the system

Note:

.....

Background Material on UAE VAT

Tax Configuration

- Ledgers configuring the necessary taxes to be created
- Liability ledger up on collection of taxes on sale
- Input tax credit Ledgers up on recording of eligible purchases
- Automative check of calculation of Tax as per the movement of goods from stores should be configured which ensures that VAT has been discharged on Deemed Supplies i.e. on self-consumption.
- Sample Ledger can be created in the following way:
 - Input tax credit inventory
 - Input tax credit capital goods
 - Input tax credit services
 - Output tax inventory
 - Output tax services
- Periodical transfer of input taxes to output taxes can also be automated so that the net tax payable can be arrived using a simple algorithm to nullify the input tax account. Say for instance, if the tax is payable before the 5th of the subsequent month, then on 3rd a cut-off be configured in the software to prevent further entry of invoices, ~~credit notes~~ etc. and the transfer of input taxes to output tax account be made using a single journal entry. This way we do away the need to do individual line by line transfer or manually offsetting the input tax credit to output tax account to compute net tax payable. The input tax credit at month end on the Balance sheet will also read zero if date field of the entry is customized to month end last date.

Other Technology Support:

- It is better if the software/automation supports flat file upload of the customer/vendor Master data uploads and the tax rates. This way standard country specific tax rates can be uploaded HSN code wise into the software with minimal manual intervention.
- Right of access to Master record maintenance and changes should be security coded so as to maintain integrity of the database. This is standard to any software/automation.
- Tax registration number is also normally entered at the entity Master level table as this is a one-time exercise and every time an invoice/credit note or any document is generated the tax registration number can get printed by default.

Note:

.....

- A bare full data dump of the total sales made, services rendered and invoice wise and credit note wise, product wise, service wise all can be mapped using a flat file with filters on any automated software including Microsoft XL say for instance.
- This way automation can assist in complying with taxes. Archiving will enable retrieve of data at any point of time.
- Matching of input tax credit with the Government portal of the seller's invoice with one's input taxes can also be machine automated with tax registration number, invoice no. product HSN, Date of invoice or a combination of these.
- Mapping of different types discount like product discount, cash discount, trade discount etc. for the purpose of VAT calculation has to be configured.

While all the above looks conceptually simple and easy, the challenge is always in setting it up to the entity's custom requirement. This perhaps makes the process of VAT automation a full-time consultancy service, definitely paving way to better opportunities for Chartered Accountants in this domain.

Note:

.....

Chapter - XVIII

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:

- Failure by the Taxable Person to display prices inclusive of Tax according to Article 38 of this Decree-Law.
- Failure by the Taxable Person to notify the Authority of applying Tax based on the margin according to Article 43 of this Decree-Law.
- Failure to comply with the conditions and procedures related to keeping the Goods in a Designated Zone or moving them to another Designated Zone.
- Failure by the Taxable Person to issue the Tax invoice or an alternative document when making any Supply.
- Failure by the Taxable Person to issue a Tax Credit Note or an alternative 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.

Introduction

Any person coming within the purview of a law is required to fulfill his obligations as stipulated by the law. At times the person fails to do so either willfully or due to lack of awareness of the provisions or not assigning the required level of importance to statutory obligations. In order to make the person fulfill his/her/its legal obligations, the provision of penalty becomes essential. Further, for effective implementation of any tax-law and to do justice to tax compliant assesses, provisions stipulating strict action against offenders are required.

As per Article 1 of the Decree Law, Administrative Penalties are defined as 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. In general terms, penalty may be defined as imposing monetary or non-monetary (if any) obligations on the person in addition to his normal obligations. This forces the person to comply with the legal requirements to avoid the consequences of non-compliance. It works as a deterrent to non-compliance.

Article 76 of Decree Law covers penal provisions. Important aspects are as under:

Provisions of Article 76 is without prejudice to the penal provisions of Federal law No, 7 of 2017, on Tax Procedures. While reading the provisions of Article 76, equal effect must be given to the provisions of the Tax Procedures law, which are discussed later in the chapter.

The provision of one law cannot be read in such a way that derogates other law.

The penalties can be imposed by way of assessment by authorities.

The Authority, through issue of an Administrative Penalty Assessment e-order, has to intimate the person on whom penalty is imposed about such imposition of penalty within 5 business days. The penalty may be imposed in the following cases:

1. Article 38 of the Decree Law requires that the advertised price of goods or services shall include the Tax applicable thereon except in such instances where Executive Regulations may provide otherwise. A person who is required to declare the price in the stated manner (gross value inclusive of tax) but fails to do so, would be subject to administrative penalties. This is also considered as a transparent and good consumer protection measure as the consumer may not be aware of the taxes applicable.
2. Article 43 provides for option to pay tax based on margin method instead of on value of taxable supplies. This would be the calculation of margin by deducting the cost of purchase from the sales price. On the net amount VAT would be calculated. Once a person adopts the method, it is obligatory for him to notify the authority for selection of his option. If he fails, administrative penalties are imposable.
3. Specific conditions and procedures are laid down for keeping goods in a designated zone or movement of goods from one designated zone to another without any tax becoming due. Failure to abide by the conditions and procedures as specified in Executive Regulations would be subjected to administrative penalties.
4. Tax Invoice is vital document for recording transactions of taxable supplies between parties. Where a taxable person fails to issue the tax invoice or tax credit note, as applicable or an alternative document thereto, when making any Supply, penalty is imposable. The person may need to record and monitor the following transactions to avoid errors:
 - sale on approval (when returned, what quantity),
 - returnable goods (why sent out, whether for job work or otherwise, when returned, what quantity),
 - non-returnable samples (whether liable to VAT),
 - supplies for projects to be invoiced at later points of time, and
 - other supplies in the course of business

Note:

.....

Secondly where any reduction in the output tax is claimed but no corresponding credit note or alternate document is issued, that would also be subject to administrative penalties. In such cases the buyer/ receiver may be claiming the input tax thereby reducing his tax due.

Special conditions and procedures would be notified for issuance of tax invoice or tax credit note in electronic form. Failure to comply with such conditions is also subject to administrative penalties.

In addition to the VAT Decree Law, there are provisions for administrative penalties in Federal Law No. 7 on Tax Procedures which being relevant, are discussed below:

Article 25 of Tax Procedure Law: Administrative Penalties Assessment

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:

Instances where penalty is imposable:

- Person carrying on a business failing to keep the required records and other information specified in this Law and the Tax Law.
- Person carrying on business, failing to submit the data, records and documents related to Tax in Arabic to the Authority when requested.
- Taxable Person failing to submit a registration application within the timeframe specified in the Tax Law.
- Registrant failing to submit a deregistration application within the timeframe specified in the Tax Law.
- 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.
- 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.
- Person appointed as a Legal Representative for the Taxable Person failing to file a Tax Return within the specified timeframe, in which case penalties will be due from the Legal Representative's own funds.
- Registrant failing to submit the Tax Return within the timeframe specified in the Tax Law.
- 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.

Note:

.....

- Registrant submitting an incorrect Tax Return.
- Person voluntarily disclosing errors in the Tax Return, Tax Assessment or Refund Application pursuant to Article 10 (1) and (2) of this Law.
- 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.
- 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.
- Registrant failing to calculate Tax on behalf of another Person when the registered Taxable Person is obligated to do so under the Tax Law.
- Any other violation for which a resolution is issued by the Cabinet.

The offences mentioned above are independent of each other. A person committing any of the above offences shall be liable to administrative penalties for the offences so caused. The Executive Regulations of Tax Procedure Law shall specify the information and data that must be included in the Administrative Penalties Assessment.

Quantum of Penalties

Any violation made under VAT Law and Tax Procedure Law, as discussed above is subject to penalties. The Cabinet shall issue a resolution that specifies the Administrative Penalties for each of the violations listed above. Such Administrative Penalties shall be not 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.

It needs to be noted that imposition of any Administrative Penalty pursuant to above provisions shall not exempt any Person of his liability to settle the Due Tax in accordance with the provisions of the Law. If the person fails to pay penalties within a given timeframe, he shall be dealt with in the manner prescribed under Article 36 of Tax Procedure Law.

Following penalties have been notified by the Federal Tax Authority vide Cabinet Resolution No. (40) of 2017 on Administrative Penalties for Violations of Tax Laws in the UAE :

Note:

.....

Background Material on UAE VAT

Person Liable	Description of Violation	Penalty (AED)
Person Conducting Business	Failure to keep the required records and other Information specified in Tax procedures and Decree Law	10,000 for 1 st Time 50,000 in case of repetition
Person Conducting Business	Failure to submit data/records in Arabic to Authority when requested	20,000
Person Conducting Business	Failure to Facilitate the work of the Tax Auditor	20,000
Taxable Person	Failure to submit the Registration Application within the timeframe	20,000
Registrant	Failure to submit the De-registration Application within the timeframe	10,000
Registrant	Failure to inform authority of any amendments to the information in his tax record kept by Authority	5,000 for 1 st Time 15,000 in case of repetition
Legal Representative	Failure to inform the authority about the appointment as legal representative to the Taxable person within timeframe	20,000
Legal Representative	Failure to file tax return of the taxable person within the timeframe	1,000 for 1 st Time 2,000 in case of repetition within 24 months
Registrant	Failure to file tax return of within the timeframe	1,000 for 1 st Time 2,000 in case of repetition within 24 months
Taxable Person Or Registrant	Failure to settle the Payable Tax stated, in the submitted return or Tax Assessment, within the timeframe Or Failure to Calculate tax on behalf of another Person when the registrant is obligated to do so under the Tax Law.	2% of Unpaid Tax is due Immediately after due date 4% of Unpaid Tax is due on 7 th day after Due Date 1% of Unpaid Tax after one calendar month from due date (daily penalty), with an Upper limit of 300%

Note:

.....

Penalties

<p>Registrant Or Person/Tax Payer</p>	<p>Submittal of an Incorrect Tax Return Or The Voluntary Disclosure of errors in the Tax Return, Tax Assessment or Refund Application pursuant to Article 10 (1)& (2) of the Tax Procedures Law</p>	<p>1. 3,000 for 1st Time 5,000 in case of repetition Plus 2. 5% if the Voluntary Disclosure is made before being notified of tax audit by the authority 30% if the Voluntary Disclosure is made after being notified of tax audit and before the authority starts the tax audit 50% if the Voluntary Disclosure is not made or made after being notified of tax audit and authority has started the tax audit or after being asked for information relating to tax audit process whichever is earlier</p>
<p>Person/Tax Payer</p>	<p>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>	<p>1. 3,000 for 1st Time 5,000 in case of repetition Plus 2. 50 % of the amount unpaid to the Authority due to the error resulting in a tax benefit for the Person/Taxpayer</p>
<p>Any Person</p>	<p>Not accounting for any tax that may be due on import of goods as required under the Tax Law</p>	<p>50% of Unpaid or undeclared Tax</p>

Note:

.....

Background Material on UAE VAT

Any Person	Failure to comply with Designated Zone regulations	50,000 Or 50% of Tax whichever is higher
Taxable Person	Failure to display prices inclusive of Tax	15,000
Taxable Person	Failure to notify the Authority of applying tax based on margin	2,500
Taxable Person	Failure to issue Tax Invoice or Tax Credit Note or an alternative document when making any supply	5,000 per Tax Invoice or Tax Credit note or alternative document
Taxable Person	Failure 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

Considering penalty as debts owed to the Authority (*Article 20 of the Executive Regulations of the Tax Procedure Law*)

Where an amount of 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.

Notification of Administrative Penalty Assessment (*Article 21(2) of the Executive Regulations of the Tax Procedure Law*)

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 Tax period
- (f) Details of the violation for which the Administrative Penalty has been assessed.
- (g) The Administrative Penalty summary, which includes: the amount of Administrative Penalty imposed, the amount of Tax declared to which the Administrative Penalty relates, reasons for the Tax assessment and any reductions to the Administrative Penalty.

Note:

.....

- (h) Total of Administrative Penalties due to the Authority.
- (i) The date any Administrative Penalty due is payable and the method of payment.

Application for Re-Consideration

Based on Article 27 of the Tax Procedure Law 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. However, application for reconsideration has to be submitted within 20 business days of his being notified of the decision.

The Authority shall review a request for reconsideration, if it has fulfilled the requirements and if the person has applied within the stipulated time frame of 20 business days and issue its justified decision setting out grounds for reconsideration. Such decision has to be with reasons and has to be passed within 20 days from the date of receipt of application from the person. Further, the Authority needs to inform the decision to the applicant within 5 business days of issuing the decision.

Objections by Person

Article 33 of the Tax Procedures Law provides that if the Person is not satisfied with the decision of the Authority on the application for re-consideration, he has the right to apply an Objection to the "Tax Disputes Resolution Committee" within 20 business days from date of notification and such Objection shall not be accepted if

- A reconsideration request has not been previously submitted to the Authority
- The Tax and Penalties subject to objection have not been settled

The Authority shall review the objection and make a decision within 20 business days from the receipt of objection, however the timeline can be extended by another 20 business days if it sees that there are reasonable grounds for the purpose of deciding on the objection and the Committee needs to inform the decision to the applicant within 5 business days of issuing the decision.

Challenge Before Courts

The Committee's decision on the objection shall be deemed as final if the total amount of the Due Tax and Administrative Penalties determined accordingly does not exceed 100,000 Dirhams. Also, no case of Tax disputes can be brought before the Competent Court if an objection has not been first submitted to the Committee.

Article 33 of the Tax Procedures Law provides that if the Person is not satisfied with the Committee's decision, he shall file the application with the Competent Court within 20 business days from the date of notification

Note:

.....

Challenges may be made to the Competent Court in the following instances:

- An objection to the whole or part of the decision of the Committee.
- Non-issuance of a decision by the Committee regarding an objection submitted to it in accordance with the provisions of this Law.

Collection of Payable Tax and Administrative Penalties

Article 36 of the Tax Procedures Law provides that 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:

- 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.
- 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 5 business days from the issuance of the decision accompanied by the Tax Assessment and Administrative Penalties Assessments.
- The decision of the Director General regarding the Tax Assessment and Administrative Penalty Assessments shall be treated as an executory instrument for the purposes of enforcement through the execution judge at the Competent Court.

Note:

.....

Chapter - XIX

Tax Evasion

Tax Evasion (Article 77)

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.

General Meaning of Tax Evasion and distinction vis-à-vis Tax Planning

Tax planning refers to availing advantages of legitimate concessions and benefits provided in the law to reduce the tax incidence. This could also cover methods to arrange business operations such that the tax liability is reduced i.e. when two methods are possible to achieve an objective, select one which results in lower tax liability.

Tax evasion on the other hand, as per common parlance, means avoiding tax by illegal means e.g. by suppressing facts, by not maintaining correct records, by falsifying records, by giving false statements etc.

