

# **UAE VAT**

## **- Things you must know !**

### **CA Pritam Mahure**



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**2nd Edition**

The book is a compilation of VAT related key legal provisions, reports and articles.

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## Value Added Tax (VAT) in UAE

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## About the book and author

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- The Author is thankful to CA Vaishali Kharde, CA Jaishree Kaltari, Sahil Tharani, Harsh Agrawal, Lavesh Solanki, Bhargav Amuru for their assistance for the book.

### About Author



- CA Pritam Mahure works in the field of Indirect Taxes (Service Tax, Excise and Goods and Service Tax) since more than a decade. Pritam has also worked with leading multinational consulting organisations.
- Pritam has authored books on "Service Tax" and "GST" for Bharat Publication, CII and New Book Corp.
- Pritam has authored more than 100 articles in Business Standard, Hindu, Business Line, Economic Times, Deccan Herald, Sakal, Taxmann, Taxindiaonline etc.
- Pritam has addressed more than 100 conferences/seminars and 12,000 professionals on GST and Service Tax for CII, ASSOCHAM, NASSCOM, MCCIA, ICAI, DGST, NACEN, and Government offices.

## VAT Training in India

### UAE VAT - Learnings

#### ABOUT THE EVENT:

Comprehensive training which covers:

- GCC VAT Framework and UAE VAT Law
- Roadmap to UAE legislation
- Technical aspects - Scope, value, taxability, RCM, input tax, place of supply, date / time of supply, free zones under UAE law
- Procedural aspects – Registration; returns, refund and documentation
- Impact on businesses and key sectors
- How to prepare for the upcoming UAE VAT law
- **KEY TAKEAWAYS** : Knowledge on GGC/ UAE VAT; International tax insights; Networking; Panel discussions; Opportunities - job/ consulting/ Information technology

#### TRAINER PROFILE:

##### CA Pritam Mahure

Author of book on UAE VAT law and Indian GST law. Having more than 12 years of experience in the field of Indirect taxes and has trained more than 15,000 professionals on GST/VAT over last years.

##### CA Jigar Doshi

Over 12 years of experience in Indirect Taxes. Leads the Indirect tax practice at the SKP group. Regularly delivers seminars at various trade forums and writes for various journals, including international forums

#### Date - 22 November 2017 (Full day training)

Location : Mumbai, Maharashtra

Investment : INR 6,000 + applicable taxes

Includes - Study material and meals

For registration/ details email – [capritam@gmail.com](mailto:capritam@gmail.com), [info@learnVAT.com](mailto:info@learnVAT.com)

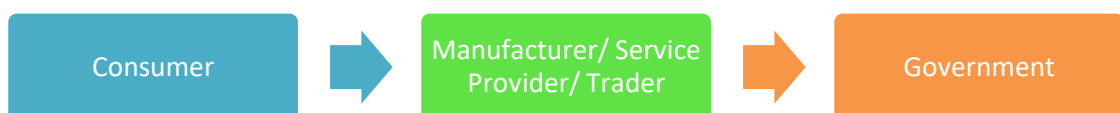
## 1. Basics of indirect taxation

Taxes are typically key source of revenues for Governments across the world. Taxes can be 'direct' taxes or 'indirect' taxes.

**Direct taxes** are the taxes which are levied and collected directly from the person, company, firm etc. When the Government collects money directly from the ultimate person/ consumer, who bears it, then it is called as 'Direct Tax'. Taxes such as Income Tax is examples of direct tax.

**Indirect taxes** are levied and collected from consumers **through** manufacturers, traders or service providers. Herein, the Government collects the taxes through a third person (such as manufacturers, service providers, traders) than the person who bears it ultimately, and thus it is called as 'Indirect Tax'. In legal sense, the responsibility to pay an indirect tax rests with the manufacture/ seller/ service providers though finally the tax is collected from the consumer.

Indirect taxes are levied on activities such as supply of goods and services. Each time goods/ services exchange hands, typically, they are subjected to indirect tax levies and prescribed compliances. The following picture depicts how money is collected by Government indirectly:



From 1<sup>st</sup> January 2018, United Arab Emirates (UAE) and Kingdom of Saudi Arabia (KSA) are proposing to introduce VAT from 1<sup>st</sup> January 2018. Other 4 Countries of GCC are likely to introduce from Mid-2018 and 2019:

1. Bahrain
2. Kuwait
3. Oman
4. Qatar

Given this, it is indispensable to understand VAT if one wishes to take this opportunity to understand what the future landscape offers and how to make most of it.

## 2. Primer on VAT

VAT is abbreviation for Value Added Tax. In few countries, VAT is also known as Goods and Service Tax (GST).

VAT/ GST is a consumption based tax wherein the basic principle is to tax the value addition at the each business stage. To achieve this, tax paid on purchases is allowed as a set off/ credit against liability on output/income.

VAT/ GST is levied on all transaction of goods and services. Thus, in principle, GST should not differentiate between 'goods' and 'services'.

Internationally, VAT/ GST was first introduced in France and now more than 150 countries have introduced GST. Most of the countries, depending on their own socio-economic formation, have introduced National level VAT/ GST or Dual VAT /GST (like India).



### 3. VAT in GCC

There are 6 member States in the Cooperation Council for the Arab States of the Gulf (CCASG) or Gulf Cooperation Council (GCC). Key facts about GCC are:

- GCC was established in May 1981
- GCC population is 55 mn (of which more than 51% are expatriates)
- Combined GDP of GCC is \$ 1,390 bn
- VAT revenue is expected to be around \$ 20 bn

Currencies in GCC are as under:

- United Arab Emirate Dirham (AED)
- Saudi Arabian Riyal (SAR)
- Qatari Riyal (QAR)
- Kuwaiti Dinar (KWD)
- Oman Rial (OMR)
- Bahraini Dinar (BHD)

#### **VAT Agreement**

Dix Member States have signed GCC Unified Agreement on VAT. This agreement is expected to align the VAT laws in GCC, though, GCC States retain their flexibility in VAT laws.

In last one decade, question was being debated in GCC whether reliance should be shifted to non-oil i.e. tax revenues. This question attended prominence after it was being discovered that in years to come revenues from oil and gas may reduce whereas public spending may increase. Thus, to ensure that there is no fiscal deficit, revenue from VAT was explored.

Now, after deliberations in last few years, VAT is proposed to be introduced in GCC at 5%. UAE and KSA are expected to introduce it from 1<sup>st</sup> January 2018 and other States are expected to introduce it till 2019.

A major reason for a reasonable rate of VAT (i.e. 5%) is the fact that till now, GCC countries had large revenue from oil and thus there was no tax in GCC! As per few news reports, VAT is expected to raise approx. \$ 20 billion p.a. for the GCC countries.

## 4. About UAE

UAE is Kingdom/ Monarchy and Sovereign Country. UAE was formed in 1971. UAE is a Federation of 7 Emirates:

- Abu Dhabhi
- Ajman
- Dubai
- Fujairah
- Ras al-Khaimah
- Sharjah
- Umm al-Quwain

UAE's official Religion is Islam and official Language<sup>1</sup> is Arabic. UAE's economy is said to be most diversified in GCC.

UAE's oil reserves are 7<sup>th</sup> largest in the world. UAE's population is approx. 82 lacs and its largest non-residents are Indians.

UAE's Capital is Abu Dhabi and its largest city is Dubai. Dubai is the most populous city, second is Abu Dhabi and followed by Sharjah. Other two key cities are Al Ain and Ajman<sup>2</sup>.

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<sup>1</sup> Other recognized languages, *inter-alia*, are English, Urdu and Hindi.

<sup>2</sup> For more details refer <http://www.worldatlas.com/articles/the-biggest-cities-in-the-united-arab-emirates-uae.html>

## **Supreme Council or Rulers<sup>3</sup>**

Under the UAE system of government, the President of the Federation is elected by a body known as the **Supreme Council of Rulers**. The Supreme Council is the top policy-making body in the UAE, and the President and Vice President are both elected from its membership for renewable five-year terms.

## **His Highness Sheikh Khalifa bin Zayed Al Nahyan<sup>4</sup>**

HH Sheikh Khalifa bin Zayed Al Nahyan, Ruler of Abu Dhabi, was elected as the new **President of the United Arab Emirates** on 3 November 2004, to succeed his father, the late HH Sheikh Zayed bin Sultan Al Nahyan, UAE President from 1971 to 2004, from whom, he has said, he learned “the need for patience and prudence in all things”.

His Highness Sheikh Khalifa bin Zayed Al Nahyan is the second President of the United Arab Emirates (UAE) and the 16th Ruler of the Emirate of Abu Dhabi, the largest of the seven Emirates which comprise the UAE. Born in 1948, in the Eastern Region of Abu Dhabi, Sheikh Khalifa is the eldest son of Sheikh Zayed<sup>5</sup>.

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<sup>3</sup> <https://www.uae-embassy.org/about-uae/about-government>

<sup>4</sup> <https://www.uae-embassy.org/about-uae/about-government/his-highness-sheikh-khalifa-bin-zayed-al-nahyan>

<sup>5</sup> <https://www.cpc.gov.ae/en-us/thepresident/Pages/president.aspx>

## **His Highness Sheikh Mohammed bin Rashid Al Maktoum**

HH Sheikh Mohammed bin Rashid Al Maktoum is the **current ruler of Dubai** and also the Vice President and Prime Minister and the Head of Government of the United Arab Emirates<sup>6</sup>.

## **HH Sheikh Hamdan bin Rashid Al Maktoum**

HH Sheikh Hamdan bin Rashid Al Maktoum is **deputy Ruler** of Dubai and **UAE Minister of Finance and Chairman of FTA**.

## **HE Khalid Ali Al Bustani**

**HE Khalid Ali Al Bustani** (who is also appointed as Under-Secretary at the Ministry) is Director General of FTA. The Director General of the FTA is responsible for managing the Authority's business, and developing policies to achieve its strategic objectives, which include providing the national economy with new income sources to support its sustainable development.

## **About Dubai**

Dubai is a global city and an international aviation hub. It is also a major tourist destination. Dubai is also known for ambitious construction projects like Palm Island and The World.

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<sup>6</sup> <http://mediaoffice.ae/en/public-info/ruler-of-dubai.aspx>

## 5. Five steps to be VAT ready

In United Arab Emirates (UAE), VAT is likely to be reality from 1 January 2018. So, in the following paras, the critical step plan for business to be VAT ready is discussed.

### 1. Decode VAT

It is an accepted fact that VAT is not merely a tax change but a business change as it will impact all functions of an organisation such as finance, product pricing, supply chain, information technology, contracts, commercials etc. Thus, it is imperative that all these functional teams should be aware about the VAT. But the underlying question is what should these team members read/ refer for VAT?

In this regard, its pertinent to note that most of the key aspects of the VAT regime are already in public domain through various such as UAE VAT Law and Tax Procedure Law. Also, many background material to GCC VAT are available in public domain. Even the rates for goods and services (i.e. 5%) is available in public domain. Thus, based on this legal knowledge of VAT available in public domain the organisation may consider sensitising its employees.

The organisation can consider sensitising its entire business eco-system i.e. not only the employees but also vendors (such as Tier-1, Tier-2

vendors etc.) and key customers of the organisation. An early initiation of training will give the concerned employees, vendors and customers a sense of involvement in discussion much before VAT legislation it is put in public domain.

## 2. Understand VAT impact

VAT may provide opportunities but at the same time it could bring threats. Given this, an organisation may consider carrying out an exercise to identify how its operations will get impacted because of VAT. For VAT Impact Analysis exercise, the respective department heads such as finance, supply chain, product pricing, human resource etc. should be involved to ensure that they provide their inputs and suggestions.

Going one step forward, organisations can also identify possible cost savings which key suppliers / vendors could be entitled to in the VAT regime. Based on the possible cost savings to suppliers / vendors, the organisations can have discussion with its vendors for passing of benefits by way of cost reduction in the coming years (i.e. after VAT is introduced). Early discussion and engaging with vendors will ensure maximum possible benefit to be passed on to the organisation.

Organisations will also have to take into consideration the increase (most likely!) or decrease (least likely!) in tax compliances. For most of the organisations, in VAT regime, compliances are expected to increase

dramatically. Thus, in human resource department will have to be informed about the VAT regime so that they can anticipate the increase (and decrease in certain cases) in the manpower.

### **3. Gear up for transition of IT systems**

Information Technology (IT) is a key area for business organisations as irrespective of the fact whether the organisation is ready or not, on the very first day VAT is introduced, the information technology system of an organisation has to be ready and running else it will bring the entire business to standstill.

Thus, to avoid the threat of disruption of business, it is advisable that early study should be carried out to understand how the systems migration for VAT could be done.

### **4. Design Alternate Business Strategies**

To gear up for VAT regime, the organisation may identify alternate efficient business strategies to ensure smooth transition to VAT. Even, supply chain strategies is expected to undergo a major change. An organisation will have to re-visit their pricing strategies as business competitors may well reduce prices of their product to pass on the VAT input tax credit benefits.



However, while forming alternate business strategies, it goes without saying that the organisation should take into consideration the commercial feasibility of alternate business strategies before these strategies are recommended.

## 5. Make Representation

Introduction of VAT regime could affect negatively (than positively!) to few industries/ sectors. VAT can have a tagline 'VAT is a matter of solicitation. Please read all the law documents carefully!' Thus, efforts should be made by the organisation to identify the possible issues for which appropriate representation could be made before the appropriate forums through various trade chambers.

While current economic situation is characterised by volatile global economic conditions, introduction of VAT remains a new challenge, thus early initiation of aforesaid steps can surely help the organisations gain most of the VAT regime.

## 6. Eight things you must know about VAT – Birds eye view

### 1. VAT is payable on supply

As per Article 2, VAT is imposable on every taxable supply and deemed supply made by a taxable person. Further, VAT is also imposable on Import of Concerned Goods except as specified in the Executive Regulation.

Further, certain supplies, specified in Article 11 of VAT Law, even if made **without consideration**, such as use of business assets, on which credit is availed, for purposes other than business will attract VAT.

### 2. Reverse Charge Mechanism

Typically, VAT liability is to be discharged by the supplier of goods/ service or both. However, in specific cases, the liability to pay tax is cast on the recipient of the supply instead of the supplier. This is known as Reverse Charge Mechanism (RCM).

As per Article 48 of VAT Law, inter-alia, in cases where 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. It is also provided at Article 48 that the Executive Regulation shall specify conditions and instances

where RCM applies and additional obligations related to record keeping for Tax calculated according to the RCM.

### 3. VAT payable as per date of supply

The liability to pay VAT will arise at the date of supply as determined in Article 25 and 26 of VAT Law. In this regard, provisions prescribe what will date of supply for goods and services. Article 25 contemplates, 7 scenarios and prescribes that date of supply shall be earliest of them. Similarly, Article 26 (for contractual periodic or consecutive payments etc) contemplates 4 dates of supply prescribes that date of supply shall be earliest of them.

Given that there could be **multiple parameters** in determining 'time' of supply, maintaining reconciliation between revenue as per financials and as per VAT could be a major challenge to meet for businesses.

### 4. Determining Place of Supply could be the key

If as per place of supply, it is determined that supply is made within the UAE then in such case UAE VAT law will be applicable.

Article 27 to 31 deal with place of supply. Separate place of supply are prescribed for goods (Article 27), water and energy (Article 28), services (Article 29), special cases such as events, transport, restaurant, real

estate etc (Article 30) and telecommunication and electronic services (Article 31).

In this regard, the VAT law provides separate provisions which will help in determination of place of supply for goods and services.

Typically, for 'goods' the place of supply would be shall be in the State if the supply was made in the State, and does not include Export from or Import into the State. Whereas for 'services' the place of supply would be **Place of Residence of supplier**. However, VAT Law prescribes multiple scenarios (at Article 27 to 31) wherein this generic principles will not be applicable and specific provisions will determine the place of supply. Thus, businesses will have to scroll through all the place of supply provisions before determining the place of supply.

## 5. Valuation in VAT

Article 34 to 37 deal with valuation. There are separate provisions for value of supply (Article 34), value of import (Article 35), value of supply to related party (Article 36) and value of deemed supply (Article 37). Typically, VAT is payable on the consideration in money.

## 6. Input tax in VAT

Article 54 to 56 deal with input tax. 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, *inter-alia*, making any of the taxable supplies.

Article 54 also provides that the Executive Regulation of this Law shall specify the instances where Input Tax is excepted from being recovered.

## **7. Rate of VAT**

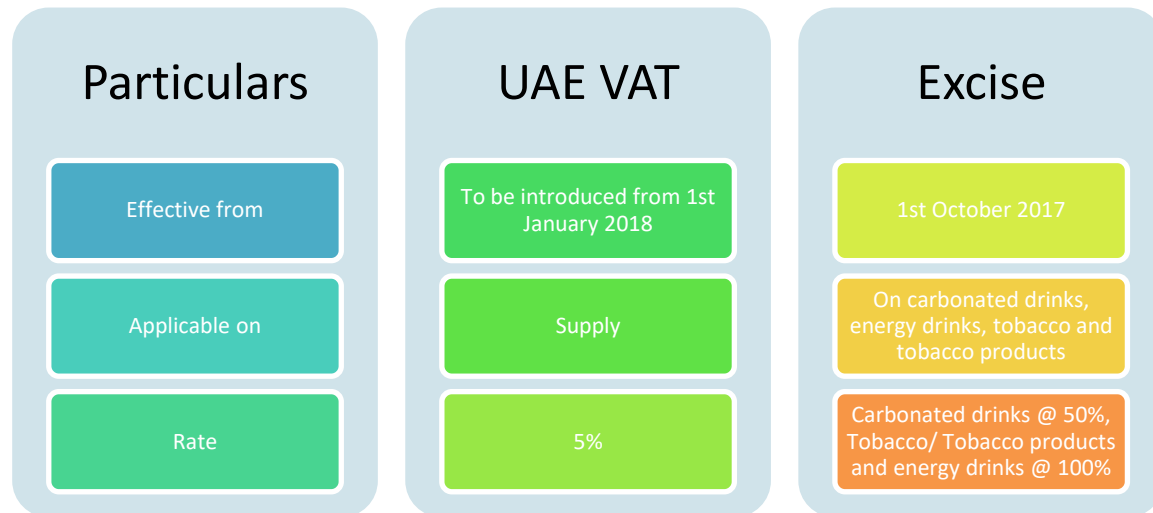
UAE is proposing a VAT @ standard rate of 5%. Single rate of VAT brings simplicity and is existing in countries like Singapore (7%), Japan (5%), New Zealand (12.50%).

## **8. Key procedural provisions**

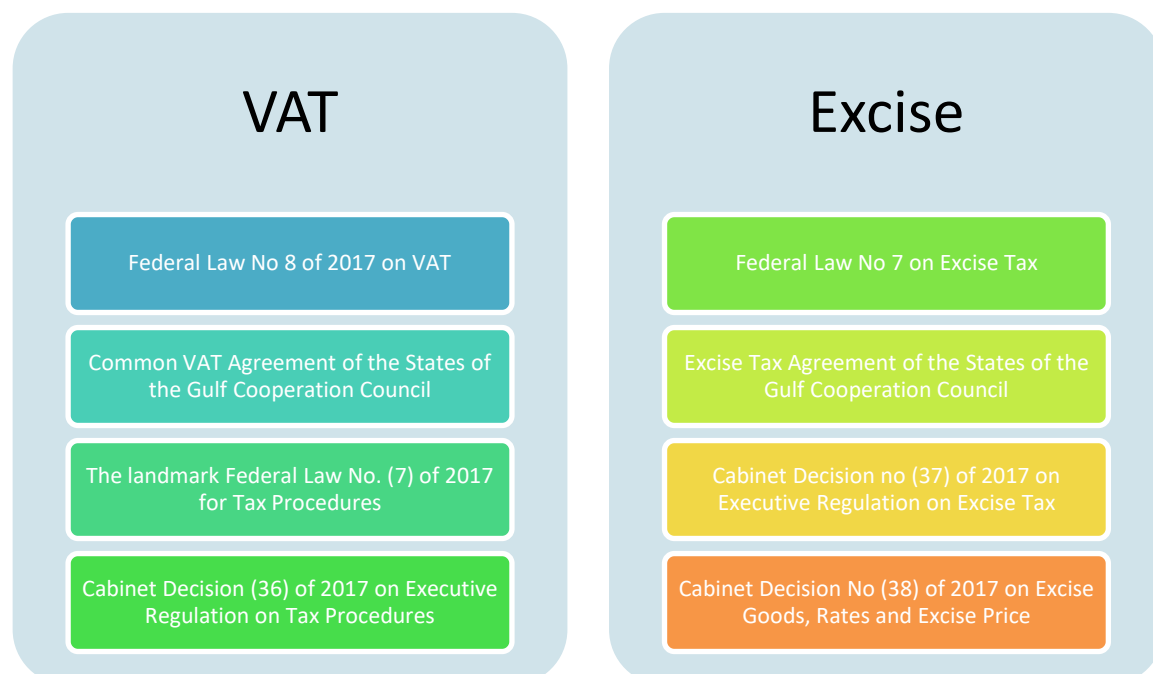
Provisions with respect to refund etc are contained under Tax Procedure Law.

