

# SEMINAR ON UAE / Dubai VAT

DATE : 17<sup>th</sup> November, 2017

VENUE : ICAI Tower, Plot No.C-40, 'G' Block, Near Standard Chartered Bank,  
Bandra Kurla Complex, Bandra (E), Mumbai – 400 051

TOPIC : Procedures, compliances and penalties under UAE/ Dubai Vat law

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# BRIEF BACKGROUND OF UAE AND GULF COOPERATION COUNCIL

Common VAT Agreement of statute of Gulf Cooperation Council (GCC) has been entered into pursuant to Supreme Council decision at its 36th meeting held at Riyadh on 10th December 2015. Following are the members of GCC.

- i. The United Arab Emirates
- ii. The Kingdom of Bahrain
- iii. The Kingdom of Saudi Arabia
- iv. The Sultanate of Oman
- v. The State of Qatar, and
- vi. The State of Kuwait.

The United Arab Emirates consists following 7 emirates:

- i. Abu Dhabi
- ii. Dubai
- iii. Sharjah
- iv. Umm-al-Qaiwain
- v. Fujairah
- vi. Ajman
- vii. Ras Al Khaimah

The government works at 3 level viz. Federal, Emirates & Municipal.

# 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**.

## **FAQ issued by Ministry of Finance ,UAE**

The FAQ issued by Ministry of Finance , UAE under “VAT for businesses” for registration threshold and period from which registration is to be obtained relevant for present purpose is as follows :

### **2.1 Who can or will be able to register for VAT?**

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

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

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

### **2.4 When are businesses supposed to start registering for VAT?**

VAT will come into force on 1 January 2018. Any business that is required to be registered for VAT and charge VAT from 1 January 2018 must be registered prior to that date.

To enable businesses to prepare for introduction of VAT and comply with this registration obligation in time, the electronic registrations will be open for VAT from the third quarter of 2017 on a voluntary basis and a compulsory basis from the final quarter of 2017 for those that choose not to register earlier. This will ensure that there is no last minute rush from businesses to register for VAT before the deadline.

The manner of computing the threshold amount is specified in Article(19) – Slide No. 20

## Relevant definitions

- 1) **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.
- 2) **State:** United Arab Emirates
- 3) **Implementing States:** The GCC States that are implementing a Tax law pursuant to an issued legislation.
- 4) **Tax Registration:** A procedure according to which the Taxable Person or his Legal Representative registers for Tax purposes at the Authority.

The meaning of place of establishment and fixed establishment in slides number 8 & 9.

## Article (14)

### Tax Group

1. Two or more **persons** conducting Businesses may apply for **Tax Registration** as a **Tax Group** if all of the following conditions are met:
  - a. Each shall have a **Place of Establishment** or **Fixed Establishment** in the State.
  - b. The relevant persons shall be **Related Parties**.
  - c. One or more persons conducting business in a partnership shall control the others.
2. The Executive Regulation of this Decree-Law will determine the instances where the Authority may reject the application to register a Tax Group.
3. Any Person conducting Business is not allowed to have more than one **Tax Registration Number**, unless otherwise prescribed in the Executive Regulation.
4. If Related Parties do not apply for Tax Registration as a Tax Group under Clause (1) of this Article, the Authority may assess their relation based on their economic, financial and regulatory practices in business and register them as a Tax Group if their relation was proved thereto according to the controls and Conditions specified by the Executive Regulation of this Decree-Law.
5. The Authority may deregister the Tax Group registration in accordance with this Article as per the conditions specified in the Executive Regulation of this Decree-Law.
6. The Authority may make changes to the Persons registered as a Tax Group by adding or removing Persons as requested by the **Taxable Person** or in accordance with the instances mentioned in the Executive Regulation

## Relevant definitions

- 1) **Person** : A natural or legal person
- 2) **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.
- 3) **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.
- 4) **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

The CBEC has published Guidance Note to explain the provisions contained in Chapter V of the Finance Act and notifications issued thereunder .The para 5.2.5 has explained “business establishment” and “ fixed establishment “ as follows:

### 5.2.5 What is the meaning of “business establishment”?

‘Business establishment’ is the place where the essential decisions concerning the general management of the business are adopted, and where the functions of its central administration are carried out. This could be the head office, or a factory, or a workshop, or shop/ retail outlet. Most significantly, there is only one business establishment that a service provider or receiver can have.



### 5.2.6 What is the meaning of a “fixed establishment”?

A “fixed establishment” is a place (other than the business establishment) which is characterized by a sufficient degree of permanence and suitable structure in terms of human and technical resources to provide the services that are to be supplied by it, or to enable it to receive and use the services supplied to it for its own needs.