There is thin line of difference between tax planning and tax evasion. Tax planning within four corners of law is permitted but tax evasion is not acceptable and could result in very heavy penalties. It is the obligation of every citizen to pay tax honestly without resorting to subterfuges.

Tax Evasion under UAE VAT Law

The law in middle east countries is prominent for its sternness and the same is laddered in Tax laws also. Discretely, the penalties for dodging will not be benevolent in those laws.

Article 77 of the Federal Decree-Law No 8 of 2017 on Value Added Tax provides that when 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.

Section 48 (3) on reverse charge mechanism provides that if a registrant of specified goods (crude or refined oil, unprocessed or processed natural gas, or any hydrocarbons) makes supplies of specified goods to another Registrant intended for specified purpose, the first registrant (supplier) is not required to charge VAT on the supply of goods and the second registrant (recipient) is required to calculate the tax payable thereon and shall be responsible for all tax obligations under reverse charge mechanism. The recipient registrant is required to

Background Material on UAE VAT

confirm to the supplier registrant in writing that he is registrant for the purpose of applying clause 3 of Article 48.

Any wrong representation made by the recipient despite not being registered as such shall amount to tax evasion and the recipient shall be liable to penalties as provided for in Federal Law No. (7) of 2017 on Tax Procedures.

It is worth noting that the above provision for tax evasion deals with only one of the instances of tax evasion. In addition to this, there could be many other instances where a person may have committed tax evasion and is required to be subjected to legal proceedings. Detailed provisions for instances of tax evasion and penal consequences thereof have been provided in the Federal law on Tax procedures as discussed below.

Federal Law No 7 of 2017 on Tax Procedures

Federal Law No. 7 on Tax Procedures has been enacted to provide for tax procedures related to the administration, collection and enforcement of Tax by the Authority. It discusses various aspects related to these in detail. The Tax Procedures are applicable not only to the VAT Law but to any Federal law pursuant to which a Federal Tax is imposed e.g. Excise Tax. Hence, the discussion made below shall be equally applicable to evasion made under any federal tax Laws.

Article 1- Definition

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.

Tax Evasion Penalties: Article 26

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:

- Taxable Person who deliberately fails to settle any Payable Tax or Administrative Penalties.
- 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.
- Person who charges and collects amounts from his clients claiming them to be Tax Registrant without being registered.

Note:

.....

- Person who deliberately provides false information and data and incorrect documents to the Authority.
- Person who deliberately conceals or destroys documents or other material that he is required to keep and provide to the Authority.
- Person who deliberately steals, misuses or causes the destruction of documents or other materials that are in the possession of the Authority.
- Person who prevents or hinders the Authority's employees from performing their duties.
- Person who deliberately decreases the Payable Tax through Tax Evasion or conspiring to evade Tax.
- 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.
- 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.
- 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.

Article 1 of Federal Law No. 7 of 2017 as set out earlier, defines tax evasion as "use of illegal means with the objective of lowering the amount of tax due or non-payment of the tax due or refund of tax that he does have the right to have refunded under any tax law." The activities covered within the ambit of tax evasion could be discussed little more elaborately as under:

A careful perusal of the instances specified in above referred Article 26, indicate that penalty can be imposed only when there are **conscious and deliberate** attempts on the part of the person aimed at evasion of tax. Mere failure to pay tax without any mala fide intention and due to bona fide mistakes cannot be said to be deliberate attempt to evade the tax for invocation of consequent penalty. However, it has to be established that the default, if any, was not attributable to any deliberate attempt to evade tax.

Use of illegal means with the objective of:

- **Lowering the amount of tax due:** This could be by way of any means which result in lowering the tax due amount. Some of instances could be claiming ineligible exemption, wrong classification of goods or services, reducing the value of supply, claiming higher input tax credit resulting in lowering tax due, non-reversal of input tax credits used in making exempted supplies or non-business activities etc.

Note:

.....

Background Material on UAE VAT

- **Non-payment of tax due:** This covers instances where tax has been charged and collected but not paid or any other similar act resulting in non-payment of due taxes.
- **Claiming refund of tax that one does not have a right to claim:** This could arise where a person misclassifies the supply under zero rated supplies and claims refund of recoverable input tax credits.

The law seems to be very stringent in countering the practice of tax evasion. It not only creates liability on the registrant but also includes in its ambit the person supporting such registrant for doing so i.e. tax agent, legal representative or any other person facilitating such task. Tax evasion involves deliberate attempt to avoid the tax obligations. The practice of tax evasion may not only result into disruption of the financial position of the business but may also tarnish the reputation of the person/s held responsible for such tax evasion.

The right of the persons to make objections seek review of the decision by authority based on objections, approach the Tax Disputes Resolution Committee, Competent Court and collection of Administrative Penalties are discussed in details under the Chapter relating to Penalties.

Note:

.....

Chapter - XX

Refund

Refund provisions are dealt with in the Tax Procedure Law as well as in the UAE VAT Decree Law. The discussion below focuses on the relevant provisions as provided in both the Laws.

Overview of key provisions pertaining to refund: VAT Decree Law	Tax Procedure Law
Article (44) - Zero rate	Article (1) - Definitions (Refundable Tax)
Article (45) - Supply of goods and services that is subject to zero rate	Article (34) - Application for tax refund
Article (74) - Excess recoverable tax	Article (35)- Tax refund procedure

Article (1) of the Tax Procedure 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, required to use for the payment of amounts due or Administrative Penalties or required to carry forward to future Tax Periods depending on the nature of the refund, according to the Tax Law.

Analysis:

- The definition of “refundable tax” is given in the Tax Procedures Law which covers not only the VAT Law but also any other Federal Law where situation of refund arises.
- Taxpayers paying amount to the government which they are subsequently entitled to claim back from the government as per provisions in the relevant laws are called refundable tax.
- Typically, under VAT law, refund scenario arises where VAT paid on inward supply (Input Tax) exceeds the VAT payable on the outward supply (Output Tax). In such cases the excess credit, is either, allowed to be carried forward or refunded to the taxpayer (subject to fulfilment of prescribed conditions).
- The refund could particularly arise on account of supply of zero rated goods or services.
- It can be observed that the definition of the term ‘refundable tax’ covers three different cases where amount has been paid and that the Authority:
 - o Can refund in whole or in part to the Taxpayers as per the relevant tax law;
 - o Require it to be used for the payment of amounts due for Administrative penalties
 - o Require it to be carried forward to future tax periods depending upon its nature

Concept of Zero Rated Supplies

Zero Rated Supplies generally mean such supplies wherein supply made by taxable person is subject to tax at Zero Percentage (i.e. no output tax liability) but he is entitled to recover input tax paid. As there is no output tax payable by such suppliers or output tax payable is lesser than the recoverable input tax, the taxpayer is allowed to claim refund of excess recoverable input tax so that there is no increase in the cost or cascading effect of tax does not take place.

Zero rated supplies should be distinguished from exempted supplies where taxable person is not required to charge tax but at the same time he cannot recover the input tax paid. Person making exempted supplies cannot claim refund of tax.

The Zero rate shall apply in 14 scenarios (such as exports, international transport etc) as specified in Article 45 of the VAT Decree Law (refer Chapter relating to Export for details on Zero rated supplies).

Article (74): Excess Recoverable Tax (VAT Decree Law)

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 utilized, 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.

Analysis:

VAT Law is meant to tax only the amount of value added to the product, so, the recipient of goods or services is entitled to receive the amount of tax paid on procurement of goods either for further processing or sale. The tax so entitled to be received is called input tax.

Note:

.....

Excess input tax shall be carried forward for “setting it off against the output tax” or “any administrative penalties liabilities” or such excess may be “refunded” when a tax payer applies for refund of such tax paid as per Article (34) and (35) of Tax Procedures.

A person is required to carry forward the tax to the subsequent periods in following cases:

- If the Taxable Person’s Recoverable Input Tax set forth in this VAT Decree-Law exceeds the Output Tax payable for the same Tax Period. E.g. a person has recoverable input tax of AED 100,000/- whereas tax due is AED 70,000/-. The person may carry forward excess recoverable input tax of AED 30,000/- to the next tax period for utilization against tax payable for subsequent period.
- If the Tax paid to the Authority by the Taxable Person exceeds the Payable Tax according to the provisions of this Decree-Law, e.g. if a person is liable to pay Tax Dues of AED 15,000/- in a tax period but by mistake AED 150,000/- is paid, the excess tax of AED 135,000/- paid may be carried forward to the next period.

Carry forward to next period can be made till the time such excess is fully utilized.

There could be instances where a taxable person carries forward the excess recoverable input tax for subsequent period, but it cannot be adjusted against output tax for future period. In that case, he may apply for reclaim (refund) of the same. For instance, a taxpayer engaged only in export of goods will not have any output VAT liability and thus he can claim VAT refund. The taxable person has the option to either carry forward the excess recoverable input tax or claim refund of the same. Such right can be exercised through VAT Return which requires Registrant to mention as to whether excess input tax is required to be carried forward or should be claimed as refund. When the option for refund is chosen, the Registrant is required to submit Form VAT- 311 online on FTA e-services Portal with all the particulars and can claim the refund.

Article (34): Applications for Tax Refund (Tax Procedures Law)

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

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

Note:

Background Material on UAE VAT

Tax Return or Tax Assessment issued by the Authority before refunding any amount relating to a particular tax.

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 Authority shall issue a Tax refund under this Article pursuant to the procedures and provisions specified in the Executive Regulations of this Law.

Analysis:

Tax refund is a right which has to be exercised by making application before the appropriate authorities in accordance with the regulations made in this behalf. Article 34 and 35 of the Tax Procedures Law cover the mechanism for applying for refund and procedure thereof.

Article (22) of Executive Regulations (Cabinet Decision 36) of Federal Law No. 7 on Tax procedures specifies the procedure for VAT refund and it contains the following steps:

1. A Taxpayer shall apply for a refund as per the mechanism specified by the Authority. Form VAT 311 has been prescribed for the refund purposes and the registrant needs to submit this form online on FTA e-services Portal; duly filled with all the particulars to claim the refund from the Federal Tax 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 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.

The Appropriate Authority before whom application is made for refund:

- o Shall appropriate the amount of refund claimed against any other amount due by such tax payer as Payable Tax or Administrative Penalties.

Note:

.....

- o May decline the refund of tax if there are disputed tax amounts due by such person. Here it could be possible that tax amount due has not been conclusively determined by the Assessment Order but the Authority is of the view that there could be other disputed tax due from claimant of refund.
- o May decline the refund according to the decision of Competent Court issued in this regard.

Where the Authority, after satisfying itself as to the applicability of provisions, believes that the refund is to be granted, it shall issue tax refund in accordance with the procedures and provisions specified above

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 apply to rectify the Tax refund application by submitting a Voluntary Disclosure 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, which shall be dealt in accordance with the provisions of clause (1) & (2) of Article (8) of Executive Regulations of Federal Law No. 7 on Tax Procedures.

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 what it should have been, he may apply to rectify the Tax refund application by submitting a Voluntary Disclosure (Article (10) of Tax Procedure).

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 the Tax Procedures Law.

A person voluntarily disclosing errors in the Refund Application is liable to Administrative Penalties pursuant to provisions of the Tax Procedures Law (Article (25) of Tax Procedure)

Specific cases of VAT refund:

Tax refund, as discussed earlier, is normally applicable in case of person involved in making zero rated supplies or has carried forward the recoverable input tax which exceeded the output liability arising during the tax periods. Chapter 11 of The GCC Agreement provides for cases where person, generally not eligible, may apply for refund of VAT incurred on specific expenses. It empowers the Implementing Member States to provide for refund facilities to specific groups of people on fulfillment of conditions to be specified in respective VAT laws.

Note:

.....

Background Material on UAE VAT

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.

New residence – As per Article (66) of Executive Regulation.

Benefit of refund is allowed to natural persons who are resident of UAE on construction of new residence for their use. Following conditions need to be fulfilled for the purpose of application of refund:

- The claim may only be made by a natural Person who is a UAE National and can evidence this with supporting documentation(i.e. the Family Book).
- 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.

The refund is allowed for the tax paid on supply of following nature of goods or services:

- Services provided by contractors, including services of builders, architects, engineers, and other similar services necessary for the successful construction of residence.
- 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.
- Goods are normally considered to be incorporated into a building when they are fixed in such a way that the fixing or removal of those goods would either require the use of

Note:

.....

tools, or result in the need for remedial work to the fabric of the building, or substantial damage to the goods themselves.

- Examples of goods which are not considered to be incorporated into the building include:
 - Removable appliances;
 - Furniture which is not affixed to the building such as sofas, tables, chairs etc.;
 - Landscaping, such as trees, grass and plants.

Examples of goods which are considered to be incorporated into the building and would be eligible for a refund of VAT include:

- Central air conditioning and split units;
- Doors;
- Fire alarms and smoke detectors;
- Flooring (excluding carpets);
- Kitchen sinks, work surfaces and fitted cupboards;
- Sanitary units;
- Shower units;
- Window frames and glazing;
- Wiring when embedded inside the structure of the building.

The refund claim must be lodged within 6 months from the date of completion of the newly built residence. For this purpose, 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.

If the person, to whom VAT amount has been refunded, violates any of the above conditions, he may be required to repay the refunded amount.

The steps to be followed for claiming the refund mentioned above are as follows:

- (i) An application should be submitted to the FTA (the Refund Form) along with supporting documentation. The Refund Form requests details including those of the applicant and property. The application will be reviewed by the FTA to check the eligibility of the claim. A reference number will be provided if the applicant is eligible for a refund. At this stage, the FTA may also ask for additional information or reject the application.

Note:

Background Material on UAE VAT

- (ii) If the application is successful and a reference number is provided, the applicant should then apply to a Verification Body authorized by the FTA to perform a review of the invoices and cost schedules for the purposes of the claim. Please note that details of the Verification Body that will be used will need to be provided in the Refund Form.
- (iii) Following the review, the Verification Body will take no longer than 15 business days to process the request and submit a signed and stamped Verification Report to the FTA which will include details of the amount of VAT that should be refunded. A copy of the Verification Report will be sent to the applicant.
- (iv) The refund application will be processed by the FTA within 20 business days of receiving the Verification Report from the Verification Body. Once refund claim is processed and approved, the FTA will make the payment within 5 business days.

Business visitors – As per Article (67) of Executive Regulation.

Foreign entity carrying on specified business, which is registered with the competent authority in the jurisdiction in which it is located, may apply for refund of VAT borne on eligible expenses (if any). It may be taken as a step towards strengthening financial integration with world economies. Entities of only those countries shall be eligible for refund, which provides similar refund facilities to the entities located in UAE. So, this is a reciprocal benefit to the entities of such countries. The entities so claiming refund should not have a place of residence in the State or the Implementing State and should also not be taxable person.

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

Note:

.....