## 7. Legislative Analysis – Birds eye view

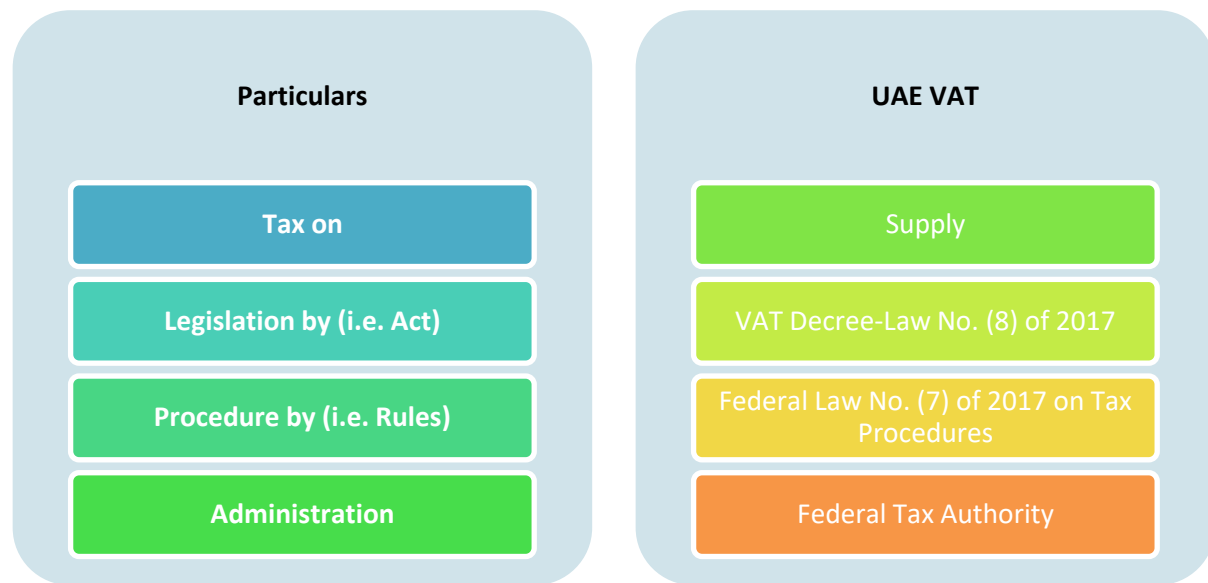
### 7.1 VAT and Excise



### 7.2 VAT and Excise - Laws, Procedures and Cabinet Decisions



## 7.3 Legislative framework for VAT



## 7.4 Legislative framework

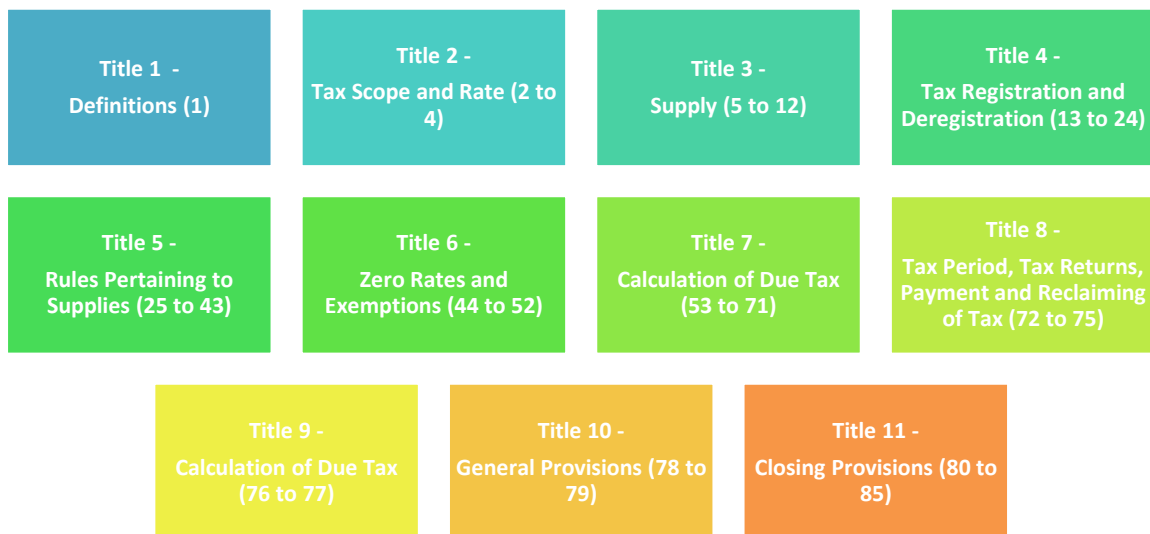
VAT Decree-Law No. (8) of 2017

- 85 Articles

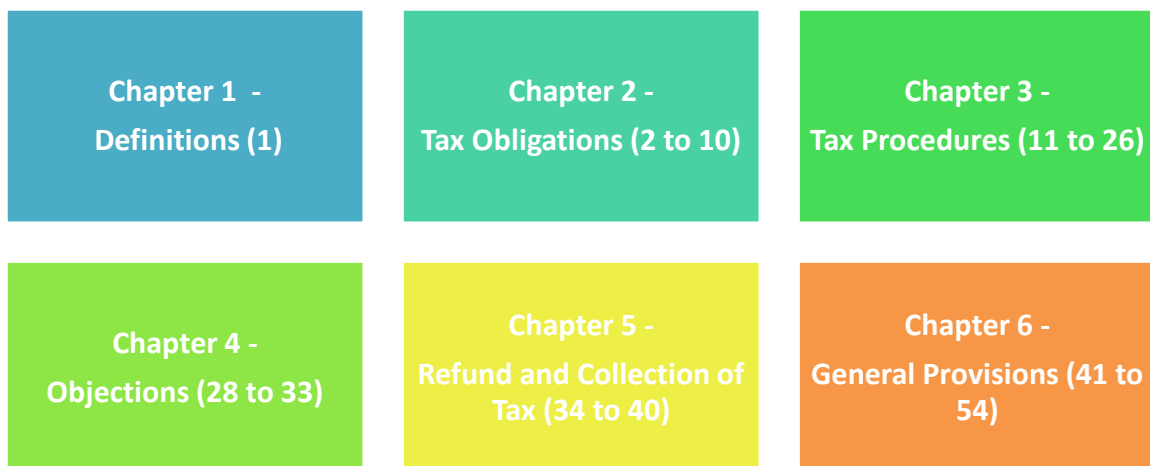
Federal Law No. (7) of 2017 on Tax Procedures

- 54 Articles

## 7.5 Key provisions VAT Decree-Law No. (8) of 2017 (85 Articles)



## 7.6 Key provisions Federal Law No. (7) of 2017 on Tax Procedures (54 Articles)



## 7.7 Arabic and English versions of Act and Procedures

UAE VAT Law is available in Arabic and its un-official translation in English is available at <https://www.mof.gov.ae> It is advisable that english



speaking readers may also refer the Arabic version (as there is possibility of translation changing the meaning of certain terms / phrases).

## 7.8 Key links / websites for UAE VAT and Excise

| Particulars           | Link  |
|-----------------------|---|
| UAE Government        | <a href="https://government.ae/en">https://government.ae/en</a>   |
| Ministry of Finance   | <a href="https://www.mof.gov.ae/Ar/Pages/default.aspx">https://www.mof.gov.ae/Ar/Pages/default.aspx</a>                         |
| Federal Tax Authority | <a href="https://www.tax.gov.ae/ar/index.aspx">https://www.tax.gov.ae/ar/index.aspx</a>   |
| FAQ on VAT            | <a href="https://www.mof.gov.ae/En/budget/Pages/VATQuestions.aspx">https://www.mof.gov.ae/En/budget/Pages/VATQuestions.aspx</a> |
| FAQ on Excise         | <a href="https://www.tax.gov.ae/faq.aspx">https://www.tax.gov.ae/faq.aspx</a>   |

## 8. FAQ on VAT (Issued by Ministry of Finance UAE)

### 8.1 General Questions<sup>7</sup>

#### 1.1 What is Tax?<sup>8</sup>

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

There are many different types of taxes:

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

#### 1.2 What is VAT?

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

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<sup>7</sup> Reproduced from <https://www.mof.gov.ae/En/budget/Pages/VATQuestions.aspx>

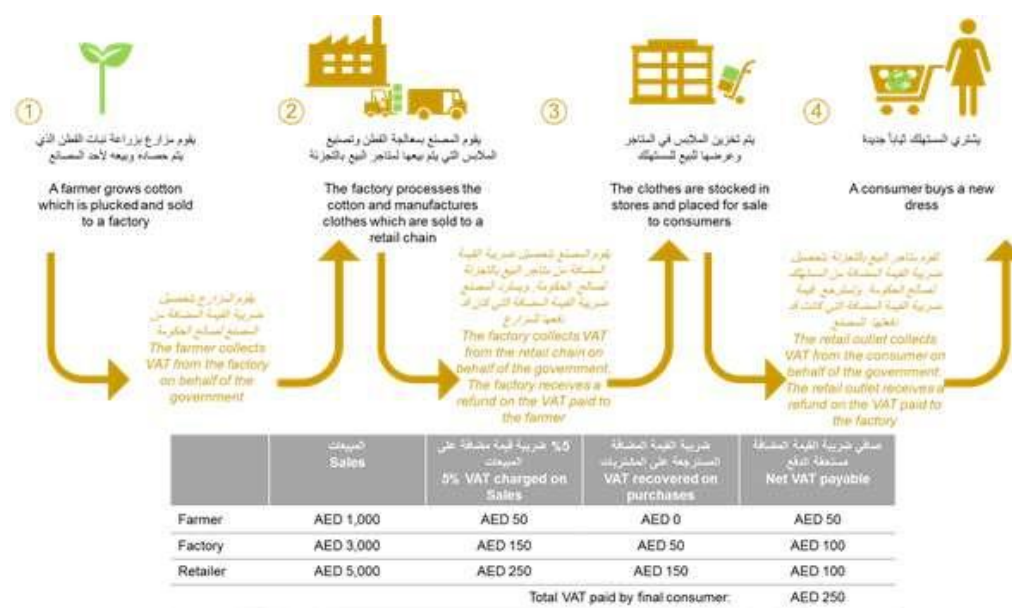
Disclaimer on Mof.gov.ae – 'These responses to FAQs are intentionally simplified. If you are seeking more detailed information we recommend that you wait for further policy announcements by the Ministry of Finance (MoF) or take professional advice in the meantime. We have put next to information that is not in the public domain.'

<sup>8</sup> Author has supplied emphasis, through making **bold** the text, at few FAQs

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

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

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



### **1.3 What is the difference between VAT and Sales Tax?**

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

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

### **1.4 Why is the UAE implementing VAT?**

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

move towards its vision of reducing dependence on oil and other hydrocarbons as a source of revenue.

### **1.5 Why does the UAE need to coordinate VAT implementation with other GCC countries?**

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

### **1.6 When will the VAT go into effect and what will be the rates?**

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

### **1.7 How will the government collect VAT?**

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

### **1.8 Will VAT cover all products and services?**

VAT, as a general consumption tax, will apply to the majority of transactions of goods and services unless specifically exempted or excepted by law.

### **1.9 Will the cost of living increase?**

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

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

VAT is intended to help improve the economic base of the country.

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

### **1.11 How can one object to the decisions of the Authority?**

Any person will be able to object a decision of the Federal Tax Authority.

As a first step, the person shall request the FTA to reconsider its decision.

Such request of re-consideration has to be made within 20 business days from the date the person was notified of the original decision of the FTA, and the FTA will have 20 business days from receipt of such application to provide its revised decision.

If the person is not satisfied with the revised decision of the FTA, it will be able to object to the Tax Disputes Resolution Committee which will be set up for these purposes. Objections to the Committee will need to be submitted within 20 business days from the date the person was notified of the FTA's revised decision, and the person must pay all taxes and penalties subject of objection before objecting to the Committee. The Committee will typically be required to give its decision regarding the objection within 20 business days from its receipt.

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

## **8.2 VAT for Businesses**

### **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 **AED 187,500**.

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

## **2.2 What are the VAT-related responsibilities of businesses?**

All businesses in the UAE will **need to record** their financial transactions and ensure that their financial records are accurate and up to date.

Businesses that meet the minimum annual turnover requirement (as evidenced by their financial records) will be required to register for VAT.

Businesses that do not think that they should be VAT registered should maintain their financial records in any event, in case we need to establish whether they should be registered.

VAT-registered businesses generally:

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

If you're a VAT-registered business you must report the amount of VAT you've charged and the amount of VAT you've paid to the government on



a regular basis. It will be a formal submission and it is likely that the reporting will be made online.

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

### **2.3 What does a business need to do to prepare for VAT?**

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

### **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.

## **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**.

## **2.6 What kind of records are businesses required to maintain, and for how long?**

Businesses will be required to keep records which will enable the Federal Tax Authority to identify the details of the business activities and review transactions. The specifics regarding the documents which will be required and the time period for keeping them will be stated in the relevant legislation.

## **2.7 How long must a taxable person retain VAT invoices for?**

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

## **2.8 How should a business determine the place of supply?**

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

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

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

## **2.9 Can businesses offset customs duty against VAT payments?**

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

## **2.10 How will real estate be treated?**

The VAT treatment of real estate will depend on whether it is a commercial or residential property.

Supplies (including sales or leases) of commercial properties will be taxable at the standard VAT rate (i.e 5%).

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

### **2.11 What sectors will be zero rated?**

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

- **Exports** of goods and services to outside the GCC;
- International transportation, and related supplies;
- Supplies of certain sea, air and land means of transportation (such as aircrafts and ships);
- Certain investment grade precious metals (e.g. gold, silver, of 99% purity);
- Newly constructed residential properties, that are supplied for the first time within 3 years of their construction ;

- Supply of certain education services, and supply of relevant goods and services;
- Supply of certain Healthcare services, and supply of relevant goods and services.

## **2.12 What sectors will be exempt?**

The following categories of supplies will be exempt from VAT:

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

## **2.13 Will there be VAT grouping?**

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

## **2.14 Will there be bad debt relief?**

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

## 2.15 Will there be a margin scheme?

To avoid double taxation where **second hand goods** are acquired by a registered person from an unregistered person for the purpose of **resale**, the VAT-registered person will be able to account for VAT on sales of second hand goods with reference to the **difference between the purchase price of the goods and the selling price** of the goods (that is, the profit margin). The VAT which must be accounted for by the registered person will be included in the profit margin. The legislation will include the details of the conditions to be met in order to apply this mechanism.

## 2.16 How will partial exemption work?

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

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

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

### **2.17 What are the cases that would lead to the imposition of penalties?**

Penalties will be imposed for non-compliance. Examples of actions and omissions that may give rise to penalties include:

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

### **2.18 Will there be any special schemes for SMEs?**

**No special rules** are planned for small or medium sized enterprises.

However, the FTA will provide materials and resources available for these entities to assist them in their enquiries.

### **2.19 Will there be transitional rules?**

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

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

## **2.20 How will insurance be treated?**

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

## **2.21 How will financial services be treated?**

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



## 2.22 How will Islamic finance be treated?

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

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

## 2.23 Can UAE nationals claim VAT?

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

## 2.24 How quickly will refunds be released?

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

## 2.25 Will FTA issue rulings or provide tax advice?

In the course of its interaction with taxpayers, the **FTA may provide its views** on various matters in the law. Taxpayers may choose to challenge

these views. It should be noted that penalties may be imposed on taxpayers who are found to violate any tax laws and regulations.

## **2.26 Will it be possible to issue cash receipts instead of VAT invoices?**

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

## **2.27 Will there be any VAT that businesses are not allowed to claim?**

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

## **2.28 Under which conditions will businesses be allowed to claim VAT incurred on expenses?**

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

- The business must be a **taxable person** (the end consumer cannot claim any input tax refund).

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

## **2.29 Will non-residents be required to register for VAT?**

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

## **2.30 Will VAT be paid on imports?**

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

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

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

### **2.31 How will Government Entities be treated for VAT purposes?**

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

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

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

## **2.32 Will Businesses have to report on their business in each of the Emirates?**

It is expected that businesses will need to complete additional information on their VAT returns to report **revenues earned in each Emirate**.

Guidance will be provided to businesses with regards to this.

It is expected that the rules will be relatively straightforward for most businesses and will be based, for example, for B2C transactions, on the location of the transaction (e.g. in a retail environment, the location of the shop).

## **2.33 Will the goods exempt from customs duties also be exempt from VAT?**

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

## **8.3 VAT for Tourists and Visitors**

### **3.1 Will tourists also pay VAT?**

Yes, tourists are a significant source of revenue for the UAE and will pay VAT at the point of sale. Nevertheless, we have set the VAT rate deliberately low so that VAT is a limited burden on all consumers.

### **3.2 Will visiting businesses be able to reclaim VAT?**

It is intended that we will allow foreign businesses to recover the VAT they incur when visiting the UAE. This is important as it encourages them

to do business and also, because a lot of other countries have VAT systems, it protects the ability of UAE businesses to recover VAT when visiting other countries (where the rates are a lot higher).

## **8.4 UAE VAT Frequently Asked Questions (FAQs)**

### **4.1 How can someone access UAE Tax Law?**

Tax Laws and the related Executive Regulations will be published as soon as issued<sup>9</sup>.

## **8.5 Other Questions**

### **5.1 What other taxes is the UAE considering?**

As per global best practice, the UAE is exploring other tax options as well. However, these are still being analysed and it is unlikely that they will be introduced in the near future. The UAE is not currently considering personal income taxes, however.

### **5.2 Will this impact economic growth of the UAE?**

Our analysis suggests that it will help the country strengthen its economy by diversifying revenues away from oil and will allow us to fund many public services. This is a sign of a maturing economy.

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<sup>9</sup> VAT Law is available <https://www.mof.gov.ae/En/lawsAndPolitics/govLaws/Pages/VAT-law.aspx>

### **5.3 Where can I learn more about the UAE's plan to implement VAT?**

The government has launched an awareness and education campaigns to educate UAE residents, businesses, and other impacted groups. Our aim is to help everyone understand what VAT is, how it works, and what businesses will need to do to comply with the law.

As part of its awareness campaign, the Ministry of Finance has launched the first phase of the awareness sessions during the period from March till May 2017. These sessions were held in the different Emirates.

We will also set up a website where you can find information to understand the new tax in detail.

A telephone hotline has been set up so that you can call and speak to one of our employees directly on 600599994.

### **5.4 Changing my business systems for VAT reporting will cost money. Can the government help?**

When VAT is introduced, the government will provide information and education to businesses to help them make the transition. The government will not pay for businesses to buy new technologies or hire tax specialists and accountants. That is the responsibility of each business. We will, however, provide guidance and information to assist you and we are giving businesses time to prepare.

## **5.5 What are the penalties for not complying with a business's VAT responsibilities?**

Everyone is urged to fully comply with their VAT responsibilities. The government is currently in the process of defining the exact fees and penalties for non-compliance.

Administrative penalties for violations will be decided by Cabinet and announced after issuance. There will be further penalties decided by Courts in the case of tax evasion.



## 9. Brief note on Excise Tax

### 9.1 Getting Ready for Excise Tax<sup>10</sup>

It is important to understand any potential obligations you or your business may have under the UAE Excise Tax Law. The FTA is committed to providing extensive support and guidance to assist with this, however the responsibility lies with the business to make sure that any required compliance obligations are fulfilled. The FTA does have the power to conduct audits on taxable persons and subsequently impose penal measures on those that are not compliant with the law.

Excise Tax will be introduced across the UAE in the fourth quarter of 2017. The rates to be applied in the UAE will be:

- 50% for carbonated drinks
- 100% for tobacco products
- 100% for energy drinks

These goods are referred to as “excise goods”. When considering whether a product is an excise good, the following definitions apply:

- Carbonated drinks include any aerated beverage except for unflavoured aerated water. Also considered to be carbonated drinks are any concentrations, powder, gel, or extracts intended to be made into an aerated beverage

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<sup>10</sup> <https://www.tax.gov.ae/getting-ready-for-excise.aspx>

- Energy drinks include any beverages which are marketed, or sold as an energy drink, and containing stimulant substances that provide mental and physical stimulation, which includes without limitation: caffeine, taurine, ginseng and guarana. This also includes any substance that has an identical or similar effect as the aforementioned substances. Also considered to be energy drinks are any concentrations, powder, gel or extracts intended to be made into an energy enhancing drink.
- Tobacco and tobacco products include all items listed within Schedule 24 of the GCC Common Customs Tariff.

## **9.2 Registering for Excise Tax<sup>11</sup>**

Excise tax is the responsibility of any person engaged in:

- the import of excise goods into the UAE
- the production of excise goods where they are released for consumption in the UAE
- the stockpiling of excise goods in the UAE in certain cases
- anyone who is responsible for overseeing an excise warehouse or designated zone i.e. a warehouse keeper

A stockpiler is a person or business that holds a stock of excise goods for business purposes and cannot prove that excise tax has previously been paid on those goods. If a business is not considered to be a stockpiler, it

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<sup>11</sup> <https://www.tax.gov.ae/registering-for-excise.aspx>

will not need to account for excise tax on goods owned after the introduction of the tax that were purchased before the introduction of excise tax. The excise tax executive regulations will contain further details of the circumstances in which you would be considered to be a stockpiler. There is no registration threshold for excise tax, therefore any person who has the intention to be involved in any of the activities listed above must register prior to the date of introduction and account for excise tax.

### **9.3 FAQ on Excise<sup>12</sup>**

#### **When will excise tax be effective from in the UAE?**

Federal Decree-Law No. (7) of 2017 on Excise Tax has been issued and states that it comes into effect on 1 October 2017.

#### **When will affected businesses be able to register to file excise tax returns and pay excise tax?**

Businesses required to register for excise tax will need to apply to the FTA via an online system. Registrations for excise tax will open mid-September 2017.

#### **Which goods will be subject to excise tax in the UAE?**

The following goods will be subject to excise tax in the UAE at the following rates of tax:

- Carbonated drinks – 50%
- Energy drinks – 100%
- Tobacco – 100%

#### **What value will excise tax apply to?**

Excise tax will be applied to the retail selling price of the goods, at the rate applicable to the excise good in question e.g. excise tax will apply at a rate of 100% to the retail selling price of tobacco products.

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<sup>12</sup> <https://www.tax.gov.ae/faq.aspx>

Details on identification of retail selling price will be issued in due course.

### **Who will be required to register for excise tax purposes?**

The following groups will be required to register for excise tax:

- Producers of excise goods.
- Importers of excise goods.
- Stockpilers of excise goods.
- Warehouse keepers responsible for excise goods.

Businesses that are required to pay excise tax will need to do the following:

- Register with the FTA;
- Submit excise tax returns on a monthly basis; and
- Pay the excise tax due on the same date as submitting a tax return.

### **What is a stockpiler?**

A stockpiler is a person or business that holds a stock of excise goods for business purposes and cannot prove that excise tax has previously been paid on those goods.

If a business is not considered to be a stockpiler, it will not need to account for excise tax on goods owned after the introduction of the tax that were purchased before the introduction of excise tax.

### **When is excise tax due?**

Excise tax is a tax on certain goods that are intended for consumption in the UAE. Tax is due when goods are 'released for consumption' i.e. when they enter free circulation in the UAE.

Excise tax is due when:

- Excise goods are imported into the UAE;
- Excise goods are released for consumption in the UAE (e.g. manufactured and released from a designated zone/excise warehouse etc); or
- Excise goods are acquired by a stockpiler, where tax has not previously been paid on those goods.

Excise tax is not a transaction-based tax, which means that goods do not need to be sold in order for the tax to be due.

### **What is a designated zone/excise warehouse?**

A designated zone is the term used in the UAE to describe a specified area that is considered outside the UAE for excise tax purposes. It is also common for such areas to be referred to as excise warehouses in excise tax jurisdictions. If excise goods are imported and immediately placed within a designated zone without being in free circulation, they will not be treated as imported into the UAE for the purposes of excise tax. Tax is not due on the excise goods until the point they leave the designated zone and enter free circulation in the UAE.

For an area to be treated as a designated zone, it must be officially registered and approved by the FTA and a warehouse keeper must be appointed as responsible over the designated zone.

### **Which areas can be registered as a designated zone/excise warehouse?**

For an area to be treated as a designated zone it must be officially registered and approved by the FTA.

In theory, any area may be approved as a designated zone. The approval process will involve specifying the location and boundaries of the designated zone. The FTA may also specify that a certain level of security should be imposed, or that certain conditions should be maintained to protect the integrity of the excise goods stored in the zone.

A warehouse keeper must also register for tax and be appointed as being responsible for the designated zone. A producer, importer or stockpiler is able to register its own warehouse as a designated zone. A producer, importer or stockpiler can also be appointed as warehouse keeper for that designated zone. A warehouse keeper is responsible for maintaining any conditions imposed by the FTA on the operation of the designated zone.

A warehouse keeper is also jointly and severally liable for the tax liability of the excise goods stored in its designated zone. If a producer, importer

or stockpiler does not account for excise tax on removal of the goods from a designated zone, then the warehouse keeper will be jointly responsible for payment of the tax due.

### **Will refunds of excise tax be available?**

Unlike VAT, excise tax is paid once in the supply chain and businesses that have purchased excise goods cannot obtain a refund of the excise tax paid on those goods.

There are a limited number of cases where a refund of excise tax will be available. Those cases are:

- When excise tax has been paid on an excise good, which is then produced in to a 'new' excise good, on which excise tax is again due;
- When excise tax has been paid on an excise good that is then exported outside the UAE; or
- When amounts have been paid to the FTA in error.