Temporary presence of staff by way of a short visit at a place cannot be called a fixed establishment. Also, the number of staff at a location is not important. What is relevant is the adequacy of the arrangement (of human and technical resources), to carry out an activity for a consideration, or to receive and use a service supplied. Similarly, it will be important to evaluate the permanence of the arrangement i.e. whether it is capable of executing the task.

For further guidance on when a fixed establishment of a service receiver would be treated as “location”, please see para 5.3.4.

- 5) **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.
- 6) **Tax Registration:** A procedure according to which the Taxable Person or his Legal Representative registers for Tax purposes at the Authority.

## 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.

Zero Rate supplies are defined in Article 45 which is reproduced in Slide No. 13. The definition is different than definition given in Indian GST.

## Relevant definitions

- 1) **Person:** A natural or legal person.
- 2) **Taxable Person:** Any Person registered or obligated to register for Tax purposes under this Decree-Law.
- 3) **Tax Registration:** A procedure according to which the Taxable Person or his Legal Representative registers for Tax purposes at the Authority.
- 4) **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.

The section 2(17) of the CGST Act defines business is as follows :

(17) “business” includes--

- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
- (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);

- (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
- (f) admission, for a consideration, of persons to any premises;
- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- (h) services provided by a race club by way of totalisator or a licence to book maker in such club ; and
- (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;

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

**6) 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.**

The list of Administrative Penalties given in Decree-Law or Federal Law No. (7) of 2017 on Tax Procedures is reproduced in Slide No. 44 to 50.

# Title Six

## 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.

## Relevant Definition

1) **Export:** Goods departing the State or the provision of Services to a Person whose Place of Establishment or Fixed Establishment is outside the State.

### 2) International Carriage

**Article (1) of the Warsaw Convention for the Unification of Certain Rules Relating to International Carriage by Air 1929.**

This Convention applies to all international carriage of persons, luggage or goods performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.

2. For the purposes of this Convention the expression "international carriage" means any carriage in which, according to the contract made by the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two High Contracting Parties, or within the territory of a single High Contracting Party, if there is an agreed stopping place within a territory subject to the sovereignty, suzerainty, mandate or authority of another Power, even though that Power is not a party to this Convention. A carriage without such an agreed stopping place between territories subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party is not deemed to be international for the purposes of this Convention.

3. A carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage, if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party.

## 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.

### Relevant definitions

- 1) **Government Entities:** Federal and local ministries, government departments, government agencies, authorities and public institutions in the State.
- 2) **Tax Registration:** A procedure according to which the Taxable Person or his Legal Representative registers for Tax purposes at the Authority.
- 3) **Clause (2) of Article (10) of this Decree-Law**
  2. A Cabinet Decision shall be issued at the suggestion of the Minister determining the Government Entities and their activities that are considered as conducted in a Sovereign Capacity and instances where its activities are considered not in competition with the private sector.



## Article (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.

### Relevant definitions

- 1) **Tax Registration:** A procedure according to which the Taxable Person or his Legal Representative registers for Tax purposes at the Authority.
- 2) **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.

**The FAQ issued by Ministry of Finance , UAE under “VAT for businesses” for registration threshold is as follows :**

**2.1 Who can or will be able to register for VAT?**

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

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

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

The manner of Computing is provided in Article 19 – Refer Slide No. 20

## 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**.

### Relevant definitions

- 1) **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.
- 2) **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.
- 3) **Clause (1) & (2) of Article (48) of this Decree-Law - Reverse Charge is as follows :**
  1. If the Taxable Person imports Concerned Goods or Concerned Services for the purposes of his Business, then he shall be treated as making a Taxable Supply to himself, and shall be responsible for all applicable Tax obligations and accounting for Due Tax in respect of these supplies.
  2. As an exception to Clause (1) of this Article, in case the final destination of the Goods when entering the State is another Implementing State, the Taxable Person shall pay the Due Tax on Import of Concerned Goods pursuant to the mechanism specified by the Executive Regulation of this Decree-Law.

## 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.

The definition of taxable supply reproduced in below Slide make it evident that it excludes exempt supply which is defined in Article 46, given in slide 31. The Zero rated supply defined in Article 45 is also taxable supply. Hence in computing limit the turnover of zero rated supply will be included.

#### **Exclusion to the threshold - 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.`

## Relevant definitions

- 1) **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.
- 2) **Services:** Anything that can be supplied other than Goods.
- 3) **Concerned Goods:** Goods that have been imported, and would not be exempt if supplied in the State.
- 4) **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.
- 5) **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.
- 6) **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.
- 7) **Capital Assets:** Business assets designated for long-term use.

## **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.

The Article 17 is reproduced in Slide No. 17

## **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.

# Chapter Two of Federal Law No (7) of 2017 on Tax Procedures

## Tax Obligations

### 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.

# 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.  
The deemed supply is defined in Article (11) – Slide No. 32.
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 (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 (68)**

### **Rounding on Tax Invoices**

For the purpose of stating the Tax due on a Tax Invoice, the Executive Regulation of this Decree-Law shall specify the method of calculation and stating the total amount to be paid if the Tax is less than one fils of a UAE Dirham.