The claim period is 12 months, i.e. the eligible person need to apply for VAT refund with the Authority within 12 months from the date of supply in the prescribed form for this purpose. 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 may also be noted that the minimum claim amount of Tax that may be submitted under VAT Refunds for Foreign Businesses Scheme shall be AED 2,000.

As an exception to Clause (1) and Paragraph (c) of Clause (3) and Clause (8) of this Article 67, 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.

Tourist visitors - As per Article (68) of Executive Regulation.

Tourism industry is one of the major determinants of a country's development. There is a positive correlation between the development of tourism industry and a country's development. Dubai, being one of the world's major tourism location, earns around 80-90% of its income from this industry. Moreover, every economy tries to minimize the overall cost of tourists with the purpose to increase their travelling to the country. On the similar grounds, Article (68) of Executive Regulations has provided for Tourist Scheme to refund VAT payment, subject to the fulfillment of following 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.

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.

Note:

For the purpose of this article, 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. The Authority may publish the list of goods not eligible for VAT refund under this scheme.

Foreign governments – As per Article (69) of Executive Regulation.

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 repayment of the Tax charged.

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 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.

Note:

.....

Chapter – 6

Professional Services – VAT Impact Study

Understanding business impact through initial impact study

UAE VAT would be implemented from January 2018. The challenges for the businesses would be as to how this new law would affect the many facets of their organisation and its working. The main concerns could be:

1. Continuation of business without any break post 1st January – seamless transition
2. Safeguarding the margins and retaining present level of business.
3. Safeguard and enhance orders with present customers as well from new customers by being VAT ready

Introduction of VAT would not only bring change in the tax structure of the UAE / other implementing GCC countries, but it could change the way business is done. It would be a significant move with far reaching implications. VAT could impact almost every aspect and function of the business. Therefore, it is time for the business entities to assess the impact of VAT on their business. Following are few of the important aspects to be considered in the initial impact study which could be undertaken by professionals having good knowledge of business, accounting / audit and VAT concepts:

- Understanding impact of VAT on key business functions.
- Requirement of realignment of key business processes i.e. supply chain, finance, cash flow, procurement, standard operating procedures in line with VAT.
- Identification of stress on cash flow due to change in mechanism of taxation.
- Understanding need for adaptation / changes in Information Technology system.
- Impact of change in credit mechanism and understanding credit restrictions.
- Vendor management including educating the vendors.
- Understanding requirement of contracts / agreement modification in line with VAT.
- Understanding the transitional challenges.
- Understanding impact on registration and the responsibilities.

The business strategy, organisational structure, IT infrastructure, transaction or process flow would need revisiting and may need to be changed. There would be key decisions to be taken by the entities during transitional phase i.e. before VAT is

implemented. All these would need good amount of time to be spent by the entities core group along with professionals to advice suitably. Therefore, it is time to act as soon as possible to ensure advantage in the market and increase the business post implementation of VAT.

Initial impact study could be value additive

Initial impact study could add lot of value to business entities. In addition to understanding the impact of VAT on the business, the entities could get following advantages through VAT impact study:

- a) Identification of export benefits now and later.
- b) Impact of tax payable in the initial 2-3 months and ensuring that optimum recovery of Recoverable Input Tax be made.
- c) Measures to mitigate the impact by completing transactions already contracted before 1st January 2018*.
- d) Getting team from the supply chain, finance and UAE VAT expert together to periodically address the transitional issues, challenges in accounting, stock keeping requirement and software changes in time.
- e) Early resolution of supplier and customer price issues, improving customer relationship.
- f) Avoiding losses of input tax in continuing business to self, vendors and customers.
- g) Avoiding cost of administrative penalties and demands for escaped tax.

Note: This study could also be done post January 2018 if not undertaken earlier as the advantages enumerated above in some part would accrue.

Impact Study Program

We attach the preliminary VAT impact study Program hereunder. This would be useful but may have to be modified as per needs of client and also when the final executive regulation is in public domain. Checklist on how to verify each aspect maybe prepared by the professional

Conclusion: Implementation of VAT will affect almost all aspects of business process, such as Accounts and Finance, Procurements, Sales and Marketing and even, Human Resource policies. Businesses and professional together need to gear up quickly, so as to analyse impact of the same and do the necessary changes in the business

Note:

.....

processes. As the saying goes, 'A stich in time saves nine', it is the appropriate time for the SME entities to start preparing themselves for VAT.

VAT Preliminary Impact Study Program		
1	Name of the concern	
2	Address of the concern	
3	Contact persons	
4	Phone numbers	
5	E-mail Id	
6	Nature of business	
7	Review team	
8	Date of commencement of review	
9	Date of conclusion of review	

Sl. No.	Particulars	Y / N	Remarks
A.	UNDERSTANDING OF BUSINESS		
	Review of AOA/MOA to know the objectives of the business		
	Review and understanding of present and future business plans to ascertain VAT impact		
	Assessing the business first hand by visit to place of business including branches [Web site if may]		
	Review of historical financial statements for last 2 years- (including upto TB level)		
	Review of forecast balance sheet, cash flow and income statements for 2 years		
	Review of product / service data sheets and literature		
	Review corporate structure of organisation		
	Identifying the places of business, if multi-location presence [Branches, depots or other places from which		

Note:

.....

Background Material on UAE VAT

	goods /services are provided – within GCC and outside]		
	Understanding the industry, major competitors and various business process as prevalent in the industry		
	Understanding Key Contracts with vendors and customers		
	Evaluating the perception of customer/vendors/other stakeholders on likely impact of VAT on business		
	Understanding various policies in the entity such as retention of money from customers and repayment policy, Guarantee / warranty / replacements		
B.	REVENUE / SALES / SERVICES		
	Review of Profit of Loss account to ascertain		
	a. Sale of goods Manufactured / Traded		
	b. Goods cleared in Designated Zones / Direct exports / GCC		
	c. Services provided in State/ GCC / Exports		
	Review of treatment of sales return to study implication under VAT		
	Review of discount policy in organization and impact under VAT		
	Review the client base of the organisation to ascertain VAT implication including impact based on place of supply principle in VAT		
	Identify the major customers/clients to trace the realizations to study the implications under VAT. Suggestion on changes/ modifications if any in orders.		
	Review of various modes of supplies of goods and services such as		
	- Stock transfers to depots / warehouses / godowns/ branches		
	- Samples		
	- Exhibitions		

Note:

.....

	- High Sea sales		
	- Transit sales		
	- Leasing / rentals		
	- Sale from job worker's place		
	Supply of services to other branches		
	Ascertain impact on sales supply chain / distribution model under VAT law		
	Ascertain requirement / non-requirement of various sales / Service offices / branches		
	Review the transactions involving single consideration for supply of multiple goods or services. Whether composite supply or segregated supplies?		
	Assess the revenue stream to ascertain whether it constitute "supply of goods" or "supply of services"		
	Evaluate the revenue stream to identify whether covered under "zero rated supply" or "exempted supply". If covered, examine whether conditions thereof have been fulfilled		
	Review and compilation of existing procurements made from within State or from Implementing State, Non-Implementing Gulf Countries and out of Gulf		
	Review and compilation of existing Supplies made within State or to Implementing State, Non-Implementing Gulf Countries and out of Gulf		
	Determine Place of Supply of goods or services forming part of revenue stream of company		
	Study of various marketing and promotional schemes (discount, target incentive, buy 2 get 2 free etc.) and VAT impact thereon		
C.	PROCUREMENT OF GOODS AND SERVICES		
	Review of procurement policy of the organization including imports from Implementing States, Non-Implementing GCC States and Outside		

Note:

.....

Background Material on UAE VAT

	Review whether procurements are made through registered persons in State/ Implementing State or from persons from non-implementing GCC State, Outside world, or from unregistered persons of State/ Implementing State and impact under proposed VAT.		
	Analysing the possibility of suggesting vendors for better pricing and cost reduction in VAT.		
	Review the purchase and expense invoices on sampling basis to study impact under VAT with respect to taxations and deduction for smooth transition		
	Review of treatment of purchase returns to study the possible impact under VAT		
	Review the foreign currency payments to ascertain impact under VAT- Reverse Charge		
	Ascertain possibility of better purchase planning during transition		
	Study projected capital investment plan and evaluate the decision to buy pre or post VAT depending upon taxability and input tax credit		
	Identify instances where input tax has been recovered on goods or services but used for non-business purpose and attracting "Deemed Supply" implications		
	Assess the marketing scheme of distributing free gift/samples and implications under deemed supplies		
	Review of procurement to evaluate the recoverability of input tax		
	Study of various facilities given to employees and recoverability of input tax thereon		
	Study of various mode of importation of goods and services and reverse charge liability thereon		

Note:

.....

	Study of existing system to correlate the expenses <i>viz a viz</i> Revenue for apportionment of input tax between taxable and exempted supplies		
D.	OPERATIONAL / ADMINISTRATIVE		
	Review the credit policy of the organisation. This could have significant impact on cash flow especially if the policy with vendor and customer is not synchronised		
	Review the system of recognising sales / services and system of invoicing customers		
	Review present valuation mechanism adopted and impact under VAT on valuation		
	Review the services provided free of cost or free issue of materials		
	Review of job work register to identify the process outsourced		
	Review of existing records and documentations for alignment with VAT law		
	Review of accounting and billing system (Centralised or De-centralised) followed and impact under VAT		
	Review of present documents and make suitable suggestions for invoice, credit note and other similar documents		
E.	FINANCIAL STATEMENTS REVIEW		
	Review the shareholding pattern of investment by group companies / associated enterprises		
	Study the nature of accounts maintained by the organization		
	Review of stocks in trade at all business places including job worker's place and impact on release		
F.	INFORMATION TECHNOLOGY		
	Review and identifying software/s presently being used at various divisions of organisation		

Note:

.....

Background Material on UAE VAT

	Review system of integration of different software with each other		
	Review system of integration of data from various business locations across GCC/ World		
	Review the agreement entered with the software vendor to check policy of regular updates, modification of parameters		
	Review the existing controls established to prevent alteration of information in the records and importance of the same under VAT regime		
	Review, whether systems are capable to generate compliance reports in Arabic language, wherever required.		
	Review of following systems and suggesting changes which may be required under VAT		
	- Customer master process		
	- Vendor master process		
	- Tax master process		
	- Purchase master process		
	Advising on importance of strong IT system under VAT regime and arrangement with IT vendor with respect to modification of tax structures, requirement of various reports		
	Assessment of requirement of making changes in the documentations, reports and accounting methods in case of Group registration		
G.	REVIEW OF VARIOUS REPORTS		
	Review of following to ascertain the issues pertaining to indirect taxes and level of compliance: - Internal audit reports - Information system audit report - Others		
	Review of MIS reports, if any		

Note:

.....

H.	REVIEW OF AGREEMENTS / CONTRACTS		
	Review of agreements to identify important clauses with customers or vendors which could have major impact under VAT		
	Advise on major implications and precautions to be taken considering the transition provisions under VAT		
I.	ASSESSMENT OF TRAINING REQUIREMENT		
	Understand the level of knowledge among various department's head		
	Review of the training modules of the organization considering VAT law		
	Understanding requirement of training for vendors / contractors		
J.	SUPPLY AND DISTRIBUTION CHANNEL		
	Study the distribution channel presently employed to determine underlying factors for choosing particular model		
	Whether the implementation of VAT necessitate the need to alter/modify/change the supply chain or distribution model presently being followed		
K.	TRANSITION PROVISIONS		
	Review of registrations obtained for various place of business and status to ascertain impact under VAT		
	Review of systems followed with respect to goods sent for job work and impact under VAT		
	Review of systems followed with respect to finished goods received back from customers and impact under VAT		
	Communication with customers and vendors for tax treatment on ongoing contracts		
	Identify all instances of open transactions on implementation date and ascertain VAT impact thereon		

Note:

.....

Background Material on UAE VAT

VAT Review Team	Review partner
Signature with Date	Signature with Date
This Program is only an indicative one for impact study. It would need to be customised, updated for final regulation.	

Note:

.....

Chapter – 7

UAE Excise Tax at a Glance

Introduction

The UAE has implemented the duty of Excise from 1 October, 2017 on a few products. The pervasive implementation of VAT effective 1 January, 2018 would be a massive change for businesses. This is the first time that in GCC Countries indirect tax is being sought to be collected.

A manufacturer, service provider, trader or a professional who is new to concept of Excise is often confronted with the question about the excisability of the goods dealt in. He is faced with questions such as who is liable, how does the liability accrue, what would be the quantum of liability, when is it payable, what would be the basis for arriving at the value and so on. Further, are there any exemptions and deductions for taxes paid on inputs? Another operational question would be where to start and when to start, apart from how to ensure compliance with the new Excise law. Before one answers these questions, the most important aspect is to understand the nature of the law in order to appreciate the manner in which the liability will accrue, quantification and discharge of this liability and the procedures and records to be maintained to ensure compliance.

As far as UAE Excise Tax Law is concerned, Excise is a tax on few determined goods “produced, imported, removed from designated zone and stockpiled”. Even dealing in goods on which tax is due could be covered. It is proposed to impose Excise tax on Tobacco, Energy drinks and Fizzy Drinks. The **Federal Tax Authority** would be ultimate supervisory authority for the Excise tax. We refer to them as Authority in the rest of this chapter.

The various aspects of the law including the relevant procedures and the manner in which liability is to be determined are provided step wise below:

Step 1: Whether All Goods are covered? Excise in general is a tax on production of excisable goods. Normally “goods” means every kind of movable property. Commonly it could be understood as “includes all materials, commodities and articles”.

In UAE, Excise Tax is limited to the Excise goods which would be determined by the Cabinet on the recommendation of Finance Minister. The Excise tax is proposed at:

1. 100% on Tobacco and Tobacco products: Shall include all items listed in Schedule 24 of the GCC Common Customs Tariff that are imported, cultivated or produced in the State.
2. 100% on Energy drinks: Any beverage marketed or sold as energy drink. It may contain stimulant substances that provide mental and physical stimulation including caffeine, taurine, ginseng and guarana or others any substance having identical or similar effect. This heading includes any concentrate, powder, gel or extract intended

to be made into an energy drink. However would not include any beverage containing alcohol even if considered an energy drink. When energy drink is produced by mixing this product with other products at the selling place of non-taxable person (presumably under the VAT Regime) then it shall not be considered as a excise goods and no recoverable input tax would be available.

3. 50% on Fizzy drinks: Any aerated beverage except unflavoured aerated water. The carbonated drink includes any concentrate, powder, gel or extract intended to be made into a carbonated drink. However would not include any beverage containing alcohol even if considered a carbonated drink. When carbonated drink is produced by mixing this product with other products at the selling place of non-taxable person (presumably under the VAT Regime) then it shall not be considered as an excise goods and no recoverable input tax would be available.