In the above cases, a business registered for excise tax will be entitled to a refund of the excise tax paid. The refund will be granted by allowing a deduction of the refundable amount from the tax due in the next excise tax return period.

There are also a limited number of cases where refunds will be available to people who are not registered for excise tax. Those cases are:



- Where excise tax has been paid by certain international governments, diplomatic missions and international organisations in the course of their official activities, where a reciprocal agreement is in place between the UAE and the entity's home country; and
- Where excise tax has been paid in the UAE by a person who is registered for excise tax in another GCC country that is implementing excise tax and who has then exported the excise goods out of the UAE and paid excise tax in that other GCC country.
- A refund request form will be available on the FTA website that can be used to request refunds.

### **Will excise tax be payable by travellers entering the UAE?**

Travellers entering the UAE with excise goods for non-business purposes will not be required to register as an importer of excise goods.

Travellers may need to pay the excise tax due on the goods depending on the value of the goods being imported. Where the value of the goods is below the threshold for exemption from Customs Duty as per the Customs Laws, no excise tax is due.

Where the value of excise goods exceeds the value of the exemption for Customs Duty purposes, then excise tax will be due on the total value of the goods.

Physical payment of excise tax will be required before or at the time of import. Further details on the channels that will be available for travellers or non-registered persons to pay the excise tax liability will be released in due course.

**Will retailers holding a stock of excise goods at the date the excise tax law comes into effect be required to register and pay excise tax on the goods on hand?**

Generally, retailers are not expected to register for excise tax because they are not expected to be importers or producers of excise goods.

Retailers will only need to register for excise tax if they are: a) Producers of Excise Goods in the State; where that production is in the course of doing business. b) Importers of Excise Goods. c) Warehouse Keepers of a Designated Zone. d) Stockpilers of Excise Goods in the State, where that Stockpiling is in the course of doing business.

After the law comes in to effect, it is expected that in most cases, retailers will purchase excise goods that are already in free circulation. These goods will already have had excise tax applied and paid.

**What if excise goods are unsold for a period after being released for consumption? Can payment of excise tax be delayed until the goods are sold?**

Excise is not a transaction based tax; it is due at the point the goods are released for consumption in the UAE, regardless of whether they will remain unsold.

### **Will there be bad debt relief for excise goods?**

Excise is not a transaction based tax so no relief will be available for suppliers that have sold excise goods to a customer and have not received payment from that customer. Excise tax is due based on the date the goods are released for consumption (i.e. enter free circulation) in the UAE, regardless of whether they are subject to an onward sale.

### **Will excise tax apply to goods released for consumption in a freezone?**

Goods released for consumption in a freezone will be subject to excise tax. This includes any freezone that may also be registered as a designated zone. If goods are held out for retail sale, or intended for consumption within a freezone, excise tax will need to be paid by the importer or producer that 'released' the goods.

### **Will samples be subject to excise tax?**

Samples of excise goods that are given away for free will also be subject to excise tax. Excise tax is not a transaction based tax so tax is due on the goods when they are released for consumption (i.e. enter free

circulation) in the UAE, regardless of whether or not they are intended for sale

## 10. UAE VAT Law

**Author's comments:** UAE VAT Act contains eleven Chapters and 85 Articles. Further, there is separate law on Tax Procedures. Also, there are expected to be separate Executive Regulations.

### <sup>13</sup>**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;

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<sup>13</sup> The Legal text is an unofficial translation of UAE VAT as reproduced from official website of UAE <https://www.mof.gov.ae/En/lawsAndPolitics/govLaws/Pages/CommonExciseTaxAgreement.aspx> We have provided our comments in **light blue** colour at key Articles

- 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

**Author's comments :** There are 57 terms defined in this Article.

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

**Author's comments :** Federal Decree-Law No. (8) of 2017 on Value Added Tax i.e. VAT Act will be applicable in UAE.

**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.

**Author's comments :** In UAE, the law will be known as VAT.

VAT will be imposed on:

- a. Import
- b. Supply of goods or services at each stage of production and

distribution

c. Including the deemed Supply

The term 'import' is defined at Article 1 to mean '*The arrival of Goods from abroad into the State or receipt of Services from outside the State*'.

What is 'supply of goods' and 'supply of services' etc is covered through Article 5 to 10. Scenarios of 'deemed supply' is covered under Article 11.

**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.

**Author's comments :** There are 6 members State in the Cooperation Council for the Arab States of the Gulf (CCASG) or Gulf Cooperation Council (GCC) i.e. United Arab Emirates, Kingdom of Saudi Arabia (KSA), Bahrain, Kuwait, Oman and Qatar. These members have signed GCC Unified Agreement on VAT. This agreement is expected to align the VAT laws in GCC though GCC State retain their flexibility in VAT laws.

**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.



**Author's comments :** Goods are defined as:

- a. Physical property that can be supplied
- b. Including real estate, water, and all forms of energy as specified in the Executive Regulation of this Decree-Law

Thus, physical property such as say TV, phone etc will qualify as goods.

Additionally, goods include even real estate, water and all forms of energy as specified in Executive Regulation.

**Services:** Anything that can be supplied other than Goods.

**Author's comments :** Services are defined as anything other than goods. This is a very wide definition and eventually cover everything that does not qualify as goods.

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

**Author's comments:** Import is defined as arrival of goods from abroad 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.

**Author's comments:** The definition of 'concerned goods' is relevant from the perspective of reverse charge (Article 48) as well as for turnover for registration threshold under Article 19.

**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.

**Author's comments :** The definition of 'concerned services' is relevant from the perspective of reverse charge (Article 48).

**Person:** A natural or legal person.

**Taxable Person:** Any Person registered or obligated to register for Tax purposes under this Decree-Law.

**Author's comments :** Tax is imposed on supply made by 'taxable person' (Article 2) and responsibility to pay VAT is, *inter-alia*, cast on 'taxable person' (Article 4).

**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.

**Author's comments :** The term 'recipient of goods' is relevant for date of supply (Article 25), place of supply (Article 27), reverse charge (Article

48) etc.

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

**Author's comments :** The term 'recipient of services' is relevant for date of supply (Article 25), place of supply (Article 27), reverse charge (Article 48) etc.

**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.

**Author's comments :** The responsibility to pay VAT in respect of concerned goods is cast on 'importer' (Article 4).

**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.

**Author's comments :** The term 'taxable trader' is relevant for place of supply (Article 28).

**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.

**Author's comments :** As per Article 1, a taxable supply is a supply of goods or services for a 'consideration' while conducting Business in the State. Further, Article 34 which deals with valuation refer to consideration. Thus, effectively VAT is payable on consideration.

**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.

**Author's comments :** As per Article 1, a taxable supply is a supply of goods or services for a consideration while conducting 'Business' in the State. Further, for 'place of establishment' and 'fixed establishment' the term 'business' is relevant.

**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.

**Author's comments :** Exempt supply would mean supply on which no tax is due and no input tax credit is available. Taxable supply is defined to exclude exempt supply.

**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.

**Author's comments :** The term taxable supply is important as VAT is imposed on 'taxable supply' and is defined as:

- a. Supply of goods or services
- b. For a consideration
- c. By a person conducting business in the State
- d. 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.

**Author's comments :** What qualifies as a 'deemed supply' is covered under Article 11 and there are four scenarios of deemed supply covered therein such as use of business asset for non-business purposes etc.

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

**Author's comments :** The provisions pertaining to input tax are covered under Article 52 to 56.

**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.

**Author's comments :** Article 32 deals with Place of Establishment.

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

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

**Non-Resident:** Any person who does not own a Place of Establishment or Fixed Establishment in the State and usually does not reside in the State.

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

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

**Designated Zone:** Any area specified by a Cabinet Decision issued at the suggestion of the Minister, as a Designated Zone for the purpose of this Decree-Law.

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

**Author's comments :** It can be observed that the term 'export' specifies criteria for export as under:

- a. For goods: Goods departing the State or
- b. For services: Provision of Services to a person whose place of establishment or fixed establishment is outside the State.

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.

**Voucher:** Any instrument that gives the right to receive Goods or Services against the value stated thereon or the right to receive a



discount on the price of the Goods or Services. Vouchers do not include postage stamps issued by the Emirates Post Group.

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

**Capital Assets:** Business assets designated for long-term use.

**Capital Assets Scheme:** A scheme whereby the initially recovered Input Tax is adjusted based on the actual use during a specific period.

**Administrative Penalties:** Amounts imposed upon a Person by the Authority for breaching the provisions of this Decree-Law or Federal Law No. (7) of 2017 on Tax Procedures.

**Administrative Penalties Assessment:** A decision issued by the Authority concerning to Administrative Penalties due.

**Excise Tax:** A tax imposed on specific Goods.

**Tax Group:** Two or more Persons registered with the Authority for Tax purposes as a single taxable person in accordance with the provisions of this Decree-Law.

## **Title Two**

### **Tax Scope and Rate**

#### **Article (2) Scope of Tax**

Tax shall be imposed on:

1. Every Taxable Supply and Deemed Supply made by the Taxable Person.

## 2. Import of Concerned Goods except as specified in the Executive Regulation of this Decree-Law.

**Author's comments :** This Article deals with scope of VAT. It states that VAT will be imposed on:

- a. Every **Taxable Supply** [defined at 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*'] and **Deemed Supply** [defined at Article 1 as '*Anything considered as a supply and treated as a Taxable Supply according to the instances stipulated in this Decree-Law*'] made by the **Taxable Person** [defined at Article 1 as '*Any Person registered or obligated to register for Tax purposes under this Decree-Law*'].
- b. **Import** [defined at Article 1 as '*The arrival of Goods from abroad into the State or receipt of Services from outside the State*'] of **Concerned Goods** [defined at Article 1 as '*Goods that have been imported, and would not be exempt if supplied in the State*'] except as specified in the *Executive Regulation of this Decree-Law*]

It can be observed that VAT is imposed on taxable and deemed supply made by the taxable person. Further, import of concerned goods also qualifies as taxable supply.

### **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.

**Author's comments:** This Article is '*Without prejudice to the provisions of Title Six of this Decree-Law*'. Title Six deals with zero rates and exemptions.

Article 3 provides that a standard rate of 5% is imposable on the value of any supply or import. It can be observed that VAT is proposed at standard rate of 5%. As compared to countries such as India, UK and even EU, where VAT/GST rate is approx. more than 18%, the proposed VAT rate in UAE is much lesser.

A major reason for such reasonable rate of VAT is the fact that till now, GCC countries have large revenue from oil and thus there was no tax in GCC! However, in last one decade, question was being debated in GCC whether reliance should be shifted to non-oil i.e. tax revenues. This question attended prominence after it was being discovered that in years to come revenues from oil and gas may reduce whereas public spending may increase. Thus, to ensure that there is no fiscal deficit, revenue from taxation was explored.

Herein, the most critical thing that went in favour of GCC countries was that there were no taxes itself so there was no question of removal of existing taxes (such as in India multiple taxes had to be replaced).

## **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.

**Author's comments :** This article provides that the responsibility to pay tax shall be of the taxable person who makes the supply. In case of imports the responsibility is cast on importer. Further, responsibility is cast on the Registrants who acquires goods as stated in 48 (3) [which deals with RCM].

## **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.

**Author's comments :** VAT is imposed on supply of goods. In this regard, this article provides what shall be considered as supply of goods. The Article states that transfer of ownership in goods or the right to use them will qualify as supply of goods. Further, entering into a contract for that the responsibility to pay tax transfer of goods at a later time will also qualify as supply.

## **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.

**Author's comments:** VAT is imposed on supply of services. In this regard, this article provides that every supply that is not considered a supply of goods, including any provision of services shall be considered as supply of services. It may be noted that the term 'supply of services' is defined in exclusion of the term 'supply of services' and thus the definition is very wide.

## 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.

**Author's comments:** Article 7 states following shall not be considered as supply of goods or services:

1. The sale or issuance of any Voucher unless the received Consideration exceeds its advertised monetary value
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.

**Author's comments:** In certain cases, goods and services are supplied together with one another. For example transportation of goods services

with sale of say LED TV. In this regard, Article 8 states that the Executive Regulation 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.

**Author's comments:** Article 9 states that supply of goods and services through an agent acting in the name and **on behalf of** principle will be considered as supply by the **principle**. Further, supply of goods and services through an agent acting in his name will be considered as supply by the **agent**.

### **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.

**Author's comments:** Article 10 states that a Government entity will be considered as making supply in the course of business in two scenarios i.e. if the activities are conducted in non-sovereign capacity or in competition with private sector. Its is also stated that Cabinet Decision shall be issued to clarify more on this aspect.

## 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**.

**Author's comments:** Article 11 provides four scenarios which will qualify as deemed supply such as use of business asset for non-business purposes.

### **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.

**Author's comments:** Article 12 provides exception to deemed supply to state that scenarios such as exempt supply or in cases where input tax credit is not availed. Similarly, sample or commercial gifts below threshold or where input tax is adjusted in pursuant to Capital Asset Scheme.

## **Title Four**

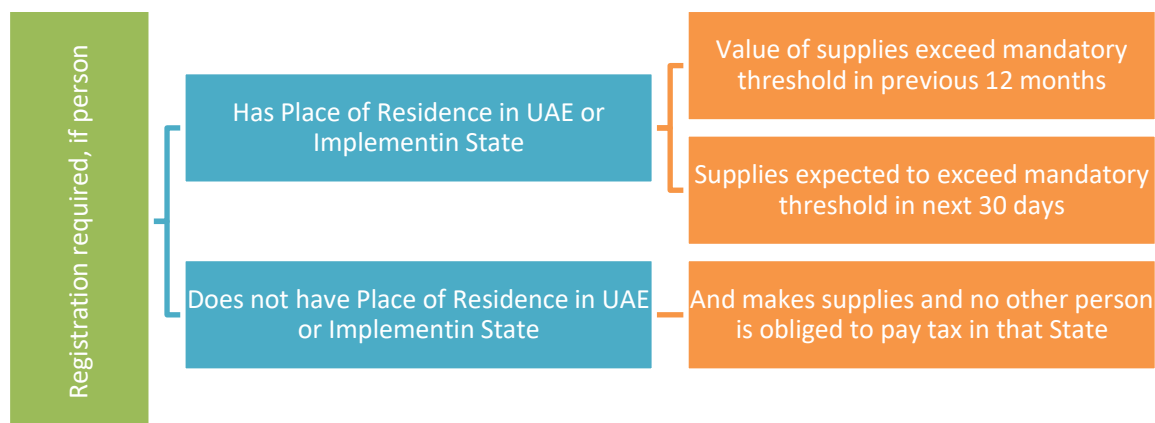
### **Tax Registration and Deregistration**

#### **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.

**Author's comments:** Article 13 provides as under:



### **Registration in the VAT system<sup>14</sup>**

*Any actions that exceed the mandatory or voluntary registration threshold will be either binding or able to register for VAT purposes.*

*The definition of business covers most types of activities, including any activity that is practiced regularly or continuously, such as industrial, commercial, artisanal or professional activity, etc.*

<sup>14</sup> Reproduced from <https://www.tax.gov.ae/ar/registering-for-vat.aspx>

### **Mandatory registration**

*Businesses must register if:*

- *The total value of taxable supplies you performed exceeded the mandatory registration limit over the past 12 months, or*
- *You expect the value of taxable supplies to exceed the mandatory registration limit within the next 30 days.*
- *The mandatory registration limit is AED 375,000.*

### **Voluntary Registration**

*Businesses may apply for registration if they do not meet the mandatory registration requirements if:*

- *The total value of taxable or taxable expenditures over the past 12 months exceeds the voluntary registration limit, or*
- *You expect the value of taxable or taxable expenses to exceed the voluntary enrollment limit within the next 30 days.*
- *The voluntary registration limit is AED 187,500.*

### **Definition of taxable supplies:**

*To determine whether a business is required to register, taxable supplies include the supply of 5% or 0% of taxable goods or services carried out in the United Arab Emirates. The value of imports shall also be taken into consideration if such goods or services are subject to the supply of goods or services in the State.*

## Phase wise registration

FTA has stated that the businesses must apply for VAT registration as per the following due dates:

| Turnover  | Apply before                         |
|---|--------------------------------------|
| More than AED 150m  | 31 <sup>st</sup> October 2017        |
| More than AED 10m   | 30 <sup>th</sup> November 2017       |
| All other businesses (with expected turnover more than AED 375,000) | Before 4 <sup>th</sup> December 2017 |

## 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:

- Each shall have a Place of Establishment or Fixed Establishment **in the State**.
- The relevant persons shall be **Related** Parties.
- 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.

**Author's comments:** The VAT laws oblige each company to independently comply with VAT compliances, payments and returns though it may be owned by the same group. Hence, to ease the VAT related compliances and also administrations of VAT, many countries have introduced the concept of 'VAT group' in their VAT legislations.

The concept of 'VAT Groups' is like this. Authorities, on satisfaction of certain conditions, grants permission to closely held companies to form a 'VAT group' and allows an 'identified member' of this 'VAT group' to take up the responsibility to comply with VAT formalities.

When a 'VAT Group' is formed the output VAT is paid by the 'representative member' and not by the member who makes the taxable supply. Similarly the input credit is available to the 'representative member' rather than the company which acquire the taxable input. Only the representative member files the return. Interestingly, intergroup transactions are not liable to VAT except in certain exceptional cases.

The concept of 'VAT Group' is prevalent in UK, Australia, New Zealand, Singapore etc. However, many countries such as Canada, Brazil, China, France, have refrained from introducing this concept in their VAT regime.

### **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.

**Author's comments:** Article 15 provides that Authority may permit a Taxable Person to not to obtain Tax Registration, upon his request, if his supplies are only subject to the zero rate.

## **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.

**Author's comments:** Specified Government entities are expected to obtain registration if so determined by Cabinet Decision.

## **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.

**Author's comments:** This Article provides an alternate mechanism wherein a taxable person may apply for registration i.e. in cases where supplies or expenses have exceeded voluntary threshold in previous 12 months or will exceed in next 30 days.

### **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.

**Author's comments:** Non-resident is not required to obtain registration if calculation of tax is responsibility of importer.

### **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.

**Author's comments:** This Article states what needs to be taken into consideration to compute the voluntary 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.

**Author's comments:** This Article states what need not be taken into consideration to compute the voluntary threshold i.e. supply of capital goods.

### **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.

**Author's comments:** This Article states that taxpayer can apply for deregistration where business is stopped or value in 12 months is less than threshold.

### **Article (22) Application for Tax De-Registration**

A Registrant may apply to the Authority for Tax Deregistration if the value of his Taxable Supplies during the past (12) months was **less than** the Mandatory Registration **Threshold**.

### **Article (23) Voluntary Tax De-registration**

A Registrant under Article (17) may **not apply** for Tax Deregistration **within (12) months** of the date of Tax Registration.

### **Article (24) Procedures, Controls and Conditions of Tax Registration and De-registration**

The Executive Regulation of this Decree-Law shall determine the procedures, controls and conditions for Tax Registration, Tax deregistration and rejection of applications for Tax Registration and Deregistration as stipulated in this Title.

## **Title Five**

### **Rules Pertaining to Supplies**

#### **Chapter One**

#### **Date of Supply**

## **Article (25) Date of Supply**

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

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

**Author's comments:** The liability to pay VAT will arise at the date of supply as determined in Article 25 and 26 of VAT Law. In this regard, provisions prescribe what will date of supply for goods and services. Article 25 contemplates, seven scenarios and prescribes that date of supply shall be earliest of them. Similarly, Article 26 (for contractual

periodic or consecutive payments etc) contemplates 4 dates of supply prescribes that date of supply shall be earliest of them.

Given that there could be **multiple parameters** in determining 'time' of supply, maintaining reconciliation between revenue as per financials and as per VAT could be a major challenge to meet for businesses.

### **Article (26) Date of Supply in Special Cases**

1. The date of supply of Goods or Services for any **contract** that includes periodic payments or consecutive invoices is the earliest of any of the following dates, provided that it does not exceed one year from the date of the provision of such Goods and Services:
  - a. The date of issuance of any Tax Invoice.
  - b. The date payment is due as shown on the Tax Invoice.
  - c. The date of receipt of payment.
2. The date of supply, in cases where payment is made through **vending machines**, shall be the date on which funds are collected from the machine.
3. The date of Deemed Supply of Goods or Services is the date of their supply, disposal, change of usage or the date of Deregistration, as the case may be.
4. The date of a supply of a voucher is the date of issuance or supply thereafter.

## Chapter Two

### Place of Supply

#### Article (27) Place of Supply of Goods

1. The place of supply of Goods shall be **in the State if the supply was made in the State**, and does not include Export from or Import into the State.
2. The place of supply of installed or assembled Goods if exported from or imported into the State shall be:
  - a. In the State if **assembly or installation** of the Goods was done in the State.
  - b. Outside the State if assembly or installation of the Goods was done outside the State.
3. The place of supply of Goods that includes Export or Import shall be as follows:
  - a. **Inside the State** in the following instances:
    - 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 re-enter the State according to the instances specified in the Executive Regulation of this Decree-Law.

## **Article (28) Place of Supply of Water and Energy**

1. The supply of water and all forms of energy specified in the Executive Regulation of this Decree Law through a distribution system, shall be considered as done in the **Place of Residence of the Taxable Trader** in case the distribution was conducted by a Taxable Person

having a Place of Residence in the State to a Taxable Trader having a Place of Residence in an Implementing State.

2. The supply of water and all forms of energy specified in the Executive Regulation of this Decree Law through a distribution system, shall be considered to have occurred at the **place of actual consumption**, if distribution was conducted by a Taxable Person to a Non-Taxable Person.

### **Article (29) Place of Supply of Services**

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

### **Article (30) Place of Supply in Special Cases**

As an exception to what is stipulated in Article (29) of this Decree-Law, the place of supply in special cases shall be as follows:

1. Where the Recipient of Services has a **Place of Residence in another Implementing State** and is registered for Tax therein, the place of supply shall be the **Place of Residence of the Recipient of Services**.
2. Where the Recipient of Services is in Business and has a Place of Residence in the State, and the Supplier does not have a Place of Residence in the State, the place of supply shall be in the State.



3. For the Supply of Services related to Goods, such as **installation** of Goods supplied by others, the place shall be where said Services were **performed**.
4. For the Supply of **means of transport to a lessee** who is not a Taxable Person in the State and does not have a TRN in an Implementing State, the place shall be where such means of transport were placed at the disposal of the lessee.
5. For the Supply of **restaurant, hotel**, and food and drink catering Services, the place shall be where such Services are **actually performed**.
6. For the Supply of any **cultural, artistic, sporting**, educational or any similar services, the place shall be where such Services were **performed**.
7. For the Supply of Services related to **real estate** as specified in the Executive Regulation of this Decree-Law, the place of supply shall be where the **real estate is located**.
8. For the Supply of **transportation Services**, the place of supply shall be **where transportation starts**. The Executive Regulation of this Decree-Law shall specify the place of supply for transportation Services if the trip includes more than one stop.

## **Article (31) Place of Supply of Telecommunication and Electronic Services**

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

### **Chapter Three**

#### **Place of Residence**

## **Article (32) Place of Establishment**

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

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

the supply if he has a Place of Establishment in more than one state or has Fixed Establishments in more than one state.

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

### **Article (33) The Agent**

The Place of Residence of an agent shall be regarded as the Place of Residence of the principal in the following two cases:

1. If the agent **regularly exercises the right** of negotiation and enters into agreements in favor of the principal.
2. If the agent **maintains a stock** of Goods to fulfil supply agreements for the principal regularly.