## **Article (69)**

### **Currency Used on Tax Invoices**

If the supply is in a currency other than the UAE Dirham, then for the purposes of the Tax Invoice, the amount stated in the Tax Invoice shall be converted into the UAE Dirham according to the exchange rate approved by the Central Bank at the date of supply.

# Chapter Six

## Tax Credit Notes

### Article (70)

#### Conditions and Requirements for Issuing Tax Credit Note

1. The Registrant shall issue an original **Tax Credit Note** when a reduction of **Output Tax** occurs in relation to any supply made by him according to **Clause (2) of Article (62)** of this Decree-Law and deliver the same to the Recipient of Goods or Recipient of Services.
  
2. When making a Deemed Supply, the Registrant shall issue an original Tax Credit Note when a reduction occurs to the Output Tax in relation to such supply according to **Article (61)** of this Decree-Law and shall keep the same in his records.
  
3. The Executive Regulation of this Decree-Law shall specify the following:
  - a. Basic data that should be included in the Tax Credit Note in instances where the Taxable Person is required to issue this Note.
  - b. The conditions and procedures required for the issuance of an electronic Tax Credit Note.
  - c. Instances where the Registrant is not required to issue and deliver a Tax Credit Note to the Recipient of Goods or the Recipient of Services.
  - d. Instances where other documents may be issued in place of the Tax Credit Note as well as conditions for the issuance of such document and the data to be included therein.
  - e. Instances where another Person may issue a Tax Credit Note on behalf of the registered supplier.

## **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.

#### **Relevant Extract of Article 27 is as follows :**

**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.

**27(1) (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.

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.

## Relevant definitions

- 1) Tax Invoice: A written or electronic document in which the occurrence of a Taxable Supply is recorded with details pertaining to it.
- 2) 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.
- 3) Registrant: The Taxable Person who has been issued with a TRN.
- 4) Recipient of Goods: Person to whom Goods are supplied or imported.
- 5) Recipient of Services: Person to whom Services are supplied or imported.

**8) 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.

## **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.

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

## **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 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**.

The period of filling return is not specified in Article. But it is specified in question number 2.5 of FAQ reproduced in slide no. 37.

**Relevant definitions**

1. **Tax Period:** A specific period of time for which the Payable Tax shall be calculated and paid.
2. **Taxable Person:** Any Person registered or obligated to register for Tax purposes under this Decree-Law.

**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** 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.

**Relevant definitions**

1. **Due Tax:** Tax that is calculated and charged pursuant to this Decree-Law.
2. **Output Tax:** Tax charged on a Taxable Supply and any supply considered as a Taxable Supply.
3. **Payable Tax:** Tax that is due for payment to the Authority.

## **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.

## **Relevant Definition**

- 1) **Tax Return:** Information and data specified for Tax purposes and submitted by a Taxable Person in accordance with a form prepared by the Authority.
- 2) **Authority:** Federal Tax Authority

**The FAQ issued by Ministry of Finance , UAE under “VAT for businesses” for time limit to file VAT Returns is as follows :**

2.5 When are registered businesses required to file VAT returns?

Taxpayers must file VAT returns with the FTA on a regular basis (quarterly or for a shorter period, should the FTA decide so) within 28 days from the end of the tax period in accordance with the procedures specified in the VAT legislation. The Tax returns shall be filed online using eServices.

## 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.

## Relevant definitions

- 1) **Recoverable Tax:** Amounts that were paid and may be returned by the Authority to the Taxpayer pursuant to the provisions of this Decree-Law.
- 2) **Input Tax:** Tax paid by a Person or due from him when Goods or Services are supplied to him, or when conducting an Import.
- 3) **Output Tax:** Tax charged on a Taxable Supply and any supply considered as a Taxable Supply.
- 4) **Payable Tax:** Tax that is due for payment to the Authority.

## 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**.



## Relevant definitions

- 1) **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.
- 2) **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.
- 3) **Services:** Anything that can be supplied other than Goods.
- 4) **Implementing States:** The GCC States that are implementing a Tax law pursuant to an issued legislation.
- 5) **Import:** The arrival of Goods from abroad into the State or receipt of Services from outside the State.
- 6) **Minister:** Minister of Finance
- 7) **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

## 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.

## Relevant definitions

- 1) **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.
- 2) **Penalties Assessment:** A decision issued by the Authority concerning any Administrative Penalties due.
- 3) **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.

## Chapter Two of Federal Law No (7) of 2017 on Tax Procedures

### 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 Four of Federal Law No (7) of 2017 on Tax Procedures

### 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.

THANK YOU

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