Article 6 of the Cabinet Decision(CD) 38 provides the classification, rates applicable and valuation methodology. It is expected that over a period of time more products may be added to this list as done in most countries.

Step 2: What are the activities which attract Excise tax?

Article 2 of Federal Decree law No. (7) of 2017 [hereinafter referred to as Decree Law/ Decree Law (7)] specifies the activities which would be subjected to Excise tax as under:

- (i) **Production:** One of the taxable event for levy of Excise tax is production of goods in UAE. This is important as the duty liability does not arise merely because the item is excisable goods. *i.e.* determined by authority.

There is no definition of production in the Decree law. Article 1 of Decree law (7) may specifically define within the scope of the term production, the process incidental or ancillary to the completion of the production of goods. Production as per Article 12 of Cabinet Decision No. (37) of 2017 [hereinafter referred to as CD 37] can be said to have taken place when after the said process, the goods are ready for retail sale or fit for consumption when not intended for retail sale or ready for sale to retailer if not fit for consumption until combined with another product. The cultivation of tobacco has been specifically included in Cabinet Decision 37.

The intermediate processes of job work do not result in a retail ready product and therefore may not be subjected to excise tax. However proper documentation for movement of goods, stock record for quantities and reconciliation of quantities is advisable. This is to prove that there is no tax due on such in-process goods.

It is also interesting to note that cases where the processes are amounting to production liable for Excise tax, it would also be subjected to VAT levy thereafter. For

Note:

.....

Example, Value after Production (Value)- AED 100 + Excise Tax (ET.) 50 = AED 150. On AED 150, VAT@ 5% i.e. AED 7.5 = Final Selling Price = AED 157.50.

- (ii) **Import of Excisable Goods:** Import as defined in Article 1 is the arrival of goods from abroad into the territory of the State (UAE). Therefore, even goods arriving from the other GCC countries would be considered to be imported.

The reasons for imposing Excise tax is that, when similar goods are taxed within the Country then goods from outside the country should also suffer the same costs as suffered locally. This provides a level playing field for local manufacturers. Normally goods exported from any country are without any tax being borne to make them competitive.

- (iii) **Release of Excisable Goods from Designated Zone:** Designated Zone (DZ) is defined in Article 1 as any fenced area intended to be a free zone (no tax for imported and exported goods). The entry and exit is only through a designated route. It also includes any area designated by the Authority as being subject to supervision of a warehouse keeper in accordance with the regulation. The levy is attracted when goods are released for consumption. Article 12 of the CD 37 provides the circumstances when goods are deemed to leave the DZ.

Warehouse keeper has been defined to be any person approved and registered by the Authority in accordance with the executive regulation.

The purpose of these zones is to allow and encourage global trade as well as exports of value added products with least amount of procedures and importantly no tax. China and India have adopted the Special Economic Zones similarly. In India, they have also have 100% EOU (export oriented undertakings) similar to the facility of warehouse keeper.

- (iv) **Stockpiling of excisable goods:** Stockpiler has been defined in Article 1 as a person who holds excisable goods and cannot demonstrate that goods have been subjected to Excise tax as per the conditions in the executive regulation.

The idea again is that the excisable goods within the country are all tax paid or liable to tax on release (distribution / removal). This would ensure uniformity of tax.

- (v) A person in the supply chain in which tax due has not been paid on excise goods. The person dealing in these goods therefore needs to be sure that tax paid goods only are being dealt in. It may be difficult to comply and hence it is advisable to take a declaration unless the invoice / document has tax paid indicated or declaration to that effect exists.

- (vi) An investor or person with financial interest in supply chain where tax has not been paid

Note:

.....

(vii) Owner of the goods who is not the producer, importer, warehouse keeper or stockpiler.

Note: S.No. (v) to (vii) have been added in Cabinet Decision 37. This may not apply when i) to iv) are not applicable. Provision may have been inserted for excise goods escaped taxation.

Step 3: Whether it should be in the course of business or economic activity?

Business has been defined in Article 1 of Federal Decree law No. (7) of 2017 to mean any activity conducted regularly, on an ongoing basis and independently by any person, in any location, which involves trade in excisable goods.

The GCC framework specifies that in an economic activity there should be an intention to earn an income. Therefore, non-economic activity like Sovereign functions, Governmental activity, Charitable or Religious activities may not be said to be an economic activity.

The activity of production, stockpiling, involving as owner, investor or person in supply chain referred to earlier must be in the course of doing business. However, the activity of import or release of excisable goods from a designated area (DZ) would attract Excise tax even if it is not in the course of business. Therefore, the liability of Excise tax in these two cases would be even on individuals unless specifically exempted.

Step 4: What are the exclusion / Exemption?

Once there is an excisable product produced or dealt with in UAE, the next examination is whether any exemption is available and if yes, is it feasible to avail the exemptions.

Article 4 of Decree law (7) specifies that the person (individual not for business) who imports Excise goods below some specified value (specified by Executive Regulation) would be excluded when goods are accompanied in the course of international voyage. Further to a stockpiler who own goods which are in circulation for conduct of business (sample, demonstration pieces, goods send on approval etc) would not be liable.

In UAE it may be noted that there is no threshold limit for Excise goods unlike AED 375,000 in VAT (Mandatory Registration Threshold or MRT). It is expected that when many more products are included, the number of exemptions could increase.

Export Exemption: Article 12 of Decree law (7) provides for exemption of tax for goods exported. Export is defined as goods departing from the territory of the State. This would include the departure of goods to the GCC countries. The procedures for export has been specified in Article 14 of CD 37.

Note:

.....

Step 5: How is the decision to obtain registration to be taken?

Any person who wishes to conduct the activities under Article 2 of Decree law (7) is required to take registration and only then deal in the excisable goods. A period of 30 days has been provided for registration, from the date of conduct of the taxable activity or intention to conduct the taxable activity or from 30 days of implementation of Excise tax law i.e., 30 October, 2017

The exception from registration is available to any person who either imports or releases from Designated Zone if the person is able to demonstrate that he will not regularly conduct such activity as prescribed in the regulation. However such person shall intimate the Authority in case of any change in the circumstances such as intention to trade etc. as per the regulation. In such an event such person would have to pay the due tax and administrative penalties.

Registration as Warehouse keeper: Any person who intends to operate or operates (as on 1 October, 2017) a Designated Zone shall apply for registration as Warehouse keeper as specified in the regulation. One cannot operate as Warehouse Keeper without registration.

The registered person may apply for deregistration if he is no longer liable for Excise tax.

Article 9,10 of the Cabinet Decision no.37 provides the conditions which may be imposed for registration, record keeping, limitations and deregistration.

Step 6: How to Value the goods?

The advertised prices of Excise goods should be “inclusive of tax” so as to ensure that advertised prices are not lacking in transparency. The regulations would specify for which products this rule is not applicable. This is a measure of transparency to protect the consumer. The exception to this rule is set out in Article 13 of the CD 37.

Excise price would be higher of price published by authority in standard price list that it issues or the designated sales price. For deducting tax for rate of 50% items, 2/3 rd value would be considered and for 100% value would be half of the designated sales price.

The designated sales price mechanism has been provided in Article 8 of the Cabinet Decision (CD) 38.

Step 7: Other Compliances

The point of tax computation as per Article- 10 of Decree Law (7) is the date of importation or date of acquiring of goods by stockpiler or 1st October, 2017. In other cases, it is the date on which goods were released for consumption as set out in the regulations.

The regulation would specify the conditions when the business so conducted within the Designated Zone shall be treated as being conducted in the State. Consequently, it would be liable to tax (Article- 13 of Decree law (7)).

Note:

.....

Background Material on UAE VAT

The taxable person or person authorised by him should mention registration number in all the correspondences and dealing with the Authority, tax returns and in any document related to the tax. These could be Delivery challan, Transfer note, Invoice, Export documents etc. (Article- 25).

Step 8: Due Tax

The tax due has to be paid by the person liable. (Article 2) This would be so whether he is registered or not. The tax due for the entire period as prescribed would be payable less deductibles tax. (Article 15 of Decree law (7))

Deductible tax refers to tax paid on Excise goods exported or Excise goods which have become a component of another Excise goods which will be taxable. Article 16 of the CD 37 sets out that a taxable person may deduct tax previously paid on relevant excise goods in his tax return. The evidence of invoice with certification of tax paid needs to be retained. The one to one co relation of the tax paid goods to credit should be there.

The deductible tax would be available for refund where goods are exported as set out in Article 16 of the CD 37.

Additionally, Article 21 of the CD 37 provides that deductible tax includes any tax paid in error would be available as a refund. This could include excess tax due to rate, value, quality difference or error.

Step 9: Designated Zone Activities (Article-14 of Decree law (7))

The method for storing, preserving, processing of goods in the Designated Zone have been specified in detail in the Article 15 of the CD 37.

The transfer of goods from one DZ to another can be done without any tax payment subject to the procedures specified in Article 15 of the CD 37.

Step 10: Record Keeping (Article-24 of the Decree law (7))

A business may be maintaining various accounts and records for its own purpose or for complying with other laws Article 23 of CD 37 specifies that taxable person shall retain price lists of goods imported, produced and sold.

The records advisable to be maintained under this law are as under:

- (i) Records of excisable goods produced, imported or stockpiled.
This could include the product record on daily basis, stock records of inputs, finished goods received, released, closing balance etc.

Note:

.....

- (ii) Records of exported goods and evidence of export such as bill of lading, airway bill, invoice, transportation out of country etc.
- (iii) Stock records including the account of goods destroyed and lost. This may need a regular reconciliation of the stocks after stock taking. The inputs used up in the production may also be indicated with comment of normal conversion loss.
- (iv) In the event of goods sent for processing the record of quantity sent, received back, closing stock and its reconciliation is to be maintained. Goods sent on approval, demonstration etc. similarly may also need to be tracked and reconciled.
- (v) A statement of tax due duly bifurcated into due tax on imported Excise goods, produced goods and stockpiled. The statement of deductible tax needs to be maintained similarly for the period.

Step 11: Tax Return (Article- 18 of CD 37))

Article 17 of the CD 37 specifies that the tax period would be calendar month. However there could be relaxation for the 1st tax period and for specified persons a longer tax period maybe specified. The taxable person shall file the tax returns for the tax period within the 15th day of the month following the tax period as set out in Article 18 of the CD.

Step 12: Payment of Tax (Article-19 of CD 37))

The due tax is to be deposited on or before due date. It is specified as 15th day of the month following the end of the calendar month. Those who import goods and are exempt from registration may also pay the tax in the next month of import. Normally this tax is being paid before the release of the goods in most countries.

In the event that the tax paid is more than the due tax or the deductible tax is more than the tax payable then the excess tax can be carried forward. This can be adjusted against the future tax or administrative penalties if any.

If excess tax exists for a period to be specified in the regulation, then it can be refunded as prescribed.

Step 13: Special Refunds (Article- 21 /22 of the CD 37)

Tax would be refunded on application being made to the following:

- (i) Foreign Government, international organisations and diplomatic bodies on condition of reciprocity (that government should also provide similar facility to UAE) for tax paid in the course of their official activities subject to conditions.

Note:

.....

Background Material on UAE VAT

- (ii) The person who is registered in any participating GCC country which has implemented Excise Tax and if he has paid tax due in UAE and then exported to another implementing State in GCC. (Example, from Saudi Arabia to Oman)
- (iii) Any person or category as determined by Article 22 of Cabinet Decision 37.

Step 14: What are stated as Violations and their Penalties?

The violations which attract penal action are as under:

- (i) Failure to display the prices inclusive of tax.
- (ii) Failure to follow conditions for preserving, receiving, storing, processing and transferring of excisable goods in a Designated Zone.

Step 15: When can one be said to evade tax?

Article 23 of Decree law (7) lists out the instances when a person is said to have committed tax evasion as under:

- (i) Attempting or bringing excisable goods in or taking out of the State without payment of Excise tax.
- (ii) Producing, transferring, acquiring, storing, transporting or receiving excisable goods on which tax has not been paid with the intention of avoiding the payment of due tax.

This clause may apply to any of the service providers who are involved such as the transporter, customs agent, importer or warehouse keeper or the taxable persons. The person abetting the tax evasion may also be liable under this article.

- (iii) Placing false marks on the excisable goods with the intent of evading the payment of tax or receiving unlawful refunds.

It may include mis-declaration of products or incorrect details on the labels / containers. Further the receiving of refunds could be even without an intent as per the article 23. Normally bona fide errors would not be considered as tax evasion.

- (iv) Submitting false, unreal, counterfeit documents, returns or records with the intent to evade the payment of due tax or receiving unlawful refund.

This article enjoins on the assessee that he is tax compliant and even procedural infractions (mistakes, omissions, errors) should be corrected voluntarily to avoid the allegation of tax evasion which is very serious.

Step 16: Some additional Suggestions:

- (i) This being a new law some suggested procedures have been enumerated below:

Note:

.....

Intimate the Authority the nature of activities: The need for full disclosure and transparency has increased today. Businesses would like to avoid any infraction. Therefore the rate of tax, the method of valuation, the tax deduction method, maintenance of the specific records, exemption claimed if any, method of determining tax when working with implementing states etc. to be filed as an initial disclosure letter. This would help both the revenue authority as well as the assessee to resolve the issues at the initial stage without addressing the same when the issue is blown up to a stage where it is difficult to handle.

- (ii) **Job work Movements:** The inputs or semi-finished goods could be sent for job work to others and as of now no procedures have been set out. The quantitative control and recording of movement including closing stock should be captured.
- (iii) **Invoice/Declaration:** The invoice has now become essentially more vital document of control and therefore whenever invoices are brought into use the same must be pre-numbered. The invoice has to be signed by a responsible person with authority of the organisation.

In case of computer generated-invoice, the serial number may be allowed to be generated and printed by the computer only if the software is such that same number cannot be generated more than once.

- (iv) **Valuation Methods /Options:** The valuation of goods under Excise Tax Law has been made clear. However the methodology used could be communicated to the tax officer.
- (v) **Internal Control/Audit:** The assessee may at the time of an internal audit (internally within the organization or by independent professionals) or while preparing the reconciliation statement, observe that short payment/non-payment has taken place. In such cases it is advisable that the tax so short paid be paid immediately.
- (vi) **Demand of Duty, Adjudication/Appeal, Advance Ruling:** These aspects are to be examined in detail in due course of time.

Conclusion

This Chapter briefly covers various aspects of the excise tax and is not an in depth study. Excise tax Law deals with goods and monitoring the movement of goods would be important. The “producer, importer, stockpiler or person in Designated zone” opting for registration has to ensure that the accurate description and quantities are maintained. Other persons have also been made liable for the excise tax. This chapter could be expanded into a full-fledged booklet with the detailed procedures available now in public domain.

Note:

.....