## **Chapter Four**

### **Value of Supply**

#### **Article (34) Value of Supply**

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

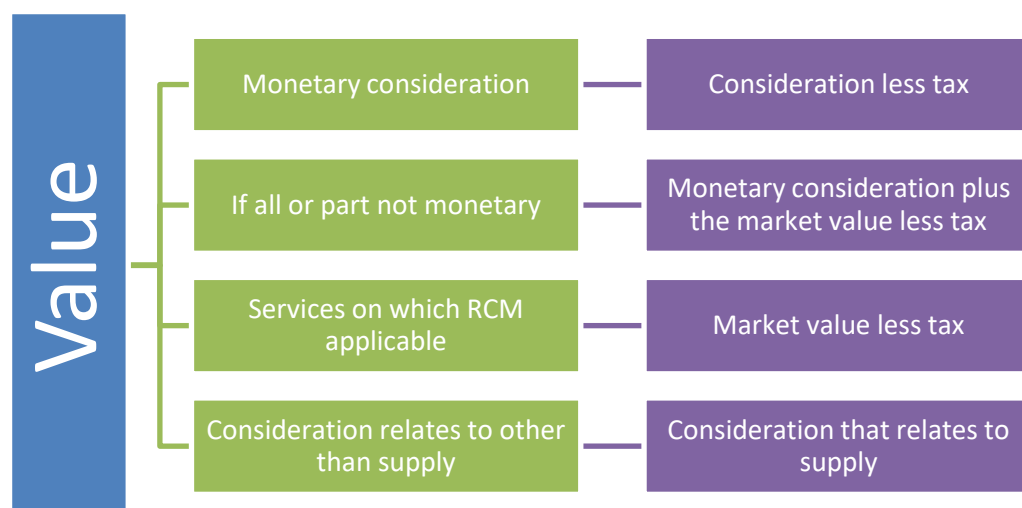
1. If the **entire Consideration is monetary**, the value of the supply shall be the **Consideration less the Tax**.
2. If all or part of the Consideration is **not monetary**, the value of the supply is calculated as the overall **monetary part plus the market**

**value** of the non-monetary part of the Consideration, and shall **not include the Tax**.

3. For Services received by the Taxable Person who is obligated to calculate the Tax in accordance with Clause (1) of Article (48) of this Decree-Law, the value of the supply shall be equal to the **market value** of the **consideration without** addition of the **Tax** on that supply.
4. If the Consideration is related to matters other than the supply of Goods or Services, the value of the supply shall be equal to the part of the Consideration that is related to such supply **as stated in the Executive Regulation** of this Decree-Law.

The Executive Regulation of this Decree-Law shall **specify the rules** to determine the market value.

**Author's comments:** Value of supply shall be determined as under:



## 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..

**Author's comments:** This Article states that value shall include:

- a. Customs Value
- b. Value of insurance
- c. Freight and
- d. Any customs fees and
- e. Excise Tax paid on the Import of the Goods

However, tax shall not be included in the value of the supply.

## 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.

**Author's comments:** This Article states that value of supply or import between related parties shall be considered equal to market value if:

- a. Value is less than market value and
- b. Recipient does not have right to recover full tax

This means in cases of related party transaction, where recipient cannot recover full tax, market value of such supply would be required to be found out.

### **Article (37) Value of Deemed Supply**

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

### **Article (38) Tax-Inclusive Prices**

For Taxable Supplies, the **advertised price shall include the Tax.**

Instances where prices do not include the Tax shall be determined by the Executive Regulation of this Decree-Law.

### **Article (39) Value of Supply in case of Discount or Subsidies**

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

The Executive Regulation of this Decree-Law shall specify the conditions and restrictions for calculating the Tax when the discount is made.

### **Article (40) Value of Supply of Vouchers**

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

### **Article (41) Value of Supply of Postage Stamps**

The value of supply for postage stamps that allow the user to use postal services in the State shall be the amount shown on the stamp.

## **Article (42) Temporary Transfer of Goods**

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

## **Chapter Five**

### **Profit Margin**

## **Article (43) Charging Tax based on Profit Margin**

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

## **Title Six**

### **Zero Rates and Exemptions**

#### **Chapter One**

#### **Zero Rate**



## **Article (44) Supply and Import Taxable at Zero Rate**

The supply and Import of Goods and Services specified in this Chapter made by a Taxable Person shall be a Taxable Supply subject to the zero rate.

## **Article (45) Supply of Goods and Services that is Subject to Zero Rate**

The **Zero rate** shall apply to the following Goods and Services:

1. A direct or indirect Export to outside the Implementing States as specified in the Executive A direct or indirect Export to outside the Implementing States as specified in the Executive Regulation of this Decree-Law.
2. International transport of passengers and Goods which starts or ends in the State or passes through its territory, including also services related to such transport.
3. Air passenger transport in the State if it is considered an "international carriage" pursuant to Article (1) of the Warsaw Convention for the Unification of Certain Rules Relating to International Carriage by Air 1929.
4. Supply of air, sea and land means of transport for the transportation of passengers and Goods as specified in the Executive Regulations of this Decree-Law.
5. Supply of Goods and Services related to the supply of the means of transport mentioned in Clause (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 DecreeLaw shall specify the precious metals and the standards based on which they are classified as being for investment purposes.
9. The first supply of residential buildings within (3) years of its completion, either through sale or lease in whole or in part, according to the controls specified in the Executive Regulation of this Decree-Law.
10. The first supply of buildings specifically designed to be used by Charities through sale or lease according to the controls specified in the Executive Regulation of this Decree-Law.
11. The first supply of buildings converted from non-residential to residential through sale or lease according to the conditions specified in the Executive Regulation of this Decree-Law.
12. The supply of crude oil and natural gas.

13. The supply of educational services and related Goods and Services for **nurseries, preschool**, elementary education, and higher educational institutions owned or funded by Federal or local Government, as specified in the Executive Regulation of this Decree-Law.
14. The supply of **preventive and basic healthcare** Services and related Goods and Services according to what is specified in the Executive Regulation of this Decree-Law.

## Chapter Two

### Exemptions

#### Article (46) Supply Exempt from Tax

The following supplies shall be exempt from Tax:

1. **Financial services** that are **specified** in the Executive Regulation of this Decree-Law.
2. Supply of **residential buildings through sale or lease, other than** that which is **zero-rated** according to Clauses (9) and (11) of Article (45) of this Decree-Law.
3. Supply of **bare land**.
4. Supply of **local passenger transport**.

The Executive Regulation of this Decree-Law shall specify the conditions and controls for exempting the supplies mentioned in the preceding clauses of this Article.

## Chapter Three

### Single and Mixed Supplies

#### Article (47) Supply of More Than One Component

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

## Chapter Four

### Specific Obligations to Account for Tax

#### Article (48) Reverse Charge

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

intends to either resell the purchased Goods as crude or refined oil, unprocessed or processed natural gas, or any hydrocarbons, or use these Goods to produce or distribute any form of energy, the following rules shall apply:

- a. the Registrant making the Supply shall not charge Tax on the value of the supply of the 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**

##### **Article (53) Due Tax for a Tax Period**

The Payable Tax for any Tax Period shall be calculated as being equal to the total Output Tax payable pursuant to this Decree-Law and which has been done in the Tax Period less the total Recoverable Tax by said Taxable Person over the same Tax Period.

##### **Article (54) Recoverable Input Tax**

1. The Input Tax that is recoverable by a Taxable Person for any Tax Period is the total of Input Tax paid for Goods and Services which are used or intended to be used for making any of the following:
  - a. Taxable Supplies.
  - b. Supplies that are made outside the State which would have been Taxable Supplies had they been made in the State.
  - c. Supplies specified in the Executive Regulation of this Decree-Law that are made outside the State, which would have been treated as exempt had they been made inside the State.
2. Where Goods are imported by a Taxable Person through another Implementing State and the intended final destination of those Goods



**was the State** at the time of Import, then the Taxable Person shall be entitled to treat the **Tax paid in respect of Import of Goods** into the Implementing State **as Recoverable** Tax subject to conditions specified the Executive Regulation of this Decree Law.

3. Where Goods were acquired by a Taxable Person in **another Implementing State** and then moved into the State, the Taxable Person shall be **entitled to treat** the **Tax paid** in respect of the Goods in the Implementing State **as Recoverable Tax** subject to the conditions specified in the Executive Regulation of this Decree-Law.
4. A Taxable Person shall **not** be entitled to recover any Input Tax in respect of Tax paid in accordance with **Clause (2) of Article (48)** of this Decree-Law.
5. The Executive Regulation of this Decree-Law shall specify the instances where Input Tax is **excepted from being recovered**.

#### **Article (55) Recovery of Recoverable Input Tax in the Tax Period**

1. Taking into consideration the provisions of Article (56) of this Decree-Law, the Recoverable Input Tax may be deducted through the Tax Return relating to the first Tax Period in which the following conditions have been satisfied:
  - a. The Taxable Person **receives and keeps the Tax Invoice** as per the provisions of this Decree-Law, provided that the Tax Invoice includes the details of the supply related to such Input Tax, or keeps any **other document** pursuant to Clause (3) of Article (65)

of this Decree-Law in relation to the Supply or Import on which Input Tax was paid.

- b. The Taxable Person **pays the Consideration** for the Supply or any part thereof, as specified in the Executive Regulation of this Decree-Law.
2. If the Taxable Person entitled to recover the Input Tax fails to do so during the Tax Period in which the conditions stated in Clause (1) of this Article have been satisfied, he may **include** the Recoverable Tax in the Tax Return for the **subsequent Tax Period**.

#### **Article (56) Input Tax Paid before Tax Registration**

1. A Registrant **may recover Recoverable Tax** incurred **before Tax Registration** on the Tax Return submitted for the first Tax Period following Tax Registration, which **has been paid** for any of the following:
  - a. **Supply of Goods and Services** made to him prior to the date of Tax Registration.
  - b. **Import** of Goods by him prior to the date of Tax Registration.

Provided that these Goods and Services **were used to make supplies that give the right to Input Tax recovery** upon Tax Registration.

2. As an exception to the provisions of Clause (1) of this Article, Input Tax **may not be** recovered in any of the following instances:
  - a. The receipt of Goods and Services for purposes other than making Taxable Supplies.

- b. Input Tax related to the part of the Capital Assets that depreciated before the date of Tax Registration.
- c. If the Services were received more than five years prior to the date of Tax Registration.
- d. Where a Person has moved the Goods to another Implementing State prior to the Tax Registration in the State.

### **Article (57) Recovery of Tax by Government Entities and Charities**

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

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

## **Chapter Two**

### **Apportionment and Adjustment of Input Tax**

#### **Article (58) Calculating the Input Tax that may be Recovered**

The Executive Regulation of this Decree-Law shall **specify the method** in which the Input Tax that may be recovered is calculated, if Input Tax is paid for Goods or Services during a specific Tax Period **to make supplies that allow recovery** under Article (54) **and others that do not allow recovery, or for activities conducted that are not in the course of doing the Business**.

## **Article (59) Conditions and Mechanism of Input Tax Adjustment**

The **Executive Regulation** of this Decree-Law shall specify the **conditions and mechanism for adjusting Input Tax** in the following cases:

1. If the Taxable Person **attributes** the Input Tax, either fully or partially, to make Taxable Supplies, but **changed the use**, or the intended use, of those Goods or Services prior to making the Taxable Supplies.
2. If the Taxable Person attributes the Input Tax, either fully or partially, to make Exempt Supplies, or **for activities that do not fall within the conduct of Business**, but changed the use or the intended use of the those Goods or Services related to the Input Tax prior to making **Exempt Supplies**.

## **Chapter Three**

### **Capital Assets Scheme**

#### **Article (60) Capital Assets Scheme**

1. If a Capital Asset is supplied or imported by a Taxable Person, the latter shall assess the period of use of such asset and make the necessary adjustments to the Input Tax paid pursuant to the Capital Assets Scheme.
2. A Taxable Person shall keep the records related to Capital Assets for at least ten years.
3. The Executive Regulation of this Decree-Law shall specify the following:

- a. Capital Assets subject to the provisions of this Decree-Law and their estimated useful life.
- b. The method of adjusting Capital Assets and the periods for which adjustments should be made.
- c. Instances where the period for keeping records of Capital Asset records is extended.

## Chapter Four

### Adjustment of Tax after the Supply Date

#### Article (61) Instances and Conditions for Output Tax Adjustments

1. A Registrant shall adjust Output Tax after the date of supply in any of the following instances:
  - a. If the supply was **cancelled**.
  - b. If the Tax treatment of the supply has **changed** due to a change in the nature of the supply.
  - c. If the previously agreed **Consideration** for the supply was **altered** for any reason.
  - d. If the Recipient of Goods or Recipient of Services **returned** them to the Registrant in full or in part and the Consideration was returned in full or in part.
  - e. If the Tax was charged in **error**.
2. Paragraph (e) of Clause (1) of this Article shall not apply where the place of supply was treated by the supplier at the Date of Supply as being subject to Clause (1) of Article (27), but, as a result of a

movement of the Goods, it turned out that it should have been treated as a supply under paragraph (b)(1) of Clause (3) of the same.

3. In order to adjust the Output Tax any of the following conditions shall be met:
  - a. If the Output Tax amount charged on the supply stated in the Tax Invoice does not match the Tax that should actually be charged on the supply as a result of any of the events mentioned in Clause (1) of this Article.
  - b. If the Registrant submits a Tax Return for the Tax Period during which the supply occurred and an amount was incorrectly calculated as being the amount of Output Tax due for this supply as the result of any of the events mentioned in Clause (1) of this Article.

## **Article (62) Mechanism for Output Tax Adjustment**

The Output Tax shall be adjusted according to the following:

1. If the Output Tax due for the supply exceeds the Output Tax calculated by the Registrant, the Registrant shall issue a new Tax Invoice for the additional amount of Tax and calculate the additional Tax due for the Tax Period during which such an increase was identified.
2. If the Output Tax calculated by the Registrant exceeds the Output Tax which should have been charged on the supply, the Registrant shall issue a Tax Credit Note according to the provisions of this Decree-Law.

### **Article (63) Adjustment due to the Issuance of Tax Credit Notes**

Without prejudice to Clause (2) of Article (62) of this Decree-Law, if the Registrant issues a Tax Credit Note to correct Output Tax charged to the Recipient of Goods or Recipient of Services, the Tax stated in the Tax Credit Note shall be considered as:

1. A reduction of the Output Tax for the Registrant of this Tax Credit Note.
2. A reduction of the Input Tax by the Recipient of Goods or Recipient of Services for the Tax Period during which the Tax Credit Note was received.

### **Article (64) Adjustment for Bad Debts**

1. A Registrant supplier **may reduce the Output Tax** in a current Tax Period to adjust the Output Tax paid for any previous Tax Period **if all of the following conditions are met:**
  - a. Goods and Services have been supplied and the Due Tax has been charged and paid.
  - b. Consideration for the supply has been written off in full or part as a bad debt in the accounts of the supplier.
  - c. More than six (6) months has passed from the date of the supply.
  - d. The Registrant supplier has notified the Recipient of Goods and the Recipient of Services of the amount of Consideration for the supply that has been written off.

2. The registered Recipient of Goods or Recipient of Services shall reduce the Recoverable Input Tax for the current Tax Period related to a supply received during any previous Tax Period where the Consideration has not been paid and all of the following conditions are met:
  - a. The registered supplier reduced the Output Tax as stated in Clause (1) of this Article and the Recipient of Goods and the Recipient of Services has received a notification from the supplier of the Consideration being written off.
  - b. The Recipient of Goods and Recipient of Services received the Goods and Services and the relevant Input Tax was deducted.
  - c. The Consideration was not paid in full or in part for the supply for over (6) six months.
3. The reduction stated in Clause (1) and (2) shall be equal to the Tax related to the Consideration which has been written off according to paragraph (b) of Clause (1) of this Article.

## **Chapter Five**

### **Tax Invoices**

#### **Article (65) Conditions and Requirements for Issuing Tax Invoices**

1. A Registrant making a Taxable Supply **shall issue an original Tax Invoice** and deliver it to the Recipient of Goods or Recipient of Services.



2. A Registrant making a **Deemed Supply** shall **issue an original** Tax Invoice and deliver it to a Recipient of Goods or Recipient of Services if available or keep it in his records if there is no Recipient of Goods or Recipient of Services.
3. The Executive Regulation of this Decree-Law shall **specify** the following:
  - a. **Data to be included** in the Tax Invoice.
  - b. The **conditions** and procedures required to issue an electronic Tax Invoice.
  - c. **Instances** where the Registrant is **not required to issue** and deliver a Tax Invoice to the Recipient of Goods or the Recipient of Services.
  - d. Instances where other documents may be issued in place of the Tax Invoice as well as the conditions thereof and the data to be included therein.
  - e. Instances where **another Person may issue** a Tax Invoice on behalf of the registered supplier.
4. Any Person who receives an amount as Tax pursuant to any document issued by him shall pay this amount to the Authority even if it is not due.

#### **Article (66) Document of Supplies to an Implementing States**

Without prejudice to Article (65) of this Decree-Law, each Registrant who supplies Goods or Services considered as supplied in any of the

Implementing States, shall provide the Recipient of Goods and Recipient of Services with a document that includes all the information that must be included in the Tax Invoice and any other information as specified in the Executive Regulation of this Decree-Law, provided that this document is not labelled "Tax Invoice" and does not include any Tax charged.

### **Article (67) Date of Issuance of Tax Invoice**

The Registrant shall issue a Tax Invoice within **14 days** as of the date of supply as stated in Article (25) of this Decree-Law.

### **Article (68) Rounding on Tax Invoices**

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

### **Article (69) Currency Used on Tax Invoices**

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

## **Chapter Six**

### **Tax Credit Notes**

## **Article (70) Conditions and Requirements for Issuing Tax Credit**

### **Note**

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

- f. Instances where another Person may issue a Tax Credit Note on behalf of the registered supplier.

## **Title Eight**

### **Tax Period, Tax Returns, Payment and Reclaiming of Tax**

#### **Chapter One**

##### **Tax Period**

##### **Article (71) Duration of Tax Period**

The **Executive Regulation** of this Decree-Law shall **specify the Tax Period** for which the Taxable Person shall calculate and pay Tax as well as the exceptional circumstances in which the Authority may amend the Tax Period.

#### **Chapter Two**

##### **Tax Returns and Tax Payment**

##### **Article (72) Submission of Tax Returns**

1. The Taxable Person shall submit the Tax Return to the Authority at the **end of each Tax Period** within the time limits and according to the procedures specified in the Executive Regulation of this Decree-Law declaring all supplies made and received during that Tax Period.
2. A Cabinet Decision shall be issued upon the recommendation of the Minister, determining the Government Entities that may submit simplified Tax Returns to the Authority.

## **Article (73) Payment of Tax**

The Executive Regulation of this Decree-Law shall **specify the time limits** and procedures for payment of Tax stated as payable in the Tax Return according to the provisions of this Decree-Law.

### **Chapter Three**

#### **Carrying forward the Excess of Recoverable Tax and Tax Recovery**

## **Article (74) Excess Recoverable Tax**

1. With the exception of what will be stipulated in the Executive Regulation of this Decree-Law, the Taxable Person shall **carry forward any excess of Recoverable Tax** to the subsequent Tax Periods and offset such excess against Payable Tax or any Administrative Penalties imposed under this Decree-Law or Federal Law No. (7) of 2017 on **Tax Procedures** in subsequent Tax Periods until such excess is fully utilised, **in the following cases**:
  - a. If the Taxable Person's Recoverable Input Tax set forth in this Decree-Law exceeds the Output Tax payable for the same Tax Period.
  - b. If the Tax paid to the Authority by the Taxable Person exceeds the Payable Tax according to the provisions of this Decree-Law, other than in the instance mentioned in paragraph (a) of Clause (1) of this Article.

2. If there remains any **excess** for any Tax Period **after being carried forward for a period of time**, the Taxable Person may apply to the Authority to **reclaim the remaining excess**. The Executive Regulation of this Decree-Law shall specify the time limits, procedures and mechanisms of returning any remaining excess to the Taxable Person.

## **Chapter Four**

### **Other Provisions on Recovery of Tax**

#### **Article (75) Tax Recovery in Special Cases**

The Authority may according to the conditions, restrictions and procedures specified in the Executive Regulations of this Decree-Law, return Tax paid for any supply received by or Import carried out by anyone of the following:

1. A citizen of the State in respect of the Goods and Services related to the construction of a new residence that is not part of the Person's Business.
2. A Non-Resident, who is not a Resident of an Implementing State and conducts a Business and is not a Taxable Person.
3. A Non-Resident, for Goods supplied to him in the State and that will be exported.
4. Foreign governments, international organisations, diplomatic bodies and missions according to treaties that the State is a party to.

5. Any Persons or classes listed in a Cabinet Decision issued at the suggestion of the Minister.

## Title Nine

### Violations and Penalties

#### **Article (76) Administrative Penalties Assessment**

Without prejudice to the provisions of Federal Law No. (7) of 2017 on Tax Procedures, the Authority shall issue an Administrative Penalty Assessment to the Person and notify the Person of the same **within five (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 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) [Tax Procedure Law]**

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

## **11. 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 Translation Profession,
- Federal Law No. (12) of 2014 on the Organisation of the Auditing Profession,
- Federal Law No. (2) of 2015 on Commercial Companies;
- Federal Decree-Law No. (9) of 2016 on Bankruptcy,
- Federal Decree-Law No. (13) of 2016 on the Establishment of the Federal Tax Authority,
- Pursuant to the presentation of the Minister of Finance and the approval of the Cabinet, Federal National Council and Federal Supreme Council,

**We hereby issue the following Law:**

## Chapter One

### Definitions and Scope of Application of the Law

#### Article (1) Definitions

In the application of the provisions of this law, the following words and phrases shall have the meanings set out against each of them, unless the context otherwise requires:

**State:** United Arab Emirates

**Minister:** Minister of Finance.

**Authority:** Federal Tax Authority.

**Director General:** Director General of the Authority.

**Committee:** Tax Disputes Resolution Committee.

**Competent Court:** the federal court within whose jurisdiction the Authority's Head Office or Branch is located.

**Tax:** any federal tax administered, collected and enforced by the Authority.

**Tax Law:** any federal law pursuant to which a Federal Tax is imposed.

**Person:** a natural or legal person.

**Business:** any activity conducted in an ongoing, regular and independent manner by any Person and in any location, such as industrial, commercial, agricultural, professional, vocational or service activity, drilling activities or anything related to the use of material or non-material property.

**Taxable Person:** a Person who is subject to Tax under the provisions of the relevant Tax Law.

**Taxpayer:** any Person who is obligated to pay Tax in the State under the Tax Law whether a Taxable Person or an end consumer.

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

**Tax Period:** a specified period of time in respect of which Payable Tax must be calculated and paid.

**Tax Registration:** a procedure by which a Taxable Person or his Legal Representative registers for Tax purposes with the Authority.

**Tax Registration No. (TRN):** a unique number issued by the Authority for each Person registered for Tax purposes.

**Registrant:** a Taxable Person holding a TRN.

**Legal Representative:** the manager of a company or a guardian or custodian of a minor or incapacitated person, or the bankruptcy trustee appointed by court for a company that is in bankruptcy, or any other Person appointed legally to represent another Person.

**Due Tax:** Tax that is calculated and charged under the provisions of any Tax Law.

**Payable Tax:** Tax that has become due for payment to the Authority.

**Administrative Penalties:** monetary amounts imposed on a Person by the Authority for breaching provisions of this Law or the Tax Law.