Chapter – 8

Unified Customs Legislation

Scope and Levy

Section II – Application of Principles of the Customs Tariff

Applicability

Article 9 of The Common Customs Law for the Arab States of the Gulf (GCC States) very elegantly declares that “*goods imported into the country are subject to the customs taxes excluding those exempted*”.

Not only does this Article require an enquiry into what goods are, the clause requires examination of what is “goods” that can be the subject matter of levy under this law. Any goods that crossed the customs line are subject to this law. Import is therefore the conscious act of causing the crossover of the customs line which is the political boundary of the country. Naturally occurring events causing goods to cross over the political boundaries are left out of the operation of this law.

Import

Import does not operate only in respect of business transactions due to the wide language used in Article 4. Import will include personal transactions which cause goods cross the customs line also to be subjected to this law. The operation of the law is one aspect and the excluding from the levy of this tax is another aspect. Once the operation of this law is attracted, as per Article 8, all goods make themselves subject to the inspection and procedures by the designated customs officers appointed under Article 7.

Free zones

The provisions of this law do not apply within Free Zones which are totally or partially excluded from the operation of customs provisions due to the special privileges extended under laws governing free zones and recognized in article 3.

Customs duty

Customs duty rates are prescribed in the Customs Tariff and the rates mentioned in this Tariff may either be ad valorem, “as a percentage of value” or specific, “a fixed amount per unit of the goods” or a combination of both.

Customs duty applicable on goods imported into the country gets suspended when they are stored in a duty-free warehouse or taken into a free zone. Liability to payment of the duty is applicable at the end of the warehousing period or when taken out of the free zone into the mainland.

Section III – Prohibition and Restriction

Any goods entering or leaving the country being subject to inspection by the customs authorities, require the person responsible for such import or export to make a customs declaration containing

all information starting from the identity of goods, classification in the tariff, rate of duty applicable, exemptions if any, underlying transaction, location in such import or export and other related information that are relevant for the customs officer to make a determination of the customs duty applicable on these goods. The requirement of Article 19 in this regard is not negotiable and deviations from applying this requirement would be regarded as “smuggling activities” as set out in Article 16.

Coastal activities resembling import or export of goods are also restricted and come under the supervision and monitoring by customs authorities. Articles 20 and 21 provide the nature of restriction and the distance from the land into the sea that comes within these restrictions are discussed and provided in the law. Innocent passage, *bona fide* coastal transactions and other specified excluded transactions enjoy relaxations in these restrictions but not without intimation to the customs authorities.

Conveyance used for import and export of goods also come within the supervision of customs authorities with regard to the activities involving import and export of goods under Articles 22 and 23. Conveyance include all forms of aircraft, ships and vehicles used for transportation of goods. Customs authorities enjoy absolute authority to restrict all entry or exit of any conveyance or any specific goods in accordance with the policy of the competent authority of each country.

Section IV – Distinguishing Elements of Goods

Customs duty rates are affected by bilateral and multilateral arrangements entered into by the respective country with its ally nations. Accordingly, application of the rate of customs duty depends on examination of the country of origin of the goods that seek such preferential rates of duty which has been enabled by Article 25.

Quantification of the customs duty payable in addition to relying on the rate of duty requires determination of the value of the goods imported or exported. Valuation principles in the form of rules of implementation as per Article 26 contain the methodology for determination of valuation along with the information and documentation required as specified in Article 27.

Valuation of imported goods is determined at the port of unloading. Valuation of export goods is determined based on customs declaration plus all costs up to arrival in Customs Office according to Article 28. Article 29 admits that the customs tariff relies upon the harmonized System of Nomenclature for classification of goods.

Sections V and VI – Importation and Exportation & Stages of Customs Clearance

Detailed procedures for import and export activities are contained in Articles 30 to 66. The broad schematics are summarised in the following tables:

Procedure for import

There are four different persons who are involved in completing the import clearance of goods:

Note:

.....

Background Material on UAE VAT

Steps	Importer or Customs Broker	Person-in-charge of Conveyance	Customs	Port Authority
1			Customs obtains permission to occupy and manage the export-import activities through that port.	Government notifies a port for export-import. Without being notified, export-import cannot be done through all ports
2		Carrier applies for permission to enter port with cargo	Customs issues 'entry' permission to the ship/aircraft	
3		Conveyance arranged (aircraft/ vessel) and files Import General Manifest – which contains full list of all types of cargo to be unloaded or retained to be taken to next port	Takes stock of all cargo, gives permission to store cargo (unloaded) in carrier's warehouse. Goods in this warehouse cannot be taken out without customs permission	
4	Importer or through Broker files import clearance documents with customs		Customs inspects the shipment and assesses the bill of entry. Customs issue demand note for duty amount	
5	Importer pays the duty and returns with proof of payment		Customs issues order to warehouse-keeper where goods are kept	
6	Importer takes order and	Carrier's warehouse will release goods only	Customs issues 'out of customs	

Note:

.....

	collects goods from warehouse	against order issued by customs	Charge order. With this, responsibility of cargo is no longer with customs	
7	Delay in customs clearing attracts demurrage charges		Customs collects demurrage charges for delay by importer in completing procedures	
8		Carrier applies for 'exit' permission to leave the port (this step can take place after step 3 also)	Customs gives this permission after all the cargo are Verified and the conveyance is allowed to leave	

Note 1 – Documents for import clearance to be filed by importer are:

1. Commercial import invoice and import contract – to review the nature of the contract and terms
2. Product brochure – to know the correct classification of the product (HS Code) and the rate of import duty
3. Packing list – to inspect the shipment and verify contents
4. Certificate of origin – to know in which country the goods were actually manufactured and to see if any special import duty rates apply
5. Import license, if any – to give the exemption/concession to be given as per import license issued to importer. Or if the goods are restricted – to permit import of such goods after verifying if the special permission to import such type of goods is issued to the importer
6. Bill of lading / airway bill – to know the landed value of the goods because invoice may be FOB or CIF. Duty is to be calculated on landed price as per valuation prescribed
7. Rate of duty – is known from the date of bill of entry. In case the bill of entry is filed in advance (before the ship arrives), the date for the rate of duty is the date of entry inward given to vessel as per step 2 in the table above

Note:

.....

Background Material on UAE VAT

The procedure for clearing export consignments are tabulated sequentially below:

Steps	Exporter or Customs Broker	Person-in-charge of Conveyance	Customs	Port Authority
1			Customs applies for permission to occupy and manage the export-import activities through that port.	Government notifies this as a port for export-import. Without being notified, export-import cannot be done through all ports
2		Carrier applies for permission to enter port with cargo	Customs issues 'entry inward' permission to the ship/aircraft	
3	Exporter or through Broker files export documents with customs		Customs inspects the shipment and assesses the export	
4	Exporter pays the duty, if applicable, and returns with proof of payment		Customs issues assessed document	
5		Carrier collects cargo and prepares for departure		
7		Carrier prepares Manifest—which contains full list of all types of cargo to be loaded or already retained to be taken to next port	Customs issues order. With this, responsibility of cargo is no longer with customs	
8	Delay in customs clearing attracts		Customs collects demurrage charges	

Note:

.....

	demurrage charges		for delay by exporter in completing procedures	
9		Carrier applies for 'exit' permission to leave the port	Customs gives this permission after the cargo is verified and the conveyance is allowed to leave	

Note 1 – Documentation for export procedures

8. Customs formalities:
- (a) Submit commercial invoice (foreign currency) and packing list
 - (b) Export license, if any
 - (c) Export contract
 - (d) Technical brochure about goods for description
 - (e) Letter of credit
 - (f) Copy of bill of lading/airway bill

Section VII – Cases where Customs Taxes are suspended and drawback

Goods are admitted and transported within the country after being imported, without payment of duty against bail or bank guarantee in accordance with general provisions contained in Chapter 1 of this section. Movement of goods between GCC countries and allied nations in accordance with bilateral and multilateral agreements are also permitted.

Duty-free warehouse may be set up within the customs area or outside in the mainland after obtaining permission from the Director-General. Goods deposited in a duty-free warehouse are exempt from customs duty and will attract customs duty only at the time of their transportation out of such warehouse. Chapter 3 of this section contains the conditions and facilities available in respect of warehouse operations.

As mentioned earlier free zones are established by a legal instrument by each country in order to promote economic activity without adversely impacting activities in the mainland. Chapter 4 of this section contains the liberties allowed to free zones and duty-free shops. Freely traded articles that do not pose any threat of harm are permitted to be stored in such free zone or duty-free shops to promote economic activity involving them without imposing customs duties. Free zones and duty-

Note:

.....

free shops have come to contribute significantly in boosting economic activity due to the flexibility and concessions allowed.

Grant of permission for temporary admission without payment of customs duties is enabled by Chapter 5 of the section in respect of heavy equipment or temporary activities of exhibition so as to promote economic activities involving articles of specialized nature that are otherwise not available in the country.

Articles imported with an expectation that after a limited duration of involvement in economic activity in the country these are permitted to be exported out of the country or to the free zone is covered in Chapter 6 of the section. These provisions are also utilized for undertaking Transshipment activity which has placed the region in a significant position in facilitating international trade in this part of the world.

Refund of customs duties paid on re-exportation of imported goods is also enabled by Chapter 7 of the section, the procedure and the conditions applicable are set forth in the rules of interpretation.

Section VIII – Exemptions

Goods in respect of which customs duties are applicable mainly are granted exemptions in accordance with the import and export promotion policies of each country. Exemptions are allowed in respect of diplomatic missions, military as authorized by each country, personal effects imported by returning nationals, imports by philanthropic organizations and return of exported goods under specified circumstances.

Exemptions granted are absolute and not optional and must be diligently applied subject to the terms and conditions of such exemptions. Exemptions may involve prequalification conditions or post compliances which come within monitoring and supervision by customs authorities. The Director General is authorised to settle any disputes regarding the claim on utilization of exemptions.

Section IX – Service Charges

Service charges are imposed on goods under the supervision and control of customs officers in order to defray the cost of storage, handling and insurance in respect of such goods. This is to ensure that activities in a customs area are carried and completed by importers and exporters in a timely and prompt manner. Reasonable service charges are imposed subject to an upper limit of 50% of the value of the goods concerned.

Note:

.....

Annexure A

Common VAT Agreement of the States of the GCC

Common VAT Agreement of the States of the Gulf Cooperation Council (GCC)

The Member States of the Gulf Cooperation Council (GCC), namely: The United Arab Emirates,

The Kingdom of Bahrain,

The Kingdom of Saudi Arabia,

The Sultanate of Oman,

The State of Qatar, and

The State of Kuwait,

Pursuant to the objectives set out in the Statute of the Gulf Cooperation Council aimed at the importance of developing existing cooperation relations amongst them in various fields;

In line with the objectives of the GCC Economic Agreement of 2001, which seeks to reach advanced stages of economic integration, and develop similar economic and financial legislation and legal foundations amongst member states, and with a desire to promote the GCC economy and proceed with the measures that have been taken to establish economic unity amongst Member States; and

Pursuant to the Supreme Council decision at its 36th meeting (Riyadh – 9-10 December, 2015) with respect to the common imposition by the GCC States of VAT at a rate of 5%, and delegating to the Financial and Economic Cooperation Committee the completion of all the requirements necessary to pass the (Common VAT Agreement of the states of the Gulf Cooperation Council) and signing it. And whereas this Agreement aims to establish a common legal framework for the introduction of a general tax on consumption in the GCC known as (VAT) levied on the import and supply of Goods and Services at each stage of production and distribution have agreed to the following:

Chapter One

Definitions and General Provisions

Article 1: Definitions

In the application of the provisions of this Agreement, the following words and expressions shall bear the meanings set forth against each of them unless the context otherwise requires:

Council: Gulf Cooperation Council.

Background Material on UAE VAT

Agreement: The Common VAT Agreement of the States of the GCC.

Tax: Value Added Tax (VAT) imposed on the import and supply of Goods and Services at each stage of production and distribution, including “Deemed Supplies”.

Member State: Any country with full membership of the GCC in accordance with the Council's statute.

GCC Territory: All territories of the GCC Member States.

Local Law: The VAT Law and any relevant legislation issued by each Member State.

Person: Any natural or legal person, public or private, or any other form of partnership.

Taxable Person: A Person conducting an Economic Activity independently for the purpose of generating income, who is registered or obligated to register for VAT in accordance with the provisions of this Agreement.

Economic Activity: An activity that is conducted in an ongoing and regular manner including commercial, industrial, agricultural or professional activities or Services or any use of material or immaterial property and any other similar activity.

Taxable Trader: A Taxable Person in any Member State whose main activity is the distribution of Oil, Gas, Water or Electricity.

Place of Business: The place where a business is legally established, or where its actual management center is located where key business decisions are made if different from the place of establishment.

Fixed Establishment: Any fixed location for a Business other than the Place of Business, in which the business is carried out and is distinguished by the permanent presence of human and technical resources in such a way as to enable the Person to supply or receive Goods or Services.

Place of Residence of a Person: The location of Place of Business or any other type of Fixed Establishment is. In the case of a natural person, if he does not have a Place of Business or Fixed Establishment, it will be his usual place of residence. If a Person has a Place of Residence in more than one State, the place of residence will be considered to be in the place most closely connected with the supply.

Resident Person: A person will be resident in a State if he has a place of residence therein.

Non-Resident Person: A person is not resident in a State if he has no Place of Residence therein.

Supplier: A Person who supplies Goods or Services.

Customer: A Person who receives Goods or Services.

Reverse Charge: A mechanism by which the Taxable Customer is obligated to pay the Tax due on behalf of the Supplier and is liable for all the obligations provided for in this Agreement and the Local Law.

Related Persons: Two or more Persons where one of them has supervisory or directive control over the others in such a way that he has administrative power that enables him to influence the business of the other Persons from a financial, economic or regulatory aspect. This includes Persons who are subject to the authority of a third Person that enables him to control their businesses from the financial, economic or regulatory aspect.

Supply: Any form of supply of Goods or Services for consideration in accordance with the cases provided for in Chapter Two of this Agreement.

Deemed Supply: Anything that is considered a Supply in accordance with the cases provided for in Article 8 of this Agreement.

Input Tax: Tax borne by a Taxable Person in relation to Goods or Services supplied to him or imported for the purpose of carrying on the Economic Activity.

Common Customs Law: The Common Customs Law of the States of the GCC.

First Point of Entry: First customs point of entry through which Goods enter the GCC Territory from abroad in accordance with the Common Customs Law.

Final Destination Point of Entry: Customs point of entry through which Goods enter the Final Destination State within the GCC Territory.

Consideration: Everything collected or to be collected by the Taxable Supplier from the Customer or a third party for the Supply of Goods or Services inclusive of the VAT.

Exempted Supplies: Supplies on which no Tax is charged and for which associated Input Tax is not deducted pursuant to the provisions of the Agreement and Local Law.