**Refundable Tax:** amounts that have been paid and that the Authority can refund in whole or in part to the Taxpayer pursuant to the relevant Tax Law, require to use for the payment of amounts due or



Administrative Penalties or require to carry forward to future Tax Periods depending on the nature of the refund, according to the Tax Law.

**Tax Assessment:** a decision issued by the Authority relating to Payable Tax or Refundable Tax.

**Administrative Penalties Assessment:** a decision issued by the Authority concerning Administrative Penalties due.

**Notification:** notification to the concerned Person or his Tax Agent or Legal Representative of decisions issued by the Authority through the means stated in this Law and its Executive Regulations.

**Voluntary Disclosure:** a form prepared by the Authority pursuant to which the Taxpayer notifies the Authority of an error or omission in the Tax Return, Tax Assessment or Tax refund application in accordance with the provisions of the Tax Law.

**Register:** the Register of Tax Agents.

**Tax Agent:** any Person registered with the Authority in the Register, who is appointed on behalf of another Person to represent him before the Authority and assist him in the fulfilment of his Tax obligations and the exercise of his associated tax rights.

**Tax Audit:** a procedure undertaken by the Authority to inspect the commercial records or any information or data related to a Person carrying on Business.

**Tax Auditor:** any member of the Authority's staff appointed as a Tax Auditor.

**Tax Evasion:** the use of illegal means resulting in lowering the amount of tax due, non-payment of the tax due or a refund of tax that he does not have the right to have refunded under any Tax Law.

### **Article (2) Scope of Application of the Law**

The provisions of this Law apply to tax procedures related to the administration, collection and enforcement of Tax by the Authority.

### **Article (3) Objectives of the Law**

This Law aims to achieve the following:

1. regulation of the rights and obligations between the Authority and the Taxpayer and any other Person dealing with the Authority;
2. regulation of the common procedures and rules applicable to all Tax Laws in the State.

## **Chapter Two**

### **Tax Obligations**

#### **Part One**

#### **Keeping of Accounting Records and Commercial Books**

### **Article (4) Record Keeping**

Any Person conducting any Business must keep Accounting Records and Commercial Books of his Business and any Tax related information as determined by Tax Law and maintain the same according to the controls that will be specified by the Executive Regulations of this Law.

## **Article (5) Language**

1. Each Person must submit the Tax Return, data, information, records and documents related to Tax that he is required to submit to the Authority in **Arabic** as determined by the provisions of the Tax Law.
2. The Authority may accept data, information, records, and documents related to Tax in any other language, provided that the Person provides the Authority with a **translated** copy of any of them into Arabic at his expense and responsibility if so requested, and in accordance with the Executive Regulations to this Law.

## **Part Two**

### **Tax Registration**

## **Article (6) Tax Registration, Tax De-registration and Amendments of Data related to Tax Registration**

1. A non-registered Taxable Person or any other Person who has the right to register must apply for registration under the relevant provisions of the Tax Law.
2. A Registrant must:
  - a. Include his TRN in all correspondence and transactions with the Authority or with others in accordance with the provisions of the Tax Law.
  - b. Inform the Authority, in the form prepared by it, of the occurrence of any circumstance that might require the amendment of

information related to his Tax record kept by the Authority, within 20 business days from the occurrence of such circumstance.

- c. Apply for de-registration in accordance with the relevant provisions of the Tax Law.
3. The Executive Regulations of this Law will specify the procedures for Tax Registration, de-registration, and amending Tax registration data with the Authority.
4. Government bodies that licence businesses shall notify the Authority within a time limit of (20) business days from the date of issuing any licence of the fact and according to the provisions of the Executive Regulations of this Law.

### **Article (7) The Legal Representative**

Any Person appointed as a Legal Representative of a Taxable Person or his funds or his inheritance must inform the Authority within 20 business days from the date of the appointment, and according to the procedures that will be specified in the Executive Regulations of this Law.

## **Part Three**

### **Tax Obligations**

#### **Article (8) Tax Return Preparation and Submission**

1. Each Taxable Person shall:
  - a) Prepare the Tax Return for each Tax Period for each Tax within the time limit of registration in accordance with the Tax Law.

- b) Submit the Tax Return to the Authority in accordance with the provisions of this Law and the Tax Law.
  - c) Settle any Payable Tax as specified in the Tax Return or any Tax Assessment within the time frames 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) Jurisdictions of the Committee**

The Committee shall have jurisdiction to:

1. decide in respect of objections submitted regarding the Authority’s decisions on reconsiderations requests.
2. decide in respect of reconsideration requests submitted to the Authority where the Authority has not made a decision according to the provisions of this Law.
3. any other jurisdictions entrusted to the Committee by the Cabinet.

## **Article (30) Procedures for Submitting Objections**

1. An objection regarding the Authority's decisions on a reconsideration request shall be submitted within 20 business days from the date of Notification.
2. An objection submitted to the Committee shall not be accepted in the following instances:
  - a. if a reconsideration request has not been previously submitted to the Authority.
  - b. if the Tax and Penalties subject of the objection have not been settled.

## **Article (31) Procedures of the Committee**

The Committee shall review the objection submitted and make a decision within 20 business days from receipt of the objection.

1. 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.
2. The Authority shall inform the Person submitting the objection of its decision within five business days of its issuance.
3. 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.

4. 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



## **12. Cabinet Decision on Executive Regulation on Tax Procedures**

### **Cabinet Decision No. (36) of 2017 on the Executive Regulation of Federal Law No. (7) of 2017 on Tax Procedures**

The Cabinet,

- Having reviewed the Constitution;
- Federal Law No. (1) of 1972 on the Competencies of the Ministries and Powers of the Ministers and its amendments;
- Federal Decree-Law No. (13) of 2016 on the Establishment of the Federal Tax Authority;
- Federal Law No. (7) of 2017 on Tax Procedures;
- Based on what was presented by the Minister of Finance and approved by the Cabinet,

**Has decided:**

#### **Title One**

##### Article (1) Definitions

In the application of the provisions of this Decision, the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

**State:** United Arab Emirates

**Authority:** Federal Tax Authority

**Board:** Authority's board of directors.

**Director-General:** Director-General of the Authority

**Competent Court:** Federal court within whose jurisdiction the Authority's Head Office or branch is located.

**Tax:** Any Federal tax administered, collected or enforced by the Authority.

**Tax Law:** Any federal law pursuant to which a Federal Tax is imposed.

**Person:** A natural or legal person.

**Business:** Any activity conducted in an ongoing, regular and independent manner by any Person and in any location, such as an industrial, commercial, agricultural, professional, vocational or service activity, drilling activities or anything related to the use of material or non-material property.

**Premises:** the place of business of the Person subject to Tax Audit, any other place in which he conducts his business, or where he stores goods or records.

**Taxable Person:** A Person who is subject to Tax under the provisions of the relevant Tax Law.

**Taxpayer:** Any Person who is obligated to pay Tax in the State under the Tax Law, whether such Person is a Taxable Person or an end consumer.

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

**Tax Period:** A specified period of time for which the Payable Tax shall be calculated and paid.

**Tax Registration:** A procedure by which a Taxable Person or his Legal Representative registers with the Authority for Tax purposes.

**Tax Registration Number (TRN):** A unique number issued by the Authority for each Person registered for Tax purposes.

**Registrant:** A Taxable Person who has been granted a TRN.

**Legal Representative:** The manager of a company or a guardian or custodian of a minor or incapacitated person, or the bankruptcy trustee appointed by court for a company that is in bankruptcy, or any other Person legally appointed to represent another Person.

**Due Tax:** Tax that is calculated and imposed under the provisions of any Tax Law.

**Payable Tax:** Tax that has become due for payment to the Authority.

**Administrative Penalties:** Monetary amounts imposed on a Person by the Authority for breaching the provisions of the Law or the Tax Law.

**Refundable Tax:** Amounts that have been paid and that the Authority may return in whole or in part to the Taxpayer pursuant to the relevant Tax Law require to use for the payment of amounts due or Administrative Penalties or require to carry forward to future Tax Periods depending on the nature of the refund, according to the Tax Law.

**Tax Assessment:** A decision issued by the Authority in relation to the Payable Tax or Refundable Tax.

**Administrative Penalties Assessment:** A decision issued by the Authority concerning Administrative Penalties due.

**Notification:** Notification to the concerned Person or his Tax Agent or Legal Representative of the decisions issued by the Authority through the means stated in the Law and this Decision.

**Voluntary Disclosure:** A form prepared by the Authority pursuant to which the Taxpayer notifies the Authority of an error or omission in the Tax Return, Tax Assessment or Tax Refund application in accordance with the provisions of the Tax Law.

**Register:** The Register of Tax Agents.

**Tax Agent:** Any Person registered with the Authority in the Register, who is appointed on behalf of another Person to represent him before the Authority and assist him in the fulfilment of his Tax obligations and the exercise of his associated tax rights.

**Tax Audit:** A procedure undertaken by the Authority to inspect the commercial records or any information or data related to a Person conducting Business.

**Tax Auditor:** Any member of the Authority's staff appointed as a Tax Auditor.

**Documents:** Original documents or copies thereof that are related to the Person conducting a Business, and forming a part of the Person's legal records.

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

**The Law:** Federal Law No. (7) of 2017 on Tax Procedures.

## **Title Two - Keeping Accounting Records and Commercial Books**

### Article (2) Keeping Accounting Records and Commercial Books

1. Accounting Records and Commercial Books shall include the following:
  - a. Accounting books in relation to that Business, which include records of payments and receipts, purchases and sales, revenues and expenditures, and any business, and any matters as required under any Tax Law or any other applicable law, including:
    - 1) Balance sheet and profit and loss accounts.
    - 2) Records of wages and salaries.
    - 3) Records of fixed assets.
    - 4) Inventory records and statements (including quantities and values) at the end of any relevant Tax Period and all records of stock-counts related to Inventory statements.
  - b. Additional records as may be required in the Tax Law and its Executive Regulation.
2. In addition to the Accounting Records and Commercial Books mentioned in Clause (1) of this Article, the Authority may require any other information in order to confirm, through an audit trail, the

Person's Tax obligations, including any liability to register for Tax purposes.

### **Article (3) Period of Record-Keeping**

1. Every Person holding and maintaining any of the records mentioned in Article (2) of this Decision, shall keep these records in a manner that enables the Authority, or an officer authorised by the Authority, to ascertain that Person's Tax obligations, as follows:
  - a. For a period of (5) years after the end of the Tax Period to which they relate in the case of a Taxable Person.
  - b. For a period of (5) years from the end of the calendar year in which the concerned document was created in the case of non-Taxable Persons.
  - c. For a period specified in the Tax Law for real estate records.
2. The Authority may, before the expiry of the period specified in paragraph (a) of Clause (1) of this Article, inform the Person to retain the records for a further period not exceeding (4) years, in cases where he is required to do so including the following:
  - a. If the Taxable Person's tax obligations are subject to a dispute between him and the Authority.
  - b. If the Person is being subject to a Tax Audit and that Tax Audit has not yet been completed.

- c. If the Authority has given notice to the Person that it intends to conduct a Tax Audit before the expiry of the period specified in Clause (1) of this Article.
3. If a Person is no longer a Taxable Person, he shall be required to comply with the provisions of paragraph (b) of Clause (1) of this Article.
4. Where a Person enters into bankruptcy proceedings, his Legal Representative is required to keep the records of that Person for 12 months from the date on which those proceedings have come to an end.
5. For the purposes of Clause (4) of this Article, should the Authority require the records to be kept for a longer period, it may take possession of them, at a time agreed with the Legal Representative responsible for the relevant bankruptcy proceedings.

#### **Article (4) How to Keep Accounting Records and Commercial Books**

1. Unless otherwise required by the Tax Law, the obligation to maintain Accounting Records and Commercial Books shall be met through any of the following:
  - a. Creating the record and the retention of original Documents which support the entries contained in the record.
  - b. Creating the record and preserving the information that was contained in the original document, provided that:

- 1) The information matches the data contained in the original document, and shall be available during the periods referred to in Article (3) of this Decision.
  - 2) The information retained or stored in either photocopy or electronic form, and an easily readable copy of it can be reproduced within a reasonable period, if requested by the Authority.
2. The Authority may lay down the rules of preserving information contained in Accounting Records and Commercial Books, and impose such reasonable requirements for ensuring that the information will be as readily available to it as if the original records themselves had been preserved.

### **Article (5)**

The use of a language other than the Arabic

1. Tax Return, data, information, records and other Documents related to any Tax shall be submitted to the Authority in Arabic, as per the mechanism specified by the Tax Law.
2. As an exception to Clause (1) of this Article, the Authority may accept data, information, records and other Documents related to any Tax to be submitted to it in English; the Authority may, at its discretion, request the Person to translate some or all of these to Arabic.
3. Where the data, information, records and other Documents related to any Tax are issued in any foreign language other than English, the



Person is required to submit these Documents to the Authority as translated into Arabic.

4. The Person submitting any translation of data, information, records and other Documents related to any Tax to the Authority shall be liable for the accuracy and correctness of the translation, and shall bear all associated costs. The Authority shall have the right to rely on the translation provided.

### **Title Three - Registration and De-Registration for Tax Purposes**

#### **Article (6)**

#### **Procedures of Tax Registration, De-registration and Amending Details of Registration**

The following procedures with respect to tax registration and de-registration shall be followed:

1. A Tax Registration application shall be submitted by the non-registered Taxable Person or any other Person who has the right to be registered to the Authority according to the forms adopted by the Authority in this regard.
2. A Tax de-registration application shall be submitted to the Authority by the Registrant who is required or has the right, to be deregistered based on the forms adopted by the Authority in this regard.
3. The Authority shall review the tax registration or de-registration application in accordance with the rules adopted in this regard.

4. Tax registration or de-registration shall be finalised by issuing the Tax Registration Number for the applicant, or cancelling this number, or reactivating the Tax Registration Number if the Authority re-registers a Person, as the case may be.
5. The Authority shall notify the Person of his tax registration or de-registration or the reactivation of his registration based on the mechanism adopted thereby in this regard.
6. A Registrant shall within (20) business days notify the Authority of any of the following:
  - a. Any change to the name, address, articles of association, or nature of the Business of that Registrant.
  - b. Any change to the address from which any Business is conducted by that Registrant.
7. The Government body responsible for issuing business licences shall inform the Authority in writing of any licences that has been issued thereby on the form specified by the Authority, within (20) business days from issuing the licence, provided that such notification include the following:
  - a. The name of the business.
  - b. The type of commercial licence.
  - c. The commercial licence number.
  - d. The date of issuance of the commercial license.
  - e. The registered address of the business.
  - f. Description of the activities of the business.

- g. The details of the owners and directors of the business.
  - h. Any other information requested by the Authority.
- 8. Any Person appointed as a Legal Representative is required to give a notice of his appointment to the Authority within (20) business days from the appointment date, such notice shall be in writing or by the form determined by the Authority, and shall include the following:
  - a. The type of appointment.
  - b. The Person's responsibilities.
  - c. The duration of the appointment, in the case of fixed-term appointment.
  - d. The name, address and Tax Registration Number, if applicable, of the Taxable Person who is represented by the Legal Representative.
  - e. The name and address of the Legal Representative.
  - f. The legal basis of the appointment.
- 9. When a notice is given in accordance with Clause (8) of this Article, it shall be accompanied by appropriate evidence of the appointment of the Legal Representative, such as a copy of the document that states the legal basis for the appointment.
- 10. The Authority may request further information from the applicant about the appointment of the Legal Representative and may obtain from other persons information relating to the appointment in order to verify the details of the appointment.

11. Where the Authority accepts the appointment of the Legal Representative, it will notify the Legal Representative of the acceptance of his appointment within (20) business days as of such acceptance.

## **Title Four - Tax Obligations**

### **Article (7)**

#### **Allocation of Unidentified payments**

1. If the Taxable Person settles any amount to the Authority without specifying the type of Tax or Tax Period to which it relates, the Authority may allocate the amount for settling any debts or liabilities due to the Authority based on seniority.
2. If the amount received by the Authority under Clause (1) of this Article, exceeds the Taxable Person's existing liabilities, the Authority shall treat the excess amount received as a credit against future liabilities of the Taxable Person, where the Taxable Person did not request the excess amount to be returned.
3. The Authority shall notify the Taxable Person regarding the allocation of payments according to Clause (1) of this Article.

## **Title Five - Voluntary Disclosure**

### **Article (8)**

#### **Time Limits for Voluntary Disclosure**

1. If a Taxable Person becomes aware that a Tax Return submitted by him to the Authority or a Tax Assessment sent to him from the Authority are incorrect, resulting in a calculation of the Payable Tax according to the Tax Law being less than required by more than (10,000) Dirhams, the Taxable Person shall make a Voluntary Disclosure to the Authority within (20) business days from the date when the Taxable Person became aware of the error.
2. If a Taxable Person becomes aware that a Tax Return submitted by him to the Authority or a Tax Assessment sent to him from the Authority is incorrect, resulting in a calculation of Payable Tax according to the Tax Law being less than required by not more than (10,000) Dirhams, the Taxable Person shall make the following:
  - a. To correct the error in the Tax Return for the Tax Period in which the error has been discovered, if the Taxable Person is obligated to submit a Tax Return to the Authority for this Tax Period.
  - b. The Taxable Person shall make a Voluntary Disclosure to the Authority within (20) business days from the date of becoming aware of the error, if there is no Tax Return through which the error can be corrected according to paragraph (a) of this Clause.
3. If a Taxpayer becomes aware that a Tax refund application that he has submitted to the Authority is incorrect, resulting in a calculation of a refund to which he is entitled according to the Tax Law being more than the correct amount, the Taxpayer shall make a Voluntary Disclosure to the Authority within (20) business days from the date

when the Taxpayer becomes aware of the error, unless the error was a result of an incorrect Tax Return or Tax Assessment, then provisions of Clauses (1) and (2) shall apply.

4. For the purposes of implementing this Article, a Voluntary Disclosure must be made in accordance with the form directed by the Authority.

## **Title Six - Tax Notifications**

### **Article (9) Means of Notification and Correspondence by the Authority**

1. The Authority shall execute the Notification by any of the following means:
  - a. Post.
  - b. Registered post.
  - c. By electronic mail to the address provided by the Person being notified.
  - d. Posting on the premises of the Taxable Person
  - e. Any other means as may be agreed by the Person and the Authority.
2. If the Authority considers that notifying the unregistered person by the means mentioned in Clause (1) of this Article is not practical for the cases of Notification mentioned in Article (13) of this Decision, the Notification may be made by posting a notice in a printed or written form at the Premises at which a Tax Audit is to be conducted.

3. For the purposes of Clause (1) of this Article, the Authority may use any of the following contact addresses for a Person, according to the cases mentioned:

a. For delivery by post or registered post: the address provided by the Person to the Authority, or the address of their usual or last known place of residence or business may be used.

b. In case of natural Person: the email address that they have provided to the Authority or the Person's last known email address may be used.

c. In case of legal Person: the email address shall be used in the following order:

- 1) The email address that they have provided to the Authority.
- 2) The email address of any Person acting in favour or on behalf of the Person being notified concerning the relevant matter.
- 3) The last known email address of a Person acting in favour or on behalf of the Person being notified concerning the relevant matter.
- 4) Any other email address of another Person, if there are reasonable grounds to suppose that that Legal Person will receive the Notification through that other Person.

4. For the purposes of making a communication under Clauses (1) and (2) of this Article, the Authority may communicate with either of the following: a. The relevant Person.

b. The Tax Agent or Legal Representative of the Taxable Person.

## **Title Seven - Tax Agents**

### **Article (10) Procedures for listing a Tax Agent in the Register and Rights and Obligations of Tax Agents**

1. Anyone requesting to be listed in the Register shall satisfy the following conditions:
  - a. To be of good conduct and behaviour and to have never been convicted of a crime or misdemeanor prejudicial to honour or honesty, irrespective of whether or not he may have been rehabilitated.
  - b. To hold at least a certified bachelor or Master degree in tax, accounting or law from a recognised educational institution, or a bachelor degree in any field plus a tax certification as accepted from an internationally known tax institute.
  - c. To have a relevant recent experience of at least three years, in either tax, qualified accounting or law, with the ability to communicate orally and in writing in both Arabic and English.
  - d. To pass any tests to meet qualification standards as may be specified by the Authority.
  - e. To be medically fit to perform the duties of the profession.
  - f. To hold a professional indemnity insurance contract.
  - g. To perform his activity through a legal person approved by the Ministry of Economy and the local competent authority.
2. The Person shall submit an application for listing in the Register to the Authority using the form specified by the Authority.



3. The Authority may request further information from the Person applying for registration, request an interview with the Person or check references provided in the application before deciding whether or not to list the applicant as a Tax Agent.
4. The Authority shall review the applications and shall issue its decision within (15) business days from receiving the application. Exceptionally, in case of gathering additional information under Clause (3) of this Article, it shall issue the decision within (15) business days from the date of receipt of the information.
5. If the Authority accepts the application, the applicant will be listed in the Register within (5) business days from the date of the Authority's approval of the application or any other date that may be specified by the Authority after settling the required fees.
6. The Authority may refuse an application for listing a Person in the Register in any of the following cases:
  - a. The Person fails to meet the conditions specified in Clause (1) of this Article.
  - b. Listing the Person as a Tax Agent would adversely affect the integrity of the Tax system.
7. The Authority shall notify the Person whether or not his application to be listed in the Register has been accepted or rejected within (20) business days from the date of the Authority's approval of the application.

8. Listing in the Register shall be valid for three years from the date of registration. The relevant Person shall be required to renew his listing before expiration of such period according to the mechanism determined by the Authority.
9. The Authority may de-list the Tax Agent from the Register in any of the following cases:
  - a. If it was proven to the Authority that the Person is not eligible to be a Tax Agent.
  - b. If the Authority found that the continued registration of the Person as a Tax Agent would adversely affect the integrity of the Tax system.
  - c. If he committed a significant violation of the provisions of Law or Tax Law.
10. Upon de-listing a Person from the Register, the Authority shall notify that Person regarding the de-listing within (5) business days of the decision and provide reasons for the decision.
11. Where a Person appoints a Tax Agent to act in his name and on his behalf, the Tax Agent shall:
  - d. Assist the Person with his Tax obligations according to a contractual agreement between the Person and the Tax Agent.
  - e. Without prejudice to any obligations in the Law, maintain the confidentiality of any information obtained in the course of performing his duties as a Tax Agent.

- f. Refuse to participate in any work or plan which may result in a breach of any law by any Person or may jeopardize the integrity of the tax system.
- 12. In performing his duties as a Tax Agent, the Tax Agent may rely on information provided to him by the Person unless the Tax Agent has reasonable grounds for believing that the information may be incorrect.

## **Title Eight - Tax Audits**

### **Article (11) Regularity of Tax Audits**

1. When the Authority decides on whether or not to conduct a Tax Audit on a Person, it shall consider the following:
  - a. That a Tax Audit is necessary for protecting the integrity of the Tax system.
  - b. The responsibility of the Person, or anyone associated with him, to comply with the Law and Tax Law.
  - c. The likely Tax revenue at stake, and the administrative and compliance burdens on both the Person and the Authority resulting from performing a Tax Audit.
2. If the Authority decides to re-audit a business, it shall take into consideration the results of the previous Tax Audit, any new information or data, which are likely to change the Authority's position.
3. Notwithstanding Clauses (1) and (2) of this Article, a decision by the Authority to conduct a Tax Audit may not be challenged by any Person.

## **Article (12) Right to Conduct Tax Audit**

1. For the purposes of conducting a Tax Audit, the Authority may inspect:
  - a. The Premises.
  - b. The Documents available at the Premises.
  - c. The Assets that are available at the Premises.
  - d. The accounting systems used by the Person subject to Tax Audit.
2. For the purposes of implementing provisions of Clause (4) of Article (17) of this Law, the Tax Auditor shall obtain the prior written consent of the Director-General, as well as a permit from the Public Prosecutor to be able to enter the part of the Premises where the Premises or parts thereof are used as a dwelling.
3. For the purposes of implementing Clause (1) of this Article, the occupational tenant of the Premises, or in the absence of the occupational tenant, any Person the Authority considers as having control over the Premises, shall provide the Authority with all reasonable facilities necessary for the effective exercise of its powers under this Article.

## **Article (13) Notice of Audit**

1. Any notice of a Tax Audit sent by the Authority shall state the possible consequences of obstructing the Tax Auditor in the exercise of his duty.

2. Where a Tax Auditor is assigned to carry out a Tax Audit according to Clause (4) of Article (17) of this Law, he shall provide a notice in writing at the beginning of the Tax Audit to the following:
  - a. The occupational tenant of the Premises if he is present at the time of beginning the Tax Audit.
  - b. The Person who appears to be in charge of the Premises if he is present and the occupational tenant is not present.
  - c. In any other case, the notice shall be posted on a prominent place in the Premises.
3. Any other official of the Authority whom a Tax Auditor considers necessary for the effective exercise of his powers under this Decision may accompany the Tax Auditor to any Premises.
4. A Tax Auditor carrying out a Tax Audit at the Premises of a Person based on a permission of the public prosecutor according to Article (12) of this Decision, shall present the permit issued by the Authority as well as the permit obtained from the public prosecutor, in addition to the proof of identity every time he is requested to do so.

#### **Article (14) Power to remove and retain Original Documents or Assets or make Copies Thereof**

1. Where an original Document is provided to or inspected by a Tax Auditor during a Tax Audit, he may:
  - a. Make copies of the Document.

- b. Remove the Document for a period specified by the Tax Auditor for the completion of his work, or make copies of it during the removal period, provided that he notifies the Person of such matter.
2. For purposes of Article (12) of this Decision, the Tax Auditor may remove any Asset provided thereto, or inspected by him for a period specified by the Authority for the purposes of completing the Tax Audit.
3. Where a Document is removed under Clause (1) of this Article or an Asset is removed under Clause (2) of this Article, the Authority shall provide a record of what was removed, within (10) business days from the date of removal, to any of the following:
  - a. The owner of the Document or the Asset.
  - b. The occupational tenant of the Premises in which the Document or Asset were removed.
  - c. The Person who had custody or control of the Document or Asset immediately before the removal.
4. The record referred to in Clause (3) of this Article shall include the following:
  - a. The purpose for removing the Asset or Document.
  - b. The nature of the Asset or Document so removed.
  - c. The location where the Asset or Document is stored and the conditions of storage.

d. The period for which it is expected to be retained by the Authority.

### **Article (15) Power to Mark Assets and Record Information**

The Authority shall have the power to:

1. Mark Assets for the purpose of indicating that they have been inspected.
2. Obtain and record information relating to the Premises, Assets, Documents and accounting systems that have been inspected.

### **Article (16) Storage and Providing Access to removed Documents and Assets**

1. Any Documents or Assets removed under Article (14) of this Decision shall be kept and stored by the Authority for the duration required for the completion of the Tax Audit in accordance with the conditions included in Clauses (2) and (3) of this Article.
2. Any Documents or Assets removed and retained shall be returned to the Person to whom a record has been provided under the provisions of Clause (3) of Article (14) of this Decision in a condition as good as practically possible. The Authority may dispose of the Assets that naturally deteriorate and hence cease to have value, in accordance with the internal procedures of the Authority.
3. For perishable Assets, the Authority shall have the right to dispose of them (45) business days after their removal, in accordance with the internal procedures of the Authority.

4. The Authority shall notify the owner of an Asset (10) business days prior to exercising its right under Clauses (2) or (3) of this Article, of its intention to dispose of the Asset in whole or in part, and give the owner an opportunity to take back the Asset in whole or in part.
5. Where the Person from whom the Asset or Document was taken submits a request to view the Asset or Document, the Authority may:
  - a. Allow the Person who made the request to view the Asset or Document under the supervision of the Authority for the purpose of photocopying or photographing the Document or photographing the Asset.
  - b. Photocopy or photograph the Document or photograph the Asset, and provide the photocopy or the photograph to the relevant Person.
  - c. Reject the request where the Authority believes that it would prejudice any of the following:
    - 1) That Tax Audit.
    - 2) The Tax Audit of another Person.
    - 3) Any investigation related to any of the Documents or Assets to be viewed.
    - 4) Any criminal proceedings related to the Document or the Asset to be viewed.

## **Article (17) Result of the Audit**



1. The Person subject to the Tax Audit shall be notified of the results of the Tax Audit within (10) business days from the end of the audit.
2. Where the Person subject to the Tax Audit is notified of the results of the Tax Audit in accordance with Clause (1) of this Article, he may request the Authority to view or obtain Documents and data on which the Authority based the assessment of Due Tax. Such request shall be made in writing or through such other form adopted by the Authority within (20) business days from the date of the notice provided by the Authority, and shall provide the requested information within (10) business days in the following manner:
  - a. A paper or electronic copy of the Document or data requested.
  - b. The original Document or data requested if such Documents or data belong to the Person subject to the Tax Audit who made the request.
3. The Authority is not required to provide:
  - a. Documents or data which would reveal internal correspondence or decisions made by the Authority.
  - b. Any confidential information or data related to any other Person or Persons.
  - c. Any Documents or data, which are known to be in possession of the Person, who is subject to the Tax Audit and made the request. In this case, the Authority shall provide the Person subject to the Tax Audit with sufficient information to enable him to identify the Documents and data requested.

## Article (18) Notice to Provide Information or Documents

The Authority may issue a Notification requiring a Person to provide any information or any Documents in relation to himself or another Person, if these Documents or information are considered necessary by the Authority.

## Article (19) Complying with Notifications

1. Where a Person has been notified to provide information or Documents, the Person shall do so within the period specified and by the means and in the form determined in the Notification.
2. Where a Notification requires a Person to provide information or Documents, these shall be submitted at any of the following places:
  - a. A place agreed upon between the Person and the Authority.
  - b. The place determined by the Authority provided that this place is appropriate and not used solely as a dwelling.

## **Title Nine - Tax Assessment and the Administrative Penalties Assessment**

### **Article (20) Considering Taxes as Debts owed to the Authority**

Where an amount of Tax or Administrative Penalty has been assessed and notified to any Person under the Tax Law, it shall be deemed to be a debt to the Authority, and may be collected accordingly.

## **Article (21) Notification of Tax Assessment or Administrative Penalty Assessment**

1. A notification of Tax Assessment shall contain sufficient information regarding the Tax Assessment, and include at least the following:
  - a. The Taxable Person's name and address.
  - b. The Taxable Person's Tax Registration Number, if applicable.
  - c. The Tax Assessment reference number.
  - d. The Tax to which the assessment relates.
  - e. A Tax summary, which includes: the details of the Tax declared and adjustments made.
  - f. Reasons for Tax Assessment.
  - g. Net Tax due to the Authority or refundable by the Authority.
  - h. The date any Due Tax is payable and the method of payment.
2. A notification of an Administrative Penalty Assessment shall contain sufficient information regarding the Administrative Penalty Assessment, and shall include at least the following:
  - a. The Person's name and address.
  - b. The Taxable Person's Tax Registration Number if applicable.
  - c. The Administrative Penalty Assessment reference number.
  - d. The Tax to which the Administrative Penalty Assessment relates.
  - e. The violation for which the Administrative Penalty has been assessed.
  - f. The Administrative Penalty summary, which includes: the amount of Administrative Penalty imposed, the amount of Tax to which the

Administrative Penalty relates, and any reductions to the Administrative Penalty.

- g. Total of Administrative Penalties due to the Authority.
- h. The date any Administrative Penalty due is payable and the method of payment.

## **Title Ten - Tax Refunds**

### **Article (22) Procedures of Getting a Tax Refund**

1. Subject to any further conditions specified in the Tax Law, a Taxpayer shall apply for a refund as per the mechanism specified by the Authority.
2. The Authority shall, within (20) business days of an application being submitted, review the application and notify said Taxpayer of accepting or rejecting the refund claim. Where the Authority has reasonable grounds for requiring a period longer than (20) business days to consider his application, it shall notify the relevant Taxpayer thereof.
3. Where the Authority has approved a refund application in accordance with Clause (2) of this Article, it shall, within (5) business days of the approval, either make the appropriate payment to the Person or notify the Person that the Authority will offset the amount requested to be refunded against any other Payable Tax or Administrative Penalties due, or to notify the Person that the refund will be postponed until all due Tax Returns are submitted to the Authority; any amount in excess

of such liability shall be refundable in conformity with the conditions contained in the Tax Law .

4. The payment of a refund amount shall be made to the Person entitled to the refund by the means acceptable to the Authority.

## **Title Eleven - Bankruptcy Cases**

### **Article (23) Responsibilities of Bankruptcy Trustee in Case of Bankruptcy**

1. If a Business or part of a Business is subject to bankruptcy proceedings and a Person has been appointed as a trustee in bankruptcy, that trustee shall be treated as representing and carrying out the Business or the part of the Business until the expiration date of his appointment as a trustee in bankruptcy under the Federal Decree Law No (9) of 2016.
2. Where the Authority has notified an appointed trustee of the Due Tax, the trustee may apply for a review, objection or appeal of the decision, in accordance with the rules and controls stated in Title Four of the Law.
3. Any Payable Tax due to the Authority shall be paid by the trustee in accordance with the settlement mechanism applicable to the Payable Tax.

## **Title Twelve - Disclosure of Information**

### **Article (24) Disclosure of information**

1. The Authority staff and any Persons delegated by the Authority to execute the provisions of the Law or the Tax Law shall not disclose information they become aware of by virtue of carrying out a function at the Authority, except in the following cases:
  - a. The disclosure is made upon a decision of a judicial authority for the purposes of a civil or criminal case before the Competent Court with respect to a matter falling within the Authority's functions.
  - b. The disclosure is made to a competent government entity that was determined by a decision of the board of directors, after concluding a memorandum that stipulates such disclosure, the use that may be made of the information disclosed, the arrangements for the control, security, subsequent disclosure and the accuracy of the information, including the access to that information by Persons.
  - c. The disclosure is made in the implementation of international conventions or treaties.
  - d. The disclosure is requested by a Person or their Tax Agent in relation to any part of their file which is held by the Authority.
  - e. The disclosure is made to another specialised Authority's staff member, provided it is made at a place and in accordance with the confidentiality conditions under which the Authority expects that Person to perform his duties and functions.

2. For purposes of Clause (1) of this Article, “the Authority’s staff” means:

- a. The chairman and members of the Board.
- b. The Director-General.
- c. Any other officer of the Authority.

3. For the purposes of implementing this Article, the Board may specify the following:

- a. The Persons working at the Authority, whose functions allow them to disclose information and the nature or category of such information which may be disclosed.
- b. The date on which disclosure may be made.

#### **Article (25) Disclosure of Information by the Authority’s Staff after Leaving Function**

If an Authority’s staff member leaves his job, he shall remain under the same duty of confidentiality in respect of information known or held by him at the time that he was authorised to carry out his functions as a competent officer of the Authority, save where a Competent Court or the Public Prosecutor orders the disclosure of any such information.

### **Title Thirteen - Reduction in or exemption from Administrative Penalties**

#### **Article (26) Reduction of Administrative Penalties or Exemption Therefrom**

1. The Authority may reduce or waive any administrative penalties imposed on any person whose violation of the provisions of the Law or Tax Law was proved, according to the following provisions:
  - a. The Person has an excuse that is acceptable to the Authority.
  - b. The Person provides evidence that justifies the excuse and the violation it caused, which led to the imposition of Administrative Penalties.
  - c. The reduction or exemption application shall be notified to the Authority as per the mechanism specified by the Authority within 10 business days as of the end of the acceptable excuse.
  - d. The Person shall not have been subject to any Administrative Penalties in the 2 years preceding the application.
  - e. The Person shall demonstrate that they have corrected the violation.
2. For the purposes of paragraph (a) of Clause (1) of this Article, an acceptance of an excuse shall be decided by a committee, set up by a decision of the Director-General, consisting of three officers, specialised in reviewing the excuse and evidence provided by the violating Person, and accepting or rejecting the excuse subject to Clauses (3) and (4) of this Article.
3. An excuse shall not be considered acceptable if the act that led to the violation was deliberate.
4. The following shall not ordinarily be considered an acceptable excuse:
  - a. Insufficiency of funds.



- b. Reliance on another Person.
5. The Authority shall make its decision in respect of the reduction of the Administrative Penalties or exemption therefrom within (20) business days from receiving the application, and shall notify the Person of said decision within (10) business days as of issuing its decision.

## **Article (27)**

### **Abrogation of Contradicting Provisions**

Any provision contrary to or inconsistent with the provisions of this Decision shall be abrogated.

## **Article (28) Publication and Application of this Decision**

This Decision shall be published in the Official Gazette and shall come into effect from the date of its issuance.

Mohammed Bin Rashid Al Maktoum Prime Minister

**Issued by us**

**On: 4 Muharram 1439H**

**Corresponding to: 24 September 2017**

### **13. Common VAT Agreement of the States of the Gulf Cooperation Council (GCC)**

#### **Common VAT Agreement of the States of the Gulf Cooperation Council (GCC)<sup>15</sup>**

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

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<sup>15</sup> Un-official translation as available on  
<https://www.mof.gov.ae/En/lawsAndPolitics/govLaws/Documents/GCC%20VAT%20Agreement.pdf>

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.

**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.

**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.

## **Article (31)**

### **Supply of Foodstuffs, Medicines and Medical Equipment**

#### **I: Food Items:**

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.
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 except 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.
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;
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;
  - 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)
  - c) b- agreeing to synchronized auditing procedures and participating in audits performed by any Member State pursuant to the approval of the concerned States.

- d) 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 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 .....

## **14. Federal Decree-Law No. (7) of 2017 on Excise Tax**

### **Federal Decree-Law No. (7) of 2017 on Excise Tax<sup>16</sup>**

**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 on 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;

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<sup>16</sup> Un-official translation available at <https://www.mof.gov.ae/En/lawsAndPolitics/govLaws/Documents/Federal%20Decree-Law%20No.7%20of%202017%20on%20Excise%20Tax.pdf>



Federal Law No. (18) of 1993 promulgating the Commercial Transactions Law and its amendments;

Federal Law No. (8) of 2004 on the Financial Free Zones;

Federal Law No. (1) of 2006 on Electronic Commerce and Transactions;

Federal Law No. (2) of 2008 on the National Societies and Associations of Public Welfare;

Federal Law No. (15) of 2009 on Combating Tobacco;

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 Cabinet, **Have issued the following Decree-Law:**

## Chapter One - Definitions

### Article (1)

In the application of the provisions of this Decree-Law, the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

**State:** United Arab Emirates.

**Minister:** Minister of Finance.

**Authority:** Federal Tax Authority.

**Tax:** Excise Tax.

**Excise Goods:** Goods that will be determined as being subject to Tax by a Cabinet Decision upon the recommendation of the Minister.

**Import:** The arrival of Goods from abroad into territory of the State.

**Export:** The departure of Goods from the territory of the State.

**Person:** A natural or legal person.

**Taxable Person:** Any Person registered or obligated to register for Tax purposes under the provisions of this Decree-Law

**Designated Zone:** Any fenced area intended to be a free zone that cannot be entered or exited except through a designated road, and any area designated by the Authority as being subject to the supervision of a Warehouse Keeper, in accordance with the Executive Regulation of this Decree-Law.

**Warehouse Keeper:** Any Person approved and registered at the Authority to supervise a Designated Zone in accordance with the Executive Regulation of this Decree-Law.

**Tax Registration:** A procedure whereby the Taxable Person or his Legal Representative registers at the Authority for Tax purposes.

**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.

**Importer:** The Person whose name appears for customs clearance purposes as the importer of the Excise Goods on the date of Import.

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

**Business:** Any activity conducted regularly, on an ongoing basis and independently by any Person, in any location, which involves or may involve trading in Excise Goods.

**Refundable Tax:** Amounts that have been paid and that the Authority may return to the Person pursuant to the provisions of this Decree-Law.

**Due Tax:** Tax that is calculated and imposed pursuant to the provisions of this Decree Law.

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

**Deductible Tax:** The Tax that has been paid, or considered as have been paid, by a Taxable Person.

**Tax Period:** A specific period of time for which the Payable Tax shall be calculated and paid.

**Administrative Penalties:** Amounts imposed upon a Person by the Authority for violating 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 in relation to the Administrative Penalties due.

**Stockpiler:** The Person who owns Excise Goods and cannot demonstrate that such goods had been previously subject to Tax pursuant to the conditions stated in the Executive Regulation of this Decree-Law.

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

**The Implementing States:** The States of the Gulf Cooperation Council that apply the Tax Law pursuant to an issued legislation.

**Tax Evasion:** The Person's use of illegal means, resulting in the reduction of the amount of the Due Tax, non-payment thereof, or a refund of a tax that the Person did not have the right to have refunded under the provisions of this Decree-Law.

## **Chapter Two - Implementation, Scope and Calculation of Tax**

### **Article (2) - Implementation and Scope of Tax**

1. The provisions of this Decree-Law shall apply to the Excise Goods specified by a Cabinet Decision at the suggestion of the Minister.
2. Tax shall be imposed on the following activities related to Excise Goods:
  - a. Production of Excise Goods in the State, where such production was in the course of doing business.
  - b. Import of Excise Goods.
  - c. Release of Excise Goods from a Designated Zone.

- d. Stockpiling of Excise Goods in the State, where such Stockpiling was in the course of doing business.

#### Article (3) – Tax Calculation

A Cabinet Decision shall be issued at the suggestion of the Minister to determine the tax rates that shall be imposed on Excise Goods and the method of calculating the Excise Price, provided that the tax rate shall not exceed (200%) of the Excise Price of the Good.

#### **Article (4) - Tax Obligations**

1. The Due Tax shall be the responsibility of:
  - a. The Person who conducts any of the activities mentioned in clause (2) of Article (2) of this Decree-Law;
  - b. The Person involved in any of the activities mentioned in clause (2) of Article (2) of this Decree-Law, in the event the Person who conducted the activity has failed to meet his obligation to pay the Tax, pursuant to what is specified in the Executive Regulation of this Decree-Law;
  - c. The Warehouse Keeper, in the case of the release of Excise Goods from a Designated Zone, and where the Payable Tax has not been previously paid, pursuant to what is specified in the Executive Regulation of this Decree-Law.
2. The following are excluded from the provisions of clause (1) of this Article:

- a. The Person who imports Excise Goods of value less than that specified in the Customs Legislation, if such Excise Goods are accompanied by the Person within the frame of an international voyage and are used for noncommercial purposes.
- b. A Stockpiler in case the conditions specified in the Executive Regulation of this Decree Law are met.

## **Chapter Three - Tax Registration and Deregistration**

### **Article (5) - Tax Registration**

1. A Person shall be prohibited from conducting any activities that fall within clause (2) of Article (2) of this Decree-Law before registration thereof for Tax purposes in accordance with the provisions of this Article.
2. Without prejudice to the provisions of clause (1) of this Article, the Person liable for the Due Tax according to Article (4) of this Decree-Law shall apply to the Authority for Tax Registration as set forth in Federal Law No. (7) of 2017 on Tax Procedures, within 30 days as of the end of any month during which the Person carries out or intends to carry out activities mentioned in Article (2) of this Decree-Law, or from the effective date of this Decree-Law, whichever is later.
3. The Executive Regulation of this Decree-Law shall determine the effective date of the Tax Registration referred to in this Article.

## **Article (6) – Exceptions from Registration**

1. The Authority may except a Person from Tax Registration, if the Tax is due under paragraphs (b) and (c) of clause (2) of Article (2) of this Decree-Law, and he can demonstrate to the Authority that he will not regularly Import Excise Goods, pursuant to what is specified in the Executive Regulation of this Decree Law.
2. Anyone excepted from Tax Registration according to clause (1) of this Article shall inform the Authority of any changes to his circumstances that would make him subject to Tax under the provisions of this Decree-Law, within the timeframe and in accordance with the procedures stated in the Executive Regulation of this Decree-Law.
3. The Authority shall collect any Due Tax and Administrative Penalties from the Person excepted from registration under clause (1) of this Article.

## **Article (7) - Tax Deregistration**

A Registrant shall apply to the Authority for Tax Deregistration if he is no longer liable for the Tax under Article (4) of this Decree-Law within the timeframe specified in the Executive Regulation of this Decree-Law.

## **Article (8) – Registration as a Warehouse Keeper**

1. Any Person operating or intending to operate a Designated Zone shall apply for registration as a Warehouse Keeper pursuant to what is specified in the Executive Regulation of this Decree-Law.

2. The Executive Regulation of this Decree-Law shall specify the effective date of registration referred to in this Article.
3. A Person shall not act as a Warehouse Keeper before his registration in accordance with this Article.

### **Article (9) - The Procedures, Controls and Conditions of Tax Registration and Tax Deregistration**

The Executive Regulation of this Decree-Law shall determine the procedures, controls and conditions of Tax Registration, Tax deregistration, and rejection of application for Tax Registration and Tax Deregistration.

## **Chapter Four - Rules Pertaining to Tax Payment and Tax Exemption**

### **Article (10) – Tax Calculation**

**Date** Tax shall be calculated as per the following dates:

1. The date of Import of Excise Goods.
2. The date on which the Excise Goods were acquired by the Stockpiler, and if such acquisition has happened before the effective date of this Decree-Law, the date of calculating tax shall be the effective date of this Decree-Law.
3. With the exception of the two cases mentioned in clauses (1) and (2) of this Article, Tax shall be calculated based on the date on which Excise Goods were released for consumption pursuant to what is specified in the Executive Regulation of this Decree-Law.



## **Article (11) – Inclusion of the Tax in the Advertised Price**

The advertised prices of Excise Goods shall be inclusive of the Tax.

Instances where prices do not include the Tax will be determined by the Executive Regulation of this Decree-Law.

## **Article (12) – Tax Exemption**

1. Excise Goods that are exported shall be exempt from tax.
2. The Executive Regulation of this Decree-Law shall specify the controls and conditions for exemption mentioned in clause (1) of this Article.

## **Chapter Five - Designated Zones**

### **Article (13) - Designated Zone**

1. A “Designated Zone” which fulfils the conditions specified in the Executive Regulation of this Decree-Law shall be treated as being outside the State for Tax purposes.
2. By way of exception to the provisions of clause (1) of this Article, the Executive Regulation of this Decree-Law shall specify the conditions under which the Business conducted within the Designated Zones shall be treated as being conducted in the State.

### **Article (14) – Transfer of Excise Goods in Designated Zones**

1. Excise Goods may be transferred from one Designated Zone to another without being subject to Tax.

2. The Executive Regulation of this Decree-Law shall specify the controls and conditions of the transfer of goods from and to a Designated Zone as well as the mechanism of preserving, storing and processing such Excise Goods therein.