Taxable Supplies: Supplies on which Tax is charged in accordance with the provisions of the Agreement, whether at the standard rate or zero-rate, and for which associated Input Tax is deducted in accordance with the provisions of the Agreement.

Intra-GCC Supplies: Supplies of Goods or Services by a Supplier who resides in a Member State to a Customer who resides in another Member State.

Goods: All types of material property (material assets), including water and all forms of energy including electricity, gas, lighting, heating, cooling and air conditioning.

Import of Goods: The entry of Goods into any Member State from outside the GCC Territory in accordance with the provisions of the Common Customs Law.

Export of Goods: Supply of Goods from any Member State to the outside of the GCC Territory in accordance with the provisions of the Common Customs Law.

Competent Tax Administration: The relevant Government entity in each Member State responsible for the administration, collection and enforcement of the Tax.

Deductible Tax: Input Tax that may be deducted from Tax Due on supplies for each Tax Period in accordance with the Agreement and Local Law.

Background Material on UAE VAT

Capital Assets: Material and immaterial assets that form part of a business's assets allocated for long-term use as a business instrument or means of investment.

Tax Period: The period of time for which the Net Tax must be accounted.

Net Tax: Tax resulting from deducting the Deductible Tax in a Member State from the Tax due in that State within the same Tax Period. Net Tax may either be payable or refundable.

Mandatory Registration Threshold: The minimum limit of the value of actual supplies at which the Taxable Person becomes obligated to register for Tax purposes.

Voluntary Registration Threshold: The minimum limit of the value of actual supplies at which the Taxable Person may apply to register for Tax purposes.

Ministerial Committee: The Financial and Economic Cooperation Committee of the Council States

Article (2): Scope of Tax

The Agreement shall come into effect in the GCC and Tax shall be imposed on the following transactions:

1. Taxable Supplies by a Taxable Person in the Member State Territory.
2. Receipt by a Taxable Customer of Goods or Services supplied to him by a Non-Resident and non-Taxable Person in the Member State in instances where Reverse Tax Mechanism applies.
3. Importation of Goods by any Person

Article (3): Calculation of Dates

Dates and Timeframes stipulated in the Agreement shall be calculated according to the Gregorian Calendar.

Article (4): VAT Group

Each Member State may treat the VAT Group as a single Taxable Person in accordance with the rules and conditions it puts in place for that purpose. A VAT Group means two or more Corporate Persons who are Residents of the same Member State.

Chapter Two

Supplies within the Scope of the Tax

Article (5): Supply of Goods

1. A Supply of Goods means the transfer of ownership of such Goods or the right to dispose of the same as an owner.
2. A Supply of Goods includes the following transactions:
 - a) disposal of Goods under an agreement that provides for the transfer of ownership of these Goods or the possibility of transferring the same at a date subsequent to

the date of the agreement, which shall be no later than the date on which the Consideration is paid in full;

- b) granting rights in rem deriving from ownership giving the right to use real estate;
- c) compulsory transfer of ownership of the Goods for Consideration pursuant to a decision of the public authorities or by virtue of any applicable law.

Article (6): Transporting Goods from One Member State to Another

1. A Taxable Person who transports Goods forming part of his assets for the purposes of his business from the place where they are in a Member State to another place in another Member State shall be deemed to have made a Supply of Goods.
2. A transportation of Goods as provided for in subsection 1 above shall not be considered a Supply of Goods if it was done for one of the following purposes:
 - a) to use the Goods in the other Member State temporarily within the conditions of temporary entry provided for in the Common Customs Law;
 - b) where the transportation of goods is done as part of another Taxable Supply in the other Member State.

Article (7): Supply of Services

Any Supply that does not constitute a Supply of Goods under this Agreement shall be considered a Supply of Services.

Article (8): Deemed Supply

1. A Taxable Person shall be deemed to have made a Supply of Goods when disposing of Goods that form part of its assets in any of the following cases:
 - a) disposal of Goods, for purposes other than Economic Activity, with or without a Consideration;
 - b) changing the use of Goods to use for non-taxable Supplies;
 - c) retaining Goods after ceasing to carry on an Economic Activity; and
 - d) supplying Goods without Consideration, unless the Supply is in the course of business, such as samples and gifts of trivial value as determined by each Member State.
2. A Taxable Person shall be deemed to have made a Supply of Services in any one of the following cases:
 - a) use by him of Goods that form part of his assets for purposes other than those of an Economic Activity; and
 - b) Supplying Services without Consideration.
3. The provisions of this article shall apply if the Taxable Person has already deducted Input Tax related to the Goods and Services mentioned in this Article.

4. Each Member States may determine the conditions and rules for the implementation of this Article.

Article (9): Receiving Goods and Services

1. If the Taxable Person in a Member State receives taxable Goods or Services from a Person who is a resident in another Member State, then he shall be deemed to have supplied these Goods or Services to himself and the Supply shall be taxable in accordance with the Reverse Charge Mechanism.
2. If a Taxable Person residing in a Member State receives Services from a person who is not resident in the GCC Territory, then that Person shall be deemed to have supplied these Services to himself and the Supply shall be taxable according to the Reverse Charge Mechanism.

Chapter Three

Place of Supply

Part One

Place of Supply of Goods

Article (10): Supply of Goods without Transportation

The place of a Supply of Goods that occurs without transportation or dispatch thereof shall be the place where the Goods are located on the date they are placed at the Customer's disposal.

Article (11): Supply of Goods with Transportation

The place of a Supply of Goods that occurs with transportation or dispatch thereof by the Supplier or to the account of Customer shall be the place where the Goods are located when the transportation or dispatch commences.

Article (12): Special Case of Internal Supplies with Transportation

1. As an exception to the provisions of Article 11 of this Agreement, the place of supply for an Intra-GCC supply of Goods with transportation or dispatch thereof from one Member State to another shall be in the State in which the transportation or dispatch of the goods terminates in the following cases:

- a) if the Customer is a Taxable Person.
- b) without prejudice to subsection 2 of this Article, if the Customer is not a Taxable Person and the Supplier is registered or is obligated to be registered in the country where the Customer resides.

2. The place of an Intra-GCC Supply of Goods with transportation or dispatch thereof but without installation or assembly by a Supplier who is registered for Tax purposes in a Member State in favor of a Customer who is not registered for Tax purposes in another Member State

shall be the place where the Goods are located on the date the transportation or dispatch begins, provided that the total value of the Supplies of that Supplier during any 12 months period does not exceed an amount of SAR 375,000 or its equivalent in GCC currencies, in the State to which the Supply is provided. In the event that the total value of the supplies exceeds this amount, this shall result in the Supplier registering in that State.

3. If transportation of Goods from one Member State to another cannot be established through compliance with the obligations provided for in Article 6 of this Agreement and the Local Laws, the place of supply shall be where the Goods are located on the date the transportation or dispatch begins.

4. In the event of a Supply of Goods that occurs without transportation or dispatch, and it is later established that transportation or dispatch of such Goods to a Member State took place in the circumstances provided for in subsection 1 of this Article, the State in which the transport or dispatch ends has the right to recover the Tax from the Member State where the transportation or dispatch started in accordance with the Automated Direct Transfer Mechanism in force with Customs or any other mechanism approved by the Ministerial Committee.

Article (13): Intra-GCC Supplies to Non-Registered Persons

Each Member State has the right to claim from another Member State the tax paid if the value of the Supply exceeds the amount of SAR 10,000 or its equivalent in other currencies of the GCC to individuals and non-registered persons, and the settlement of Tax shall be according to the Customs Duties Automated Direct Transfer Mechanism applicable under the framework of the Customs Union of the GCC. The Ministerial Committee may propose any other mechanisms.

The Member State may also impose Tax on these supplies at its points of entry to such State if no evidence is presented that the Tax was paid in the other Member State.

Article (14)

Supply of Gas, Oil, Water and Electricity

As an exception to the provisions of Articles (10) and (11) of this Agreement:

1. The place of supply for gas, oil and water through the pipeline distribution system and Supply of electricity by a Taxable Person who is established in a Member State to a Taxable Trader established in another Member State shall be the place where the Taxable Trader is established.
2. The place of supply for gas, oil and water through the pipeline distribution system and Supply of electricity to a person who is not a Taxable Trader shall be the place of actual consumption.

Part Two
Place of Supply of Services
Section One
General Principle

Article (15): Place of Supply of Services

The place of supply for Services provided by a Taxable Supplier shall be the Place of Residence of the Supplier.

Article (16): Place of Supply of Services between Taxable Persons

As an exception to the provisions of Article 15 of this Agreement, the place of supply for Services provided by a

Taxable Supplier to a Taxable Customer shall be the Place of Residence of the Customer.

Section Two
Special Cases

Article (17): Leasing Means of Transport

As an exception to the provisions of Article 15 of this Agreement, the place of supply for leasing means of transport by Taxable Supplier to a Non-Taxable Customer shall be the location where these means of transport were placed at the Customer's disposal.

Article (18): Supply of Goods and Passenger Transportation Services

As an exception to the provisions of Article 15 of this Agreement, the place of supply of Services for the transportation of Goods and passengers and related Services shall be the place where transportation begins.

Article (19): Supply of Real Estate Related Services

1. Real Estate Related Services shall mean those that are closely linked to real estate, including:

- a) real estate experts and agent services;
- b) granting the right to possess or use real estate;
- c) services related to construction work;

2. As an exception to the provisions of Article 15 of this Agreement, the place of supply of Real Estate Related Services shall be where the real estate is located.

Article (20): Supply of Wired and Wireless Telecommunication Services and Electronically Supplied Services

The place of supply for wired and wireless telecommunication Services and electronically supplied Services shall be the place of actual use of or enjoyment from these Services.

Article (21): Supply of Other Services

The place of supply for the following Services shall be the place of actual performance:

- a) Restaurant, hotel and catering services.
- b) cultural, artistic, sport, educational and recreational Services.
- c) services linked to transported Goods supplied from a taxable Supplier residing in a Member State to a non-taxable Customer residing in another Member State.

Part Three

Place of Import

Article (22): Place of Import

1. The place of import for Goods shall be the State of the First Point of Entry.
2. When Goods are placed under customs duty suspension under the Common Customs Law immediately upon entry into the GCC Territory, then the place of import shall be in the Member State where these Goods were released from the duty suspension status.

Chapter Four

Tax Due Date

Article (23): Date of Tax Due on Supplies of Goods and Services

1. Tax becomes due on the date of the supply of Goods or Services, the date of issuance of the tax invoice or upon partial or full receipt of the Consideration, whichever comes first, and to the extent of the received amount.
2. The date of supply provided for in subsection 1 of this Article shall be as follows:
 - a) the date on which the Goods were placed at the Customer's disposal in connection with supplies of Goods without transportation or dispatch;
 - b) the date on which transportation or dispatch of Goods began in connection with supplies of Goods with transportation or dispatch;
 - c) the date on which the assembly or installation of Goods was completed in connection with supplies of Goods with assembly or installation;
 - d) the date on which the performance of the service was completed;
 - e) the date of occurrence of any of the events referred to in Article 8 of this Agreement.
3. As an exception to the provisions of subsections 1 and 2 of this Article, in connection with supplies of a repetitive nature leading to the repetitive issuance of invoices or payment of Consideration, the Tax is due on the payment date specified in the invoice or the date of actual payment, whichever comes first, and at least once in every period of 12 consecutive months.

4. Each Member State may determine the date on which Tax becomes due with regard to supplies not referred to in the foregoing subsections of this Article.

Article (24): Tax Due Date on Import

Tax becomes due on the date of importing Goods into the Member State, subject to the provisions of Article 39 related to cases of Tax suspension upon import and Article 64 related to the mechanism for paying Tax Due in relation to the import.

Chapter Five

Calculation of Tax

Article (25): Tax Rate

1. Tax shall be applied at the standard rate of 5% of the value of the Supply or the value of Imports, unless this Agreement provides for an exemption or the zero-rate on such supplies.
2. Without prejudice to the obligations provided for under this Agreement and the Local Laws, published prices in the local market for Goods and Services must include VAT.

Article (26): Value of Supply of Goods and Services

1. The fair market value is the amount at which Goods or Services can be dealt in in an open market between two independent parties under competitive conditions determined by each Member State.
2. The value of a Supply shall be the value of Consideration less the Tax and includes the value of the non-cash portion of the Consideration determined according to the fair market value.
3. The value of the Supply shall include all the expenses imposed by the Taxable Supplier on the Customer, the fees due as a result of the Supply and all the Taxes including Excise Tax, but excluding VAT.
4. In the case of a Deemed Supply and transportation of Goods from one Member State to another, the value of the Supply shall be the purchase value or cost. If the purchase value or cost cannot be determined, then the fair market value shall apply.
5. Each Member State shall determine the conditions and provisions for adjusting the value of the Supply between Related Persons.
6. The value of the Supply is reduced by the following amounts:
 - a) discounts in prices and deductions granted to the Customer;
 - b) the value of subsidies granted by the Member State to the Supplier;
 - c) amounts paid by the Taxable Supplier in the name of and to the account of the Customer. In this case, the Taxable Supplier may not deduct Tax paid on these expenses.

7. If any of the components of the value of the Supply is expressed in a foreign currency, it shall be converted into the local currency based on the official exchange rate applied in the Member State on the Tax Due date.
8. Each Member State may determine the value of the Supply in certain cases not referred to in this Article.

Article (27): Adjustment of Tax Value

A Taxable Person may adjust the value of the Tax imposed upon any of the following events taking place at a date later than the Supply date:

1. Total or partial cancellation or rejection of a Supply;
2. Reduction of the Supply value;
3. Total or partial non-collection of the Consideration in accordance with the conditions applicable to bad debts in each Member State.

Article (28): Value of Imported Goods

1. The value of imported Goods will be the customs value determined in accordance with the Common Customs Law plus Excise Tax, Customs duty and any other imposts apart from VAT.
2. For Goods temporarily exported outside the GCC Territory for completion of manufacturing or repair thereof abroad, these Goods shall be taxed when reimported on the basis of value added to them as provided for in the Common Customs Law.

Chapter Six

Exceptions

Article (29): Rights of States to Exempt Certain Sectors or Tax at the Zero-Rate

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.

Article (30): Exceptions to Payment of Tax in Special Cases

Each Member State may exclude the following categories from paying Tax upon receipt of Goods and Services in that

State, and each Member State may allow these Persons to reclaim Tax borne upon receipt of the Goods and Services in accordance with the conditions and rules determined by that Member State.

These categories include:

- Government bodies specified by each State;
- Charities and Public Benefit Establishments specified by each State;
- Exempted companies under international event hosting agreements;
- Citizens of the Member State when constructing their homes for private use;
- Farmers and fishermen who are not registered for Tax.