## **Chapter Six - Calculation of Due Tax**

### **Article (15) - Tax Calculation**

The Payable Tax owed by a Taxable Person shall be calculated for any Tax Period as the Due Tax from the Taxable Person for such Tax Period less the total Deductible Tax as calculated under provisions of Article (16) of this Decree-Law.

### **Article (16) – Deductible Tax**

1. The Deductible Tax consists of the following:
  - a. The Tax paid on Excise Goods which have been exported;
  - b. The Tax paid on Excise Goods which have become a component of another  
Excise Good which is, or will become, subject to tax;
  - c. Amounts paid to the Authority in error.
2. The Executive Regulation of this Decree-Law shall specify the conditions and controls for deducting the Tax mentioned in clause (1) of this Article.

## **Chapter Seven - Tax Period, Tax Return and Tax Payment**

### **Article (17) –Tax Period**

The Executive Regulation of this Decree-Law shall specify the Tax Period and the exceptional circumstances under which the Authority may amend the Tax Period.

### **Article (18) – Tax Return**

The Taxable Person shall submit a Tax Return to the Authority at the end of each Tax Period within the timeframes and in accordance with the procedures specified in the Executive Regulation of this Decree-Law.

### **Article (19) – Payment of Tax**

1. The Taxable Person shall settle the Payable Tax appearing in the Tax Return on the same date of submitting the Tax Return under Article (18) of this Decree-Law in accordance with the procedures specified by the Authority.
2. Any Person excepted from registration under clause (1) of Article (6) of this DecreeLaw shall pay the Due Tax when importing Excise Goods.

## **Chapter Eight - Carrying Forward Excess Refundable Tax**

### **Article (20) – Excess Refundable Tax**

1. The Taxable Person shall carry forward any excess Refundable Tax to the subsequent Tax Periods and offset such excess against the 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 full depletion of such excess , in the following cases:

- a. If the Taxable Person's Deductible Tax set forth in Article (16) of this Decree-  
Law exceeds the Due Tax 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.
2. If any excess remains for any Tax Period after being carried forward for a period of time, the Taxable Person may submit an application to the Authority for a refund of the remaining excess, in accordance with the timeframes and procedures specified by the Executive Regulation of this Decree-Law.

### **Article (21) – Tax Refunds in Special Cases**

The Authority may refund the Tax based on a refund application submitted thereto to the following:

1. Foreign governments, international organisations and diplomatic bodies and missions, on condition of reciprocity, for Tax paid in the course of their official activities and in accordance with the conditions, controls and procedures specified in the Executive Regulation of this Decree-Law.
2. The Person who is registered in any Implementing State should he pay the Due Tax in the State and then export the Excise Goods to an

Implementing State in accordance with the conditions, controls and procedures specified in the Executive Regulation of this Decree-Law.

3. Any other Persons or categories determined by a Cabinet Decision at the suggestion of the Minister.

## **Chapter Nine - Violations and Penalties**

### **Article (22) – Administrative Penalties Assessment**

Notwithstanding the provisions of Federal Law No. (7) of 2017 on Tax Procedures, the Authority shall issue an Administrative Penalty Assessment to the Taxable Person, and notify the latter of the same within five business days from the date of issuance, if the Taxable Person committed any of the following violations:

1. Failure by the Taxable Person to display prices inclusive of Tax according to provisions of Article (11) of this Decree-Law.
2. Failure to comply with the conditions and procedures related to the transfer of Excise Goods from a Designated Zone to another and the mechanism of preserving, storing and processing such Excise Goods.
3. Failure by the Taxable Person to provide the Authority with the price lists of Excise Goods produced, imported or sold thereby, as specified in the Executive Regulation to this Decree-Law.

### **Article (23) – Instances of Tax Evasion**

Notwithstanding the instances of Tax Evasion referred to in Federal Law No. (7) of 2017 on Tax Procedures and the Penalties mentioned therein, a

Person shall be deemed to have committed Tax Evasion if he conducts any of the following acts:

1. Bringing or attempting to bring Excise Goods into or out of the State without payment of the relevant Due Tax in part or in full.
2. Producing, transferring, acquiring, storing, transporting or receiving Excise Goods the Due Tax of which was unpaid with the intention of avoiding the payment of Due Tax.
3. Placing false distinguishing marks on Excise Goods, contrary to the provisions of clause (2) of Article (25) of this Decree-Law, with the intent of evading the payment of Due Tax or receiving unlawful refunds.
4. Submitting any false, counterfeit or unreal documents, returns or records, with the intent of evading the payment of Due Tax or receiving unlawful refunds.

## **Chapter Ten - General Provisions**

### **Article (24) – Record-Keeping and Evidential Requirements**

1. Without prejudice to the provisions related to record-keeping stipulated in any other law, the Taxable Person shall keep the following records:
  - a. Records of all produced, imported or stockpiled Excise Goods;
  - b. Records of exported Excise Goods and evidence of such Export;
  - c. Records of stock levels, including details of lost or destroyed items;
  - d. A Tax Record that includes the following information:

- 1) Due Tax on imported Excise Goods.
  - 2) Due Tax on produced Excise Goods
  - 3) Due Tax on Excise Goods that have been stockpiled
  - 4) Deductible Tax according to the provisions of Article (16) of this Decree-Law.
2. The Council of Ministers shall specify, at the suggestion of the Minister, the Excise Goods that should be marked to indicate that Tax has been paid on them as well as the requirements conditions and procedures related to the marking of such goods.
  3. The Executive Regulation of this Decree-Law shall specify the timeframes, conditions, and provisions for retention of records listed in clause (1) of this Article.

### **Articles (25) – Stating the Tax Registration Number**

The Taxable Person, or any other Person authorised in writing by the Taxable Person, shall state the Tax Registration Number on all correspondence and dealings with the Authority, Tax Returns and any document related to Tax.

## **Chapter Eleven - Final Provisions**

### **Article (26) – Executive Regulation**

The Council of Ministers shall issue the Executive Regulation of this Decree-Law at the suggestion of the Minister.

## **Article (27) – Revenue Sharing**

Revenue from Tax and Administrative Penalties collected in accordance with 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 (28)**

In the absence of any special provision in this Decree-Law, the provisions of Federal Law No. (7) of 2017 on Tax Procedures shall apply.

## **Article (29) – Abrogation of Conflicting Provisions**

Any provision contrary to or inconsistent with the provisions of this Decree-Law shall be abrogated.

## **Article (30) – Publication and Application of the Decree-Law**

This Decree-Law shall be published in the Official Gazette and will come into effect on 1 October 2017.

**Khalifa bin Zayed Al Nahyan**

**President of the United Arab Emirates**

**Issued by us in the Presidential Palace in Abu Dhabi**

On: 25 Dhul Qi'da 1437 H.

Corresponding to: 17 August 2017



## 15. Cabinet Decision on Executive Regulation on Excise Tax

### **Cabinet Decision No. (37) of 2017 on the Executive Regulation of The Federal Decree-Law No (7) of 2017 on Excise 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. (7) of 2017 on Excise Tax; and
- ▣ Pursuant to the presentation of the Minister of Finance, and the approval of the Cabinet,

#### **Has decided;**

#### **Title One**

#### **Article (1) Definitions**

In the application of the provisions of this Decision, the following words and expressions shall have the meanings assigned against each, unless the context requires otherwise:

**State:** United Arab Emirates.

**Minister:** Minister of Finance.

**Authority:** Federal Tax Authority.

**Tax:** Excise Tax.

**Decree-Law:** Federal Decree-Law No. (7) of 2017 on Excise Tax.

**Excise Goods:** Goods that will be determined as subject to Tax by a Cabinet decision upon the suggestion of the Minister.

**Import:** The arrival of Goods from abroad into territory of the State.

**Export:** The departure of goods from the territory of the State, including Direct and Indirect Exports.

**Direct Export:** An Export of Excise Goods to a destination outside the State, where the supplier is responsible for arranging transport, or appointing a freight agent to do so on his behalf.

**Indirect Export:** An Export of Excise Goods to an overseas customer who arranges for the collection of the goods from the supplier in the State and Exports them himself, or has appointed a freight agent to do so on his behalf.

**Overseas Customer:** The Person who is not resident in the State and does not have an establishment in the State and is not a Registrant for Tax in the State.

**Person:** A natural or legal person.

**Taxable Person:** Any Person who is registered or obligated to register for Tax purposes under the provisions of the Decree-Law.

**Designated Zone:** Any fenced area intended to be a free zone that cannot be entered or exited except through a designated road, and any

area designated by the Authority as being subject to the supervision of a Warehouse Keeper, in accordance with the provisions of this Decision.

**Warehouse Keeper:** Any Person approved and registered at the Authority to supervise a Designated Zone in accordance with the provisions of this Decision.

**Tax Registration:** A procedure whereby the Taxable Person or the Legal Representative registers at the Authority for Tax purposes.

**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.

**Importer:** The Person whose name appears for customs clearance purposes as the importer of the Excise Goods on the date of Import.

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

**Business:** Any activity conducted regularly, on an ongoing basis and independently by any Person, in any location, which involves or may involve trading in Excise Goods.

**Refundable Tax:** Amounts that have been paid and that the Authority may return to the Person pursuant to the provisions of the Decree-Law.

**Due Tax:** Tax that is calculated and imposed pursuant to the provisions of the Decree-Law.

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

**Tax Period:** A specific period of time for which Payable Tax shall be calculated and paid.

**Stockpiler:** The Person who owns Excise Goods and cannot demonstrate that such goods had been previously subject to Tax pursuant to the conditions stated in this Decision.

**Customs Legislation:** Federal and Local legislation that regulates customs in the State.

**Implementing States:** The States of the Gulf Cooperation Council that apply a Tax law pursuant to an issued legislation

**Duty Free Shop:** A retail shop situated in a Designated Zone selling goods for sale to travelers departing the State.

## **Title Two - Liability to Tax**

### **Article (2) Persons liable to pay Tax**

1. If the Person who performed the activity according to clause (1) of Article (4) of the Decree-Law has not met the Tax Payment requirements, then the Person “involved” in any of the activities specified under clause (2) of Article (2) of the Decree-Law is responsible for the Due Tax, and shall include, but is not limited to, all of the following:
  - a. A Person in the supply chain in which Tax has not been paid;
  - b. An investor or Person with a financial interest in the supply chain where Tax has not been paid;
  - c. The owner of the Excise Goods in any other case where this is not the producer, Importer, Warehouse Keeper or Stockpiler;

2. The Warehouse Keeper shall be liable to pay the Due Tax in case of the release of Excise Goods from a Designated Zone, where the Liable Person fails to pay the Due Tax, in any of the following cases:
  - a. Where the Warehouse Keeper has not kept the records specified by Article (24) of the DecreeLaw.
  - b. Where the Warehouse Keeper has failed to meet any of the conditions imposed by the Authority under clause (6) of Article (9) of this Decision.
  - c. Where the Warehouse Keeper in any manner has benefited from the failure of the Person liable to pay the Due Tax.
3. A Stockpiler shall not be required to pay the Due Tax where the following conditions are met:
  - a. The Stockpiler owns Excise Goods available in free circulation for the purposes of conducting Business in the State, provided Tax on those goods has not been previously paid, relieved, remitted or deferred.
  - b. The stockpiled Excise Goods are not excess Excise Goods pursuant to the provisions of Article (11) of this Decision.

### **Title Three - Registration Article (3) Application for Tax Registration**

1. For the purposes of Tax Registration, the Taxable Person shall meet the following rules and conditions:

- a. Submit an application for Tax Registration that includes such information and data as required by the Authority, and submit through such means as specified by the Authority.
  - b. To provide a financial security, as specified by the Authority.
  - c. To comply with any additional requirements in terms of keeping records or reports or resolutions that the Authority specifies and issues.
2. The Authority shall respond to the Person's application for Tax Registration within 20 business days of receipt of the application.
3. The effective date of Tax Registration shall be the first day of the month in which the Person starts to conduct activities listed in clause (2) of Article (2) of the Decree-Law.
4. The Authority may revise the value of the financial security submitted by the Taxable Person.
5. Any Person required to apply for Tax Registration under Article (5) of the Decree-Law may apply to be registered as a Warehouse Keeper subject to the conditions set out in Article (9) of this Decision.

#### **Article (4) Exception from Tax Registration**

1. The Authority may except the Person from Tax Registration where he proves to the Authority that he will not regularly Import or release Excise Goods from Designated Zones.

2. For the purposes of clause (1) of this Article “regularly” shall mean Importing or releasing Excise goods from a Designated Zone more often than once in a period not exceeding 6 months.
3. Notwithstanding clause (2) of this Article, where a person imports or releases Excise Goods from a Designated Zone four times in a 24-month period, they shall be considered to be regularly importing or releasing Excise Goods.
4. The Person excepted from Tax Registration pursuant to clause (1) of this Article must notify the Authority within 20 business days of any changes in his circumstances that may cause him to become taxable pursuant to the Decree-Law, and such notification shall contain the information and data that the Authority requests and be submitted by such means as determined by the Authority for these purposes.
5. Where a Person is no longer excepted from registration under clause (1) of this Article, the Authority shall register the same for Tax effective from the date they ceased to meet such condition.
6. Where Tax in respect of an Import is due in accordance with Article (6) of the Decree-Law, the Person shall make payment of the Due Tax at or before the date of Import of the Excise Goods by such means as specified by the Authority for these purposes.

#### **Article (5) Rejection of the Tax Registration Application**

1. The Authority may reject a Tax Registration Application in the following instances:

- a. If it finds that, the applicant has no intention of conducting any of the activities listed in Clause (2) of Article (2) of the Decree-Law.
  - b. If the applicant fails to provide the required information and data.
2. If the Authority rejects the Tax Registration Application, the Authority must inform the Person of its decision within 20 business days of receiving the application according to the procedures stated in Federal Law No. (7) of 2017 referred to.
3. If the Authority rejects the Tax Registration Application, the Person may:
  - a. Request a reconsideration according to the procedures stated in Article (27) of Federal Law No. (7) of 2017 referred to.
  - b. Submit another Tax Registration Application under Article (3) of this Decision.

## **Article (6) Tax Deregistration**

1. A Registrant shall notify the Authority of his Tax deregistration within (30) thirty days from when he is no longer responsible for the Tax under Article (4) of the Decree-Law.
2. The Authority shall deregister the Registrant effective from the day on which he was no longer the Person responsible for the Tax under Article (4) of the Decree-Law.
3. The Authority shall respond to the Registrant's application to deregister within (20) business days of receipt of the application.



4. The Registrant, in order to be deregistered for Tax, shall comply with the following controls and conditions:
  - a. Settle all Tax due under the Decree-Law.
  - b. Settle all Administrative Penalties due according to the Decree-Law and Federal Law No. (7) referred to.
  - c. Submit all Tax Returns due according to the Decree-Law and Federal Law No. (7) of 2017 referred to.

#### **Article (7) Rejection of Tax Deregistration Application**

1. The Authority may refuse an application for deregistration in the following cases:
  - a. If it appears to the Authority that the Person applying for deregistration has the intention to conduct any of the activities referred to in Clause (2) of Article (2) of the Decree-Law within the subsequent (12) months.
  - b. The Person does not prove to the Authority that he is no longer a Person responsible for Due Tax according to Article (4) of the Decree-Law.
  - c. Less than (6) six months have passed since the Person was registered for Tax in accordance with the provisions of Article (3) of this Decision.
2. If the Authority rejects the Deregistration Application, then the Authority shall notify the Person with its decision within (20) business

days, in accordance with the procedures of the Federal Law No. (7) of 2017 referred to.

### **Article (8) Tax Registration on the introduction of Tax**

1. Tax Registration shall start from the date specified by the Authority.
2. Where it appears to the Authority that a Taxable Person has not notified the Authority of his obligation to register for Tax in accordance with the provisions of Clause (1) of this Article, it may register him with effect from the date the Decree-Law comes into force.

### **Article (9) Warehouse Keeper Registration**

1. Any Person who carries on or intends to carry on operation of a Designated Zone shall apply for Registration as a Warehouse Keeper.
2. An application for Warehouse Keeper Registration shall contain such information and data, and shall be submitted through such means, as determined by the Authority.
3. The effective date of registration for a Person to act as a Warehouse Keeper shall be the date the application is approved by the Authority or from such date as may be requested by the Person and agreed by the Authority.
4. The Authority shall issue a Warehouse Keeper Registration certificate that shall include the Designated Zones that he shall be responsible for and where he shall be permitted to produce or stockpile the Excise Goods without being released for consumption.

5. For the purposes of registering a Warehouse Keeper, the Authority may impose the following conditions:

- a. Specify the amount of Excise Goods that can be kept by a Warehouse Keeper in each Designated Zone he is responsible for at any one time.
- b. Specify the type of Excise Goods that can be kept by a Warehouse Keeper in each Designated Zone he is responsible for.
- c. Require the Warehouse Keeper to provide a financial security for each Designated Zone he is responsible for as determined by the Authority.
- d. Impose additional reporting requirements in terms of keeping records and reports and submitting these to the Authority.
- e. Specify the level of physical security required over each Designated Zone he is responsible for.
- f. Specify the checks the Warehouse Keeper is required to make over the Excise Goods kept within each Designated Zone he is responsible for.
- g. Specify the conditions of entry to and exit from each Designated Zone he is responsible for, and any entry or exit restrictions that the Warehouse Keeper should be required to impose.

#### **Article (10) Change of Circumstances of a Warehouse Keeper**

1. A Warehouse Keeper shall notify the Authority of any changes in his circumstances that would affect his Registration as a Warehouse

Keeper including circumstances in which the Warehouse Keeper no longer operates a Designated Zone via the means specified by the Authority, within 30 days of any of the following:

- a. The date on which a Warehouse Keeper ceases to be responsible for the supervision and management of the Designated Zone over which he is appointed.
  - b. The date on which the change of circumstances took effect.
2. The Authority shall cancel a Warehouse Keeper Registration with effect from the relevant event.
  3. The Authority shall respond to the Warehouse Keeper's notification within 20 business days of receipt of the notification.
  4. If the Warehouse Keeper submits an application for deregistration, the Authority will terminate his responsibility for the Designated Zones and will not de register him until all his duties and responsibilities for the period during which he was registered are met, according to the rules and conditions that the Authority shall state.
  5. Without prejudice to the provisions of Clause (4) of this Article, if there was a need to continue to operate the Designated Zone, the Warehouse Keeper requesting deregistration shall attach to his application for deregistration a copy of the new Warehouse Keeper registration form in accordance with the provisions of Article (9) of this Decision, in addition to any other documents determined by the Authority.

## **Title Four - Rules on Tax Payment**

### **Article (11) Stockpiling**

1. The Person will be considered a Stockpiler where they own “excess Excise Goods” in free circulation and available in the course of conducting Business in the State where Tax on such goods has not been previously paid, returned, or deferred.
2. “Excess Excise Goods” shall mean such Excise Goods on which all of the following applies:
  - a. owned by the Stockpiler on the earliest of the date that a Tax obligation arose, or an increase in Tax obligation arose or the date the Decree-Law comes into force;
  - b. in excess of the Stockpiler’s average monthly stock level for that type of Excise Good (whether purchased or produced) as determined over a (12) month period, starting one month before the date specified in paragraph (a) of this Clause;
  - c. acquired by the Stockpiler before the date specified in paragraph (a) of this Clause; and
  - d. The Stockpiler intends to sell these Goods in the course of conducting Business in the State.
3. As an exception to paragraph (b) of Clause (2) of this Article, where the average monthly sales of excise goods for a period of 12 months prior to the date specified in paragraph (a) of Clause (2) of this Article is calculated, and it appears that the Stockpiler has excise goods exceeding two months of such average, disregarding the monthly stock

level of such Stockpiler, any goods exceeding two months level shall be considered excess and tax shall be due on it.

4. A Person, in the course of conducting business, shall keep audited records and showing the quantity of his stock of Excise Goods from the date the Decree-Law comes into force, for the purposes of ascertaining the stock of Excise Goods.

## **Article (12) Release for Consumption**

1. Excise Goods are released for consumption when any of the following is occurred:
  - a. Producing Excise Goods.
  - b. Releasing the Excise Goods from a Designated Zone and offering such for free circulation.
2. For the purposes of paragraph (a) of Clause (1) of this Article, Excise Goods shall be treated as produced at such time as the goods reach a stage where they are:
  - a. Ready to be held out for retail sale;
  - b. Fit for consumption or sale where the goods are not intended for retail sale;
  - c. Ready to be sold to a retailer, if the Excise Goods are of the type which are not fit for consumption until they are combined with another product at the point of retail sale.

3. For the purposes of paragraph (b) of Clause (1) of this Article Excise Goods shall be treated as leaving a Designated Zone and enter free circulation at the occurrence of any of the following:
- a. The Excise Goods leave a Designated Zone, unless they are moved to another Designated Zone without being released for consumption or will be Exported in accordance with such conditions as specified by the Decree-Law and this Decision;
  - b. They are consumed or bought for consumption within a Designated Zone;
  - c. There is an irregularity in the course of a transfer of Excise Goods between Designated Zones which resulted in Excise Goods being released for consumption; or
  - d. They are found to be deficient or there is a shortage in their quantity from a Designated Zone or during transfer between Designated Zones or whilst held in a suspension arrangement in accordance with the Customs Laws.
4. "Irregularity" in paragraph (c) of Clause (3) of this Article, means a situation occurring during a transfer of Excise Goods from one Designated Zone to another where those goods are not transferred in accordance with the conditions specified under this Decision, or the Excise Goods are lost or destroyed.
5. As an exception to paragraph (d) of Clause (3) of this Article, release for consumption is not deemed to have occurred if:

- a. The Warehouse Keeper responsible for the Excise Goods notifies the Authority within 30 days of discovering deficiency in the stock or shortage in quantity; and
  - b. It appears that the shortage of, or deficiency in, the Excise Goods is due to a legitimate cause accepted by the Authority.
6. Deficient goods may be destroyed before the lapse of 30 days following notification to the Authority, if the Authority has confirmed that the goods may be destroyed.
7. For the purposes of Clause (6) of this Article, the goods may be destroyed after 30 days have lapsed following notification to the Authority, unless the Authority has directed that the goods must be retained for inspection.
8. If, during the period specified in Clauses (6) and (7), the Authority gives the Warehouse Keeper notice to inspect the goods, they shall be held by the Warehouse Keeper until such time as the Authority has so inspected them and given permission for destruction to take place.

### **Article (13) Inclusion of Tax in Advertised Prices**

1. The advertised price of Excise Goods shall not be inclusive of Excise Tax where there is an agreement for the purchase of goods made and the goods have not been supplied prior to the date the Decree-Law comes into force, in the following cases:
  - a. If the purchaser intends to incorporate the Excise Goods into another Excise Good upon which Tax shall be due.



- b. If the purchaser intends to Export the Excise Goods to a location outside the State.
  - c. If the purchaser is a foreign government, international organization, diplomatic body or mission which is entitled to a refund of Tax paid under Clause (1) of Article (21) of the Decree-Law.
  - d. If the Excise Goods are sold after the date the Decree-Law comes into force to a Person who will Export the Excise Goods to another Implementing State and will be liable to pay Tax in that state, and would be entitled to a refund under clause (2) of Article (21) of the DecreeLaw.
  - e. If the purchaser intends to make an onward sale of the Excise Goods.
2. Tax shall be due in the cases listed in Clause (1) of this Article, in addition to the price advertised by the Supplier.