I: Food Items:

Article (31): Supply of Foodstuffs, Medicines and Medical Equipment

All food items shall be subject to the standard Tax rate. Member States may apply the zero-rate on food items mentioned in a unified list of Goods approved by the Financial and Economic Cooperation Committee.

II: Medicines and Medical Equipment:

Medicines and medical equipment shall be subject to the zero-rate in accordance with unified provisions proposed by the Committee of Ministers of Health and approved by the Financial and Economic Cooperation Committee.

Article (32): Intra-GCC and International Transportation

The following transportation transactions shall be subject to Tax at zero-rate:

1. Goods and passenger transport from one Member State to another and the supply of transport-related Services;
2. International Goods and passenger transport from and to the GCC Territory and the supply of transport-related Services.

Article (33): Supply of Means of Transport

Each Member State may apply the zero-rate to the following supplies:

1. Supply of sea, land and air means of transport allocated to the transportation of Goods and passengers in return for a fee for commercial purposes;
2. Supply of Goods and Services related to the supply of the means of transport mentioned in subsection 1 of this Article allocated to the operation, repair, maintenance or conversion any of these means or for the requirements of the means of transport or their cargo or passengers;
3. Supply of rescue airplanes, rescue boats and aid by land and sea and boats allocated to sea fishing.

Article (34): Supplies to Outside the GCC Territory

1. The following supplies shall be subject to the zero-rate:
 - a) the export of Goods outside the GCC Territory;
 - b) supply of Goods to a customs duty suspension situation as provided for in the Common Customs Law and the supply of Goods within customs duty suspension situations;
 - c) re-export of moveable Goods that have been temporarily imported into the GCC Territory for repairs, refurbishment, conversion or processing as well as the Services added to these Goods.
 - d) supply of Services by a Taxable Supplier residing in a Member State for a Customer who does not reside in the GCC Territory who benefits from the service outside the GCC Territory in accordance with the criteria determined by each of the Member States, except for the cases provided for in Articles 17 to 21 of this Agreement that determine the place of supply as being in a Member State.
2. The supply of Goods and Services out of the GCC Territory shall be subject to the zero-rate when such supply is exempt from Tax inside the Member State.

Article (35): Supply of Investment Gold, Silver and Platinum

1. For the purposes of this Article, Gold, Silver or Platinum shall be considered as an investment when the metal is at a purity level not less than 99% and tradable on the Global Bullion Exchange.
2. The supply of investment gold, silver and platinum shall be subject to the zero-rate.
3. The first supply after extraction of gold, silver and platinum shall be subject to the zero-rate.

Article (36): Financial Services

1. Financial Services performed by banks and financial institutions licensed under the laws in force in each Member State shall be exempt from Tax. Banks and financial institutions may reclaim Input Tax on the basis of the refund rates determined by each State.
2. As an exception to subsection 1 of this Article, each State may apply any other tax treatment to financial Services.

Article (37): Taxation of Supplies of Used Goods

Each Member State may determine the conditions and provisions for the imposition of Tax on the supply of used Goods by the Taxable Person based on the profit margin.

Chapter Seven

Exceptions on Import

Article (38): Exemptions on Import

The following shall be exempt from Tax:

1. Import of Goods if the supply of these Goods in the final destination country is exempted from Tax or subject to Tax at zero-rate.
2. Importation of the following Goods that are exempted from customs duty under the Common Customs Law:
 - a) diplomatic exemptions;
 - b) military exemptions;
 - c) Imports of used personal luggage and household appliances which are brought by citizens residing abroad and foreigners who are coming to reside in the country for the first time.
 - d) Imports of requisites for non-profit charity organizations if these are exempted from Tax under Article 30;
 - e) Imports of returned Goods.
3. Personal luggage and gifts accompanied by travelers as specified by each Member State.
4. Requisites for people with special needs as specified by each Member State.

Article (39): Suspension of Tax

Tax shall be suspended on imports of Goods that are placed under a customs duty suspension situation in accordance with the conditions and provisions provided for in the Common Customs Law. Each Member State has the right to link the suspension of Tax to the provision of security for the value of the Tax.

Chapter Eight

Persons who are Obligated to Pay Tax

Article (40): General Principle

1. The Taxable Person is obligated to pay Tax due on taxable supplies of Goods and Services to the Competent Tax administration in the Member State in which the place of supply is located.
2. Any Person that states a Tax amount on any invoices issued by him becomes obligated to pay this Tax amount to the Competent Tax Administration in the Member State in which the place of supply is located.

Article (41): Customer Obligated to Pay Tax According to the Reverse Charge Mechanism

1. If the place of supply for Goods or Services is in a Member State where the Supplier is not a resident, then the Taxable Customer residing in that Member State shall be obligated to pay the Tax Due.
2. Tax Due under subsection 1 of this Article shall be paid pursuant to a tax return or independently as determined by each Member State.

Article (42): Person Obligated to Pay Tax in respect of Import

The Person appointed or acknowledged as an importer pursuant to the Common Customs Law shall be obligated to pay Tax due on imports.

Article (43): Joint Liability

1. A Person who willfully participates in violating any of the obligations provided for in this Agreement and the Local Law shall be jointly liable with the Person obliged to pay the Tax and any other amounts due as a result of the violation.
2. Each Member State may determine other instances of joint liability other than those provided for in this Article.

Chapter

Nine Deduction of Tax

Article (44): Tax Deduction Principle

1. The Taxable Person may deduct from the Tax Due and Payable by him in a Member State the value of Deductible Tax borne in the same State in the course of making Taxable Supplies.
2. The right to make a deduction arises when a Deductible Tax is due pursuant to this Agreement.
3. A Customer who is obligated to pay Tax pursuant to the reverse charge mechanism may deduct Deductible Tax related thereto provided that he has declared the Tax Due under Article 41 (2) of this Agreement.
4. Each Member State shall determine the terms and provisions for Tax deduction.

Article (45): Restrictions on Input Tax Deductions

Input Tax that has been borne cannot be deducted in either of the following cases:

1. If it is for purposes other than Economic Activities as determined by each Member State;
2. If it is paid on Goods that it is prohibited to deal in in the Member State according to applicable laws.

Article (46): Proportional Deduction

1. If Input Tax is related to Goods and Services used to make Taxable Supplies and non-Taxable Supplies, then Input Tax cannot be deducted save within the limits of the proportion referable to the Taxable Supplies.
2. Each Member State may determine the methods of calculating the deduction rate and the conditions for treating the value of non-deductible Input Tax as zero.

Article (47): Adjustment of Deductible Input Tax

1. A Taxable Person must adjust the value of Input Tax deducted by him when receiving Goods or Services supplied that are more or less than the value of the Input Tax deduction available to him, as a result of changes in the determining factors for Deductible Tax, including:
 - a) cancellation or rejection of a Supply;
 - b) reduction of the Supply Consideration after the date of the Supply;
 - c) non-payment of the Supply Consideration, whether in whole or in part according to Article 27(3) of this Agreement;
 - d) changing the use of Capital Assets.
2. The Taxable Person is not required to adjust the Input Tax in any of the following cases:
 - a) where the Taxable Person establishes loss, damage or theft of the supplied Goods in accordance with the conditions and provisions applicable in each Member State.
 - b) where the Taxable Person uses the supplied Goods as samples or gifts of insignificant value as specified in Article 8 (1)(d) of this Agreement.

Article (48): Conditions for Exercising the Right of Deduction

1. For purposes of exercising the right of deduction, the Taxable Person must hold the following documents:
 - a) the Tax Invoice received pursuant to the provisions of this Agreement;
 - b) the customs documents proving that he imported the Goods in accordance with the Common Customs Law.
2. Each Member State may allow the Taxable Person to exercise the right of deduction in the event that a Tax Invoice is not available or does not meet the requirements provided for in this Agreement, provided that the value of Tax due can be established by any other means.

Article 49: The Right to Deduct Input Tax Paid Prior to the Date of Registration

1. A Taxable Person may deduct Input Tax paid on Goods and Services supplied to him prior to the date of his registration for Tax purposes after meeting the following

requirements:

- a) Goods and Services are received for the purpose of making Taxable Supplies;
 - b) Capital Assets were not fully depreciated before the date of registration;
 - c) Goods were not supplied prior to the registration date;
 - d) Services were received within a specific period of time prior to the date of registration as determined by each Member State;
 - e) the Goods and Services are not subject to any restriction related to the right to make a deduction stated in this Agreement.
2. For the purposes of applying this Article, Input Tax shall be deductible for Capital Assets in accordance with the net book value of the assets as on the date of registration as specified by each Member State.

Chapter Ten

Obligations Part One Registration

Article 50: Mandatory Registration

1. For the purposes of implementing this Agreement, a Taxable Person shall be obliged to register if :
 - a) he is resident in any Member State;
 - b) the value of his annual supplies in that Member State exceeds or is expected to exceed the Mandatory Registration Threshold.
2. The Mandatory Registration Threshold shall be SAR 375,000 (or its equivalent in the GCC State currencies). The Ministerial Committee has the right to amend The Mandatory Registration Threshold after it has been in force for three years.
3. A non-resident of a Member State shall be required to register in that State regardless of his business turnover if he is obliged to pay Tax in that State under this Agreement. Registration can be done directly or through the appointment of a tax representative with the consent of the Competent Tax administration. The tax representative shall take the place of the Non-Resident Person in all its rights and obligations provided for in this Agreement, subject to the provisions of Article 43(2) of this Agreement.
4. A Taxable Person who makes only zero-rated supplies may request to be excluded from the Mandatory Registration requirement for Tax purposes in accordance with the conditions and provisions determined by each Member State.

Article 51: Voluntary Registration

1. A Person who is not required to be registered under Article 50(1) of this Agreement who resides in any Member State may request to be registered therein, provided that the value of his annual supplies in that Member State is not less than voluntary registration threshold.

Background Material on UAE VAT

2. A Member State may allow the registration provided that the annual expenses of a person who is not obliged to register in that State exceed the Voluntary Registration Threshold in accordance with the conditions and rules determined by that State.
3. The Voluntary Registration Threshold is 50% of the Mandatory Registration Threshold.

Article 52: Calculating the Value of Supplies

1. For the purposes of applying the provisions of this Agreement, the value of annual supplies is calculated on the basis of any of the following:
 - a) total value of supplies – excluding exempted supplies – made by the Taxable Person at the end of any month plus the previous eleven months;
 - b) total value of supplies – excluding exempted supplies – expected to be made by the Taxable Person at the end of any month plus the following eleven months or in accordance with the criteria and specified period determined by each Member State.
2. Total value of supplies consists of the following:
 - a) the value of Taxable supplies except for the value of Capital Assets Supply;
 - b) the value of Goods and Services supplied to the Taxable Person who is obliged to pay Tax pursuant to the provisions of this Agreement;
 - c) the value of Intra-GCC Supplies where the place of supply is in a Member State other than the State where the Taxable Supplier resides and these supplies would have been taxable in the State where the Supplier resides had the place of supply been located in that State.
3. Each Member State may determine the conditions and provisions for the aggregation of the business revenue of Related Persons who conduct similar or related activities and register each of them mandatorily on the basis of the total business revenue.

Article 53: Tax Identification Number (TIN)

When registering for Tax purposes in any of the Member States, each Member State shall allocate a TIN for the Taxable Person provided that The Ministerial Committee shall determine the provisions for issuing the TIN.

Article 54: Deregistration

1. A Taxable Person who is registered for Tax purposes must apply for deregistration in any of the following cases:
 - a) cessation of carrying on of the Economic Activity;
 - b) cessation of making Taxable Supplies;
 - c) if the value of the Taxable Person's supplies falls below the Voluntary Registration Threshold pursuant to the provisions of Article (51) of this Agreement.

2. The Taxable Person may apply for deregistration if the total annual revenue of its business falls below the Mandatory Registration Threshold but exceeds the Voluntary Registration Threshold.
3. For the purposes of applying items (b) and (c) of the first paragraph and the second paragraph of this Article, each Member State may determine a minimum period to keep the Taxable Person registered for Tax purposes as a condition of deregistration.
4. Each Member State may determine the conditions and provisions necessary to reject an application for the deregistration of a Taxable Person or to deregister him in cases other than those provided for in the first and second paragraphs of this Article.
5. The Tax Authority shall notify the Taxable Person of his deregistration and the effective date of the same.

Part Two
Tax Invoice

Article 55: Issuance of the Tax Invoice

1. The Taxable Person must issue a Tax Invoice or similar document in the following cases:
 - a) Supply of Goods or Services including a Deemed Supply as provided for in Article 8 of this agreement;
 - b) Full or partial receipt of Consideration prior to the supply date.
2. Each Member State may exempt the Taxable Person from issuing the invoices provided for in this Article for exempted supplies, provided these do not pertain to Intra-GCC Transactions between Member States.
3. Subject to the provisions of Article 56 of this Agreement, each Member State may allow the Taxable Person to issue summary tax invoices, each including all the supplies of Goods and service made in favour of a single Customer that were taxable over a period of one month.
4. For the purposes of applying this Agreement, the Member States must accept the invoices in form, whether issued on paper or electronically, in accordance with the conditions and procedures determined by each Member State.

Article 56: Contents of the Tax Invoice

1. Each Member State must determine the contents of the Tax Invoice and the period within which it must be issued, provided that The Ministerial Committee shall determine the minimum details required to be included in the tax invoice. Each Member State may allow for the issuance of simplified invoices in accordance with the conditions and rules determined by it.

Background Material on UAE VAT

2. Tax invoices can be issued in any currency, provided that the value of the Tax is written in the currency of the Member State where the place of supply is located based on the official currency exchange rate in force in that State as on the Tax due date.

Article 57: Amendment of Invoices (Credit Notes)

A Taxable Person who adjusts the Supply Consideration must include this adjustment in a document (credit or debit note "Tax Invoice") correcting the original Tax Invoice. This document shall be treated in the same way as the original Tax Invoice according to the procedures determined by each Member State.

Article 58: Special Provisions

1. A taxable Customer who receives Goods or Services supplied to him from a Taxable Supplier may issue Tax Invoices provided that the Supplier consents and the Tax Invoice is marked as a self-issued invoice with the approval of the Competent Tax administration. In this event, a self-issued invoice shall be treated as an invoice issued by the Supplier.
2. A Taxable Person may engage the assistance of others to issue Tax Invoices on his behalf with the approval of the Competent Tax Administration and provided that all the obligations provided for in this Agreement and the Local Law are fulfilled.

Part Three

Retention of Tax Invoices, Records and Accounting Documents

Article 59: Retention Period for Tax Invoices, Records and Accounting Documents

Without prejudice to any longer period stipulated under the laws of the Member State, Tax Invoices, books, records and accounting documents shall be retained for a period not less than five years from the end of the year to which the invoices, books, records and accounting documents relate. This period shall be extended to fifteen years for the retention of Tax Invoices, books, records and documents pertaining to real estate.

Part Four

Tax Period and Tax Returns

Article 60: Tax Period

Each Member State must determine its own tax period or periods, and provided that no tax period shall be less than one month.

Article 61: Submission of Tax Returns

Each Member State shall determine the timeframes, conditions and rules for submission of Tax Returns by a Taxable Person for each tax period, provided that The Ministerial Committee shall determine the minimum data required to be included in the tax return.

Article 62: Amending the Tax Return

Each Member State shall determine the conditions and provisions that allow a Taxable Person to amend a Tax Return that has already been submitted.

Part Five

Payment and Refund of Tax

Article 63: Payment of Tax

Each Member State shall determine the timeframes, conditions and provisions for payment of Net Tax Due by the Taxable Person.

Article 64: Payment of Tax on Imports

1. Tax due on imported Goods shall be paid at the First Point of Entry and deposited in a special tax account, and transferred to the final Destination State according to the Customs Duties Automated Direct Transfer Mechanism in force within the framework of the GCC Customs Union; the Ministerial Committee may propose any other mechanisms.
2. Each Member State may, in accordance with the conditions and provisions determined by it, allow a Taxable Person to defer payment of Tax due on Goods imported for the purposes of the Economic Activity and to declare the same in his Tax Return. Tax due that has been deferred and declared shall be deductible according to the provisions of this Agreement.

Article 65: Tax Refunds

Each Member State shall determine the conditions and provisions for allowing a Taxable Person to request a refund of net deductible Tax or request to carry it forward to subsequent tax periods.

Chapter Eleven

Special Treatments of Tax Refunds

Article 66: Tax Refunds for Persons residing in the GCC Territory

Taxable Persons in any Member State may request the refund of Tax paid in another Member State in accordance with the conditions and rules determined by the Financial and Economic Cooperation Committee.

Article 67: Tax Refunds for Non-Residents in the GCC Territory

Each Member State may allow Persons who are not resident in the GCC Territory to request tax refunds for Taxes paid in it if all the following requirements are met:

1. The Non-Resident Person does not supply Goods or Services for which it is required to pay Tax in any Member State;

Background Material on UAE VAT

2. The Non-Resident Person is registered for Tax purposes in his country of residence, if such country applies a VAT system or a similar tax system;
3. The Tax is borne by a Person who is not resident in any Member State for the purposes of his Economic Activity.

Article 68: Tax Refunds for Tourists

1. Each Member State may apply a Tax Refund system for tourists pursuant to the conditions and provisions determined in its Local Law.
2. For the purpose of applying this Article, a tourist shall be defined as any natural person who meets all of the following requirements:
 - a) He is not a resident of the GCC Territory;
 - b) He is not a crew member on the flight or aircraft leaving a Member State.

Article 69: Tax Refunds for Foreign Governments, International Organizations and Diplomatic Bodies and Missions

1. Each Member State shall determine the conditions and provisions for granting foreign governments, international organizations and diplomatic, consular and military bodies and missions the right to reclaim Tax borne for Goods and Services in the Member State in application of international treaties or the condition of reciprocity.
2. Each Member State may apply the zero-rate to supplies of Goods and Services in favor of foreign governments, international organizations, and diplomatic, consular and military bodies and missions within the conditions and rules determined by each State.

Chapter Twelve

Exchange of Information among Member States

Article 70: Exchange of Information

1. The Tax Administration in the Member States shall exchange information relevant to the implementation of the provisions of this Agreement, or information related to the administration or enforcement of Local Laws related to VAT.
2. Without prejudice to the provisions of international agreements to which the Member State is a party, the information obtained by the Tax Administration shall be treated as confidential information in the same manner as the information obtained under the local laws of that administration, and shall be disclosed only to persons or entities (including the courts and administrative authorities) concerned with Tax assessment, collection, enforcement, or bringing judicial claims or determining appeals relating thereto or supervising the above. Such persons or authorities may not use the information obtained save for those purposes, and may disclose such information in judicial rulings in public courts or in judicial decisions. Regardless of the foregoing, the information obtained by the Tax Administration may be used for other purposes when the laws of

both States permit its use for such other purposes, and the Tax Administration in the state that provides the information permits such use.

3. The provisions of paragraphs (1) and (2) of this article may not, under any circumstances, be interpreted in a manner that results in any Member State being obliged to.
 - (a) Implement administrative measures contrary to the regulations and administrative practices in that State or in another Member State
 - (b) Provide information, which is not obtainable under normal administrative regulations or directives in that State or in another Member State
 - (c) Provide information that would lead to the disclosure of any secret relating to trade, business or industry, or commercial or professional secrets, or trade processes or information the disclosure of which would violate public policy (public order).
4. If a Member State requests information under this Article, the other Member State shall employ its own procedures for collecting the required information, notwithstanding that the other State may not need this information for its own taxation purposes. The obligation set forth in the preceding sentence shall be subject to the restrictions contained in paragraph (3), but in no case may these restrictions be interpreted as permitting a Member State to decline to provide information on the sole ground that it has no local interest in it.
5. Under no circumstances shall the provisions of paragraph (3) be interpreted as allowing a Contracting State to decline to provide information on the sole ground that the information in question is held by a bank or any other financial institution or an authorized person, or a person acting as a proxy or in a trustee capacity or on the grounds that the information is linked to interests pertaining to ownership by any person.

Article 71: Electronic Service Systems

1. Each Member State shall create an electronic Services system for the purposes of complying with requirements related to Tax. The GCC Secretariat General shall take the necessary measures to establish a tax information center, and to operate a central website or electronic system to follow up the information related to Internal Supplies and the exchange of this information between the concerned Tax authorities in the Member States; provided that the website or electronic system of the tax information center must include at least the following information:
 - a) the TIN for both the Supplier and the Customer;
 - b) the number and date of the Tax Invoice;
 - c) a description of the transaction;

Background Material on UAE VAT

- d) the consideration for the transaction.
2. If the information recorded by each of the Supplier and the Customer corresponds, each of them shall be given a confirmation number that must be retained for Tax audits performed by the concerned Tax authority and for the purpose of ascertaining that this information corresponds with that provided in Tax returns and other relevant information provided pursuant to the provisions of this Agreement.
3. The system must be reliable and secure and must not allow the Supplier or the Customer access to any information other than that to which they are permitted to have access.
4. The concerned Tax authority in each Member State shall have a right of access to the information related to Internal Supplies between Taxable Persons registered for Tax purposes.
5. The System shall allow the follow-up of proof of transfer of Goods to the country of Final Destination.

Article 72: Cooperation between Member States

1. The Member States may, upon a proposal from the Secretary General of the Gulf Cooperation Council to the Ministerial Committee, take the necessary measures related to administrative cooperation among them, especially in the following areas:
 - a) exchange of information needed to determine Tax accuracy based on the request of each Member State;
 - b) agreeing to synchronized auditing procedures and participating in audits performed by any Member State pursuant to the approval of the concerned States.
 - c) assisting in the collecting of Tax and taking the necessary procedures related to collection.
2. Subject to the provisions of international agreements to which the Member State is party, each Member State shall obligate its employees not to disclose or use information they receive in the course of their work from another Member State for any other purposes not related to their functions. Each Member State may determine the penalties that apply in the event of violation.

Chapter Thirteen

Transitional Provisions

Article 73

Each Member State must provide in its Local Law transitional provisions dealing with the following aspects at least:

1. Tax shall be due on supplies of Goods and Services and on imports of Goods as from the date the Local Law comes into effect in the Member State.
2. Each Member State shall determine timelines for registering Taxable Persons obliged to be registered on the date the Local Law comes into effect.
3. Notwithstanding any other provision in this Agreement, should an invoice be issued or Consideration paid before the date of application of the Local Law or prior to the registration date and the Supply occurred after such date, then each Member State may ignore the date of the invoice or payment and consider the Tax due date to be the date of the Supply.
4. The provisions of subsection 3 of this Article shall apply to Intra-GCC Supplies between a Taxable Supplier residing in a Member State and a Customer in another Member State.
5. With regard to continuing supplies that are partially performed before the date on which the Local Law comes into force or before the registration date and partially after such date, then Tax shall not be due on the part performed before the date of coming into force or of the registration.

Chapter Fourteen

Objections and Appeals

Article 74: Objections and Appeals

Each Member State shall determine the conditions and provisions for allowing objections to decisions of the Competent Tax Administration. This includes the right of recourse to the competent local courts in each Member State.

Chapter Fifteen

Closing Provisions

Article 75: Interpretation

The Ministerial Committee shall have jurisdiction to consider matters related to the application and interpretation of this Agreement and its decisions shall be binding on the Member States.

Article 76: Dispute Resolution

Member States shall strive to amicably resolve any disputes that may arise amongst them pertaining to this Agreement, and they may by agreement, if a settlement as aforesaid is not possible, refer the dispute to arbitration in accordance with rules of arbitration to be agreed.

Article 77: Amendments

This Agreement may be amended upon the approval of all Member States and upon the proposal of any of them, and the coming into force of such amendments shall be subject to the same procedures provided for in Article (79) of this Agreement.

Article 78: Coming into Force

This Agreement shall be adopted by the GCC Supreme Council and shall be ratified by Member States in accordance with their constitutional procedures.

1. This Agreement shall be treated as coming into force from the deposit of the ratification document by the second Member State at the General Secretariat of the GCC.
2. Each Member State shall take the necessary internal procedures to issue a Local Law to implement the provisions of this Agreement, including setting the policies and procedures necessary for the implementation of the Tax in a manner consistent with the provisions of this Agreement.
3. Each Member State that has not implemented its Local Law shall remain outside the scope of implementation of this Agreement until such Local Law becomes effective.

This Agreement is executed in Arabic on 27/2/1438 Hijri, corresponding to 27/11/2016, in one original copy deposited at the General Secretariat of the GCC, and one copy of the original shall be delivered to each of the Member States that are party to this Agreement.

The United Arab Emirates

The Kingdom of Bahrain

The Kingdom of Saudi Arabia

The Sultanate of Oman

The State of Qatar

The State of Kuwait

Note: *The above translated version law has been taken from the website of Ministry of Finance, United Arab Emirates, which states that it is unofficial translation.*

Annexure B

Federal Decree – Law on VAT

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:

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.

Background Material on UAE VAT

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 another 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.

Background Material on UAE VAT

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 any 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.

Background Material on UAE VAT

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:
 - 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.

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:
 - 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.

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.

Background Material on UAE VAT

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 (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.

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.

Background Material on UAE VAT

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 the earliest 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 provision of Services was 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 shall be 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 shall be 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 shall be 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:
 - 1) If the supply includes exporting to a place outside the Implementing States.
 - 2) 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.
 - 3) 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:
 - 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.
 - 3) 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

Background Material on UAE VAT

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.

Background Material on UAE VAT

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.

Background Material on UAE VAT

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 Transport-related Services.
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 Regulation of this Decree-Law.
5. Supply of Goods and Services related to the supply of the means of transport mentioned in Clause (4) 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, school 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.

Background Material on UAE VAT

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 severally 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): Calculation of Payable Tax

The Payable Tax for any Tax Period shall be calculated as being equal to the total Output Tax

Background Material on UAE VAT

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 in 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

Background Material on UAE VAT

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 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:

Background Material on UAE VAT

- 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 Registrant 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:

Background Material on UAE VAT

- 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 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 Regulation of this Decree-Law, return Tax paid for any supply received by or Import carried out by any 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.

Background Material on UAE VAT

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 (5) 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

Background Material on UAE VAT

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

Note: The above translated version law has been taken from the website of Ministry of Finance, United Arab Emirates, which states that it is unofficial translation.

Annexure C

Federal Law 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 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 provision 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 time frame specified 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 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) : 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) : Jursidictions 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 are 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.

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 the 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

Time limits 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

Note: The above translated version law has been taken from the website of Ministry of Finance, United Arab Emirates, which states that it is unofficial translation.

Annexure D

Executive Regulations on VAT

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 another 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:

- 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.

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.
2. 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 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.

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:

- 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.

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. An Official and commercial evidence of Export or customs suspension is retained by the exporter. Indirect Export shall be subject to the zero rate if the following conditions are met:
2.
 - 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).

Background Material on UAE VAT

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

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

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

Note: *The above translated version law has been taken from the website of Ministry of Finance, United Arab Emirates, which states that it is unofficial translation.*

Annexure E

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)

Background Material on UAE VAT

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.
		<ul style="list-style-type: none"> - (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,

Administrative Penalties for Violations of Tax Laws in the UAE

		<p>whichever takes place first.</p> <p>(30%) if the Registrant makes the voluntary disclosure after being notified of the tax audit and before the Authority starts the tax audit.</p> <p>(5%) if the Registrant makes a voluntary disclosure before being notified of the tax audit by the Authority.</p>
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.

Background Material on UAE VAT

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.

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)
Failure by the Taxable Person to display prices inclusive of Tax.	(15,000).
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.
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

Administrative Penalties for Violations of Tax Laws in the UAE

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)
Failure by the Taxable Person to display prices inclusive of Tax.	(15,000)
Failure by the Taxable Person to notify the Authority of applying Tax based on the margin.	(2,500)
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.
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.
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.
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.

Note: *The above translated version law has been taken from the website of Ministry of Finance, United Arab Emirates, which states that it is unofficial translation.*

Annexure F

VAT Treatment on Selected Industries

Education VAT rate	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%
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 are 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

Establishment of the Federal Tax Authority

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 buildings 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 cards, 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

Background Material on UAE VAT

Food & Beverages	VAT rate
Food and beverages	5%
Telecommunications and electronic services	VAT rate
Wired and wireless telecommunications and electronic services	5%
Government activities	VAT rate
Sovereign activities which are not in competition with the private sector undertaken by designated government bodies	Considered outside VAT system
Activities that are not sovereign or are in competition with the private sector	VAT rate dependent on good/service ignoring provider
Not for Profit Organizations	VAT rate
Activities of foreign governments, international organisations, diplomatic bodies and missions acting as such (if not in business in the UAE)	Considered outside VAT system
Charitable activities undertaken by societies and associations of public welfare which are listed by Cabinet Decision	Considered outside VAT system
Activities of other not for profit organizations (not listed in Cabinet Decision) which are not business activities	Considered outside VAT system
Business activities undertaken by the above organizations	VAT rate dependent on good/service ignoring provider
Free zones	VAT rate
Supplies of goods between businesses in designated zones	Considered outside VAT system
Supplies of services between businesses in designated zones	VAT rate dependent on service ignoring location
Supplies of goods and services in non-designated zones	VAT rate dependent on good/service ignoring location
Supplies of goods and services from mainland to designated zones or designated zones to mainland	VAT rate dependent on good/service ignoring location
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

Establishment of the Federal Tax Authority

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 retailers), antiques and collectors' items	5% of the profit margin