## **Title Five**

### **Article (14) Exemption for Exported Goods**

1. Excise Goods Exported will be exempt from Tax where they have not been released for consumption in the State and have not been previously subject to Tax, in any of the following cases:
- a. Where they are Exported to a location outside the State, provided they are transferred to the point of Export in suspension in accordance with the Customs Laws and in accordance with the

rules and conditions stated under clause (11) of Article (15) of this Decision;

- b. Where they are consumed in the course of an international journey departing from the State and they are transferred in suspension to the point of Export in accordance with the Customs Legislation.
  - c. Where they are purchased from a Duty Free Shop by a Person who will immediately Export the Excise Goods on condition that he provides evidence that such goods shall be leaving the Implementing States at the point of sale.
2. A direct Export shall be exempt from Tax if all of the following conditions are met:
- a. The goods are physically Exported by the supplier to a place outside the State;
  - b. Official and commercial evidence of Export is retained by the Exporter;
  - c. The goods are not used, partially or otherwise, or altered in the time between supply and Export, except to the extent necessary to prepare the goods for Export.
3. An indirect Export shall be exempt from Tax if all of the following conditions are met:
- a. the overseas customer physically Exports the goods supplied to a place outside the State;

- b. the overseas customer obtains official and commercial evidence of Export, and provides the supplier with a copy of this;
  - c. The goods are not used, partially or otherwise, or altered in the time between supply and Export, except to the extent necessary to prepare the goods for Export.
4. For the purposes of paragraph (2) and (3) of this Article, and subject to Clause (5) of this Article:
- a. “Official evidence” means Export documents issued by the local Emirates Customs departments.
  - b. “commercial evidence” shall include any of the following:
    - 1) airway bill;
    - 2) bill of lading;
    - 3) consignment note;
    - 4) certificate of shipment;
5. For the purposes of Clause (4) of this Article, the Authority may specify alternative forms of evidence according to the nature of the Export or the nature of the goods being exported.

## **Title Six Designated Zones**

### **Article (15)**

#### **Designated Zones**

1. Excise Goods stored, preserved or processed in a Designated Zone or transferred between Designated Zones will be treated as not released for consumption pursuant to Article (12) of this Decision.

2. For the purposes of Article (13) of the Decree-Law, a “Designated Zone” is any of the following:
  - a. A free zone that meets the following conditions:
    - 1) Has security measures in place to restrict entry and exit of individuals and movement of goods to and from the Designated Zone.
    - 2) The Designated Zone is controlled and supervised by a Customs department.
    - 3) A Warehouse Keeper been appointed for the Designated Zone.
  - b. Any area specified by the Authority provided it meets the following conditions:
    - 1) It is a specific geographic area;
    - 2) It has security measures in place to restrict entry and exit of individuals and movement of goods to and from that area, according to controls specified by the Authority.
    - 3) A Warehouse Keeper has been appointed for it.
3. The Designated Zone shall be registered via an application submitted by the Warehouse Keeper to the Authority pursuant to the procedures determined by the Authority.
4. The Authority may request a financial guarantee for the registration of each Designated Zone as it specifies.
5. Every Person appointed as a Warehouse Keeper shall be required to control and supervise the Designated Zone and the transfer of goods

without release for consumption to another Designated Zone in accordance with the following conditions:

- a. Keep records of Excise Goods held in the Designated Zone at any time in accordance with Clause (8) of this Article.
  - b. Keep evidence of Excise Goods being intended for transfer to another Designated Zone without release for consumption in accordance with Clause (8) of this Article.
  - c. Any such other records as the Authority may specify to be kept in respect of each Designated Zone supervised by the Warehouse Keeper.
6. The records referred to in paragraph (a) of Clause (5) of this Article may be kept by other persons, but will be the responsibility of the Warehouse Keeper.
7. Excise Goods that are Imported into, received, produced, stored, preserved, processed or otherwise held in a Designated Zone will not be subject to Tax until those goods are released from the Designated Zone or are deemed to have been released for consumption under Article (12) of this Decision.
8. The Warehouse Keeper shall be required to retain documentary evidence as specified by the Authority and shall provide such evidence to the Authority on request, relating to the keeping and treatment of goods in a Designated Zone. The evidence retained should be sufficient to identify the following:
- a. The stock levels of the Designated Zone at any given time.

- b. The value and quantity of Excise Goods entering the Designated Zone.
  - c. The value and quantity of Excise Goods leaving the Designated Zone and released for consumption.
  - d. The value and quantity of Excise Goods transferred to another Designated Zone, including details of that Designated Zone.
  - e. The value and quantity of Excise Goods transferred from the Designated Zone for Export.
  - f. The value and quantity of Excise Goods produced within the Designated Zone.
9. A transfer of goods from one Designated Zone to another in the State shall not be subject to Tax where:
- a. The goods, or part thereof, are not released for consumption during the transfer;
  - b. The goods are not in any way used or altered during the transfer;
  - c. The transfer is undertaken in accordance with the rules and regulations as established by the Authority.
10. In accordance with Article (14) of the Decree-Law, a transfer of Goods between Designated Zones within the State must be undertaken in accordance with the following procedures:
- a. The Warehouse Keeper responsible for the Designated Zone from which the Excise Goods originate must issue a document containing the following particulars:
    - 1) The type of Excise Goods to be transferred.

- 2) The quantity and value of Excise Goods to be transferred.
  - 3) The value of Due Tax in the event the Excise Goods were released for consumption in the course of the transfer to another Designated Zone.
  - 4) The details of the Designated Zone to which the Excise Goods will be transferred and the Warehouse Keeper responsible for it.
  - b. The Warehouse Keeper responsible for the Designated Zone where the Excise Goods have been received must confirm receipt of the Excise Goods.
  - c. The Excise Goods must be accompanied with the document issued pursuant to paragraph (a) of this clause when transferring the Goods.
  - d. The document issued pursuant to paragraph (a) of this clause in relation to the transport must be provided to the Authority upon request.
11. For the purposes of Articles (12) and (14) of this Decree-Law, Excise Goods may be transported between Designated Zones within the State or from a Designated Zone for Export purposes if the following conditions are met:
- a. The Warehouse Keeper of the Designated Zone from which the Excise Goods originate shall remain responsible for the goods until they are received by the Warehouse Keeper at the receiving Designated Zone or until they are exported.

- b. The Person who is responsible for transferring the Excise Goods must be either a Taxable Person or a Warehouse Keeper for any of the two areas.
- c. If the Taxable Person is transporting the Excise Goods, he must obtain prior consent from the Warehouse Keeper to transport these goods. The Warehouse Keeper may refuse to grant such consent.
- d. The Warehouse Keeper must retain copies of all approvals granted to Taxable Persons to transport Excise Goods.

## **Title Seven - Calculation of Due Tax**

### **Article (16) Deductible Tax**

1. A Taxable Person who is eligible to deduct Tax under Article (16) of the Decree-Law may deduct the Tax on his Tax Return for the period in which the right to the deduction arose.
2. For the purposes of Clause (1) of this Article, the value of the deductible Tax is equal to the value of the Tax previously paid on the relevant goods.
3. For the purposes of establishing the value of the deductible Tax under Clause (2) of this Article, at the request of the Authority the Taxable Person shall be required to provide evidence to support the value of the Tax previously paid on the relevant Excise Goods. The Authority shall specify the manner of submitting such evidence in order to confirm the Taxable Person has previously paid the Tax.



4. For the purposes of Clause (3) of this Article, where Tax was paid on the Excise Goods by an another party in the supply chain, the Taxable Person shall retain the following evidence that Tax was paid:
  - a. A copy of the purchase invoice for the Excise Goods;
  - b. A declaration from the supplier stating that he paid the Tax and confirming the value thereof;
  - c. Information which demonstrates to the satisfaction of the Authority that the Excise Goods which are the subject of the claim are the same Excise Goods on which Tax was paid.
5. In circumstances where the Excise Goods have been subjected to Tax in the State, the Taxable Person shall be eligible for a refund of the Tax under paragraph (a) of Clause (1) of Article (16) of the Decree-Law where any of the following applies:
  - a. They are Exported to outside the Implementing States;
  - b. They are Exported to an Implementing State and the Tax was paid for the same goods in that State;
  - c. They are consumed in the course of an international journey departing from the State.
6. Any deduction of Tax will be subject to the conditions or evidence requirements specified by the Authority.

## **Title Eight - Tax Returns, Tax Periods and Payment of Tax**

### **Article (17) Length of Tax Period**

1. The Tax Period shall be the calendar month.

2. Upon the Registration of a Taxable Person, the Authority may direct that the first Tax Period be longer than the Tax Period specified in Clause (1) of this Article.
3. As an exception to Clause (1) of this Article, the Authority may direct a Taxable Person to submit Tax Returns by reference to a longer period than aforesaid, or approve his request to do so.
4. A request under Clause (3) of this Article should be made in such a form and manner as directed by the Authority.

#### **Article (18) Tax Return**

1. A Taxable Person shall submit a Tax Return through such means and procedures as specified by the Authority.
2. The Taxable Person shall submit the Tax Return under Clause (1) of this Article to the Authority no later than the (15th) fifteenth day of the month following the relevant Tax Period.

#### **Article (19) Tax Payment**

1. Payable Tax shall be settled through such means as specified by the Authority.
2. A Taxable Person shall settle Payable Tax no later than the (15th) fifteenth day following the end of a calendar month.
3. The Customs departments shall:
  - a. Reconcile the quantity of Excise Goods imported into the State with the Declaration of importation received from the Importer

before releasing the Excise Goods, and where the Person is not a Taxable Person, it shall check the payment of any Due Tax and fees.

- b. Reconcile the quantity of Excise Goods exported from the State with the documents of Export.

## **Article (20) Filing Regular Declarations**

1. The Taxable Person must file declarations in the manner and via the means determined by the Authority as follows:
  - a. Details of the Excise Goods to be imported.
  - b. Details of the Excise Goods produced in the State.
  - c. Details of the Excise Goods transported from a Designated Zone.
2. The Authority shall determine the deadlines for receiving the Returns stated under Clause (1) of this Article.

## **Title Nine - Refunds of Excess Tax**

### **Article (21) Excess Refundable Tax**

1. A claim for a refund of excess Tax to which a Taxable Person is entitled shall contain such information and data as required by the Authority and be submitted through such means as specified by the Authority within 5 years from the date the Person has the right to apply for the refund.
2. Subject to its powers and obligations under the Decree-Law and this Decision, the Authority shall refund any excess Tax to the Taxable

Person where it is satisfied that the Taxable Person is entitled to a refund.

3. Subject to Clause (6) of this Article where the Authority is required to refund an amount of excess Tax in accordance with Clause (2) of this Article, the refund must be made by the later of:
  - a. Two calendar months following the submission of the claim for a refund
  - b. Where the Authority undertakes an audit of the claim for a refund, within (21) twenty one days after conclusion of the audit.
4. The Authority is not obligated to refund any remaining excess Tax to the Taxable Person if less than two tax periods have passed since the end of the Tax Period in which the excess Tax arose.
5. The Authority may at its discretion refund the amount of excess Tax before the expiration of two tax periods in the following situations:
  - a. The Taxable Person's Registration is cancelled;
  - b. The Authority is satisfied that the Taxable Person will be undertaking taxable activities in the future and that for a period of at least one year following there is likely to be excess Refundable Tax;
6. Where a Taxable Person has failed to submit a Tax Return for any Tax Period as required under the Decree-Law, the Authority may withhold any refund until such a time as the outstanding Returns have been submitted.

## **Title Ten - Other Tax Refunds**

### **Article (22) Tax Refunds in Special Cases**

1. Where Tax is incurred by a foreign government, international organization, diplomatic bodies and missions, a claim for a refund of the Tax may be made subject to the following conditions:
  - a. Excise Goods are acquired exclusively for official use;
  - b. The country in which the relevant foreign government, international organization, 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 excise Tax in that country;
  - c. The refund is consistent with the terms of any international treaty or other agreement concerning the liability to Tax of such a foreign government, international organization, diplomatic body or mission;
  - d. The Excise Goods are not acquired for the purposes of resale or any other commercial purposes.
2. Where Tax is incurred by a Person who is registered in an Implementing State who has paid Tax in the State and has then Exported the Excise Goods to another Implementing State and paid Tax in that Implementing State, a claim for a refund of the Tax may be made subject to the following conditions:
  - a. That Person is not registered in the State.

- b. Evidence is provided in support of the claim confirming the Person is a taxable Person in another Implementing State;
  - c. Evidence is provided confirming that Tax was paid on the Excise Goods in the State, including the value of the Tax paid;
  - d. Evidence is provided confirming that the Excise Goods were Exported to another  
Implementing State;
  - e. Evidence is provided confirming that Tax was paid on the Excise Goods in another Implementing State.
3. Subject to Article (21) of the Decree-Law a refund of Tax may be made according to the following:
- a. The claim should contain the information and data as required by the Authority and be submitted through means as specified by it;
  - b. The claim covers a minimum period of one calendar month;
  - c. The claim covers Tax paid on goods where the goods have a value not less than the value prescribed by a decision by the Minister.
  - d. The claim is supported by such documentary evidence as specified by the Authority.
4. The Authority shall make a decision regarding whether to approve or reject the refund claim made under this Article within 20 business days of an application being submitted.

## **Title Eleven - Keeping of Tax Record**

### **Article (23) Requirements for Keeping of Tax Record**

1. The Taxable Person shall retain price lists of Excise Goods produced, imported or sold by him and shall provide such records to the Authority on request.
2. For the purposes of Clause (1) of this Article, the price lists retained shall be sufficient to identify the Excise Goods produced, imported or sold by him and shall include details of the value of the Goods.
3. The required Tax records must be kept in accordance with the timeframes, limitations and conditions specified in the Executive Regulation of the Federal Law No. (7) of 2017 referred to.

#### **Article (24) Repeal of Conflicting Provisions**

All provisions violating or conflicting with the provisions of this Decision are hereby cancelled.

#### **Article (25)**

##### **Publication and Coming into Force of this Decision**

This Decision shall be implemented as of 1/10/2017 and published in the Official Gazette.

**Mohammad bin Rashid Al Maktoum**

**Prime Minister**

**Issued:**

**On: 4 Muharram 1439 H.**

**Corresponding to: 24 September 2017**

## **16. Cabinet Decision on Excise goods, rates and price**

### **Cabinet Decision No. (38) of 2017 on Excise Goods, Excise Tax Rates and the Method of Calculating the Excise Price**

#### **The Cabinet:**

- Having reviewed the Constitution;
- 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. (32) of 2017 ratifying the Common Excise Tax Agreement of the States of the Gulf Cooperation Council (GCC),
- And pursuant to the presentation of 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 requires otherwise:

**State:** United Arab Emirates

**Authority:** Federal Tax Authority



**Tax:** Excise Tax

**Decree Law:** Federal Decree-Law No. (7) of 2017 on Excise Tax.

**Excise Goods:** Goods that will be determined as subject to Tax by this decision.

**Taxable Person:** Any Person registered or obligated to register for Tax purposes under the Decree-Law.

**Importer:** The natural or legal Person whose name appears for customs clearance purposes as the importer of the Excise Goods on the date of import.

**Excise Price:** The price calculated in accordance with this Decision.

**Value Added Tax:** Tax imposed on the import and supply of goods and services according to the Federal Decree-Law no. (8) of 2017 on Value Added Tax.

## **Article 2 - Excise Goods**

1. Pursuant to Article (2) of the Decree-Law, Tax shall be applicable on the following Excise Goods:
  - a. Tobacco and tobacco products;
  - b. Carbonated drinks;
  - c. Energy drinks.

## **Article 3 - Tobacco and tobacco products**

For the purposes of Article (2) of this Decision, tobacco and tobacco products shall include all items listed within Schedule 24 of the GCC

Common Customs Tariff that are imported, cultivated or produced in the State.

#### **Article 4 - Carbonated drinks**

1. For the purposes of Article (2) of this Decision, carbonated drinks shall mean all of the following:
  - a. any aerated beverage except unflavoured aerated water;
  - b. any concentrates, powder, gel, or extracts intended to be made into an aerated beverage.
2. For the purposes of this Article, Carbonated drinks shall not include any beverage containing alcohol, even if the product is otherwise considered an aerated beverage.
3. Where a product specified under Paragraph (b) of Clause (1) of this Article has previously been subject to Tax in the State, the aerated beverage produced by combining that product with an aerating agent at the selling place by a non-Taxable Person shall not be considered an Excise Good for the purposes of the Decree-Law and no further Tax shall be due on it, moreover, the Tax paid on the product specified under Paragraph (b) of Clause (1) of this Article cannot be considered as Deductible Tax according to Article (16) of the Decree-Law.

4. Any product which meets the definition of a carbonated drink pursuant to this Article and also meets the definition of an energy drink pursuant to Article (5) of this Decision shall be classified as an energy drink and Tax shall be due on that product at the rate applicable to energy drinks.

## **Article 5 - Energy drinks**

1. For the purposes of Article (2) of this Decision, energy drinks shall mean all of the following:
  - a. any beverages marketed or sold as an energy drink that may contain stimulant substances that provide mental and physical stimulation, which includes without limitation caffeine, taurine, ginseng and guarana. This also includes any substance that has an identical or similar effect as the aforementioned substances;
  - b. any concentrates, powder, gel or extracts intended to be made into an energy drink.
2. For the purposes of this Article, Energy drinks shall not include any beverage containing alcohol, even if the product is otherwise considered an aerated beverage.
3. Where a product specified under Paragraph (b) of Clause (1) of this Article has previously been subject to Tax in the State, the energy drink produced from mixing this product with other products at the

selling place by a non-Taxable Person shall not be considered as an Excise Good for the purposes of the Decree-Law and no further Tax shall be due, moreover the Tax paid on the product specified under Paragraph (b) of Clause (1) cannot be considered as Deductible Tax according to Article (16) of the Decree-Law.

## **Article 6 - Tax Rates**

Pursuant to Article (3) of the Decree-Law, Tax shall be imposed on the Excise Goods stated in Article (2) of this Decision at the following rates:

| <b>Excise Good</b>                  | <b>Rate</b> |
|-------------------------------------|-------------|
| <b>Tobacco and tobacco products</b> | 100%        |
| <b>Carbonated drinks</b>            | 50%         |
| <b>Energy drinks</b>                | 100%        |

## **Article 7 - Excise Price**

1. Pursuant to Article (3) of the Decree-Law, the Excise Price shall be the higher of the following two prices:
  - a. the price published by the Authority for the Excise Good in a standard price list that it issues, if available.
  - b. the designated retail sales price for the Excise Good, less the Tax included therein.
2. In order to deduct the value of Tax included within the designated retail sales price, the following calculations should be used:

- a. For Excise Goods taxable at a rate of (50%) of the Excise Price, the Excise Price shall be equivalent to two thirds of its designated retail sales price.
  - b. For Excise Goods taxable at a rate of (100%) of the Excise Price, the Excise Price shall be equivalent to half of its designated retail sales price.
3. As an exception to the provision of paragraph (b) of Clause (1) of this Article, the Excise Price of carbonated drinks specified in paragraph (b) of Clause (1) of Article (4) of this Decision shall be calculated in accordance with the mechanism specified by the Minister of Finance.

#### **Article 8 - Designated Retail Sales Price**

1. For the purposes of Article (7) of this Decision, the designated retail sales price shall be the higher of:
  - a. the recommended selling price of the Excise Good in the course of its retail sale identified, declared and affixed to the goods by the Importer or Producer. "The recommended selling price of the Excise Good in the course of its retail sale" shall mean the price achieved when the Excise Good is sold for retail purposes and directly to the consumer, this does not include the cases where the price is increased as a result of selling the Excise Good in a hotel, restaurant or similar establishment for the purpose of consumption on the premises.

- b. the average retail selling price of the goods in the market.

2. For the purposes of paragraph (b) of Clause (1) of this Article, the average retail selling price of the goods in the market shall be calculated by the Taxable Person as follows:

- a. Identify the different retail selling prices of the Excise Good with reference to the previous twelve calendar months;
- b. Deduct the value of Tax included within that retail selling price in accordance with Clause (2) of Article (7) of this Decision or, where the retail selling price relates to a period prior to the introduction of the Tax, use the full value of the retail selling price in the market;
- c. Calculate the total amount of Excise Goods sold at each retail selling price in the market to determine a total market revenue for the twelve month period;
- d. Divide the total market revenue by the total amount of Excise Goods sold during the twelve months period;
- e. Multiply the figure at paragraph (d) by the Tax rate applicable to the Excise Goods to arrive at the notional Due Tax on the Excise Good;
- f. Add the figures resulting from paragraphs (d) and (e) together to arrive at the average retail selling price of the goods in the market.

3. The average retail sales price of the goods in the market shall be re-calculated by the Taxable Person at least once in every 6 month period. Where the calculation of the average retail sales price leads to an adjustment in the designated retail sales price as per clause (1) of this article, this adjustment should be applied from the earlier of the Tax Period following the calculation of the average retail sales price, or the Tax Period following the date in which the calculation should have been made.
4. In circumstances where the Taxable Person has reasonable grounds for being unable to identify the designated retail selling price as specified in paragraphs (a) and (b) of Clause (1) of this Article, the Taxable Person must notify the Authority within a period not less than (15) calendar days before the tax return submission deadline.
5. Where the Authority is satisfied that the Taxable Person is unable to identify the price specified in paragraphs (a) and (b) of Clause (1) of this Article, the Authority may grant permission for the Taxable Person to account for Tax based on the cost of the Excise Goods.
6. The designated retail sales price shall include all other duties and taxes due in respect of the Excise Goods, except VAT.

## **Article 9 - Contradicting Provisions**

All provisions violating or conflicting with the provisions of this Decision are hereby cancelled.

## **Article 10 - Publication and Effective Date**

This Decision shall come into effect as of October 1, 2017 shall be published in the Official Gazette.

**Mohammad bin Rashid Al Maktoum**

**Prime Minister**

Issued:

On: 4 Muharram 1439 H.

Corresponding to: 24 September 2017



## 17. GST - International Scenario

Internationally, VAT/ GST was first introduced in France and now more than 150 countries have introduced VAT/ GST. Most of the countries, depending on their own socio-economic formation, have introduced National level VAT/ GST or Dual VAT/ GST. We have discussed below key features of VAT prevalent in some of the countries.

### United Kingdom<sup>17</sup>

| Particulars               | Details   |
|---------------------------|---|
| Name                      | Value Added Tax   |
| Date of introduction      | 01.04.1973  |
| Scope                     | <ul style="list-style-type: none"> <li>▪ Supply of goods or services made in UK</li> <li>▪ Intra-community procurements from EU members</li> <li>▪ Importation of goods and services</li> </ul> |
| Standard Rate             | 20 %  |
| Reduced rate              | 5 % and exempt and zero rated   |
| Threshold exemption limit | £ 73,000  |
| Liability arises on       | <b>Accrual Basis:</b> On raising of invoice or receipt of consideration or supply (of goods or services),   |

<sup>17</sup> Source [www.hmrc.gov.uk](http://www.hmrc.gov.uk)

|                    |  |
|--------------------|--|
|                    | whichever is earlier.  |
|                    | <b>Cash basis</b> (if turnover is below £1.35 million): On receipt of consideration  |
| Payment            | Usually quarterly returns. However, small business can opt for annual returns filing.  |
| Export             | Exports are 'Zero' rated.  |
| Exempt services    | <ol style="list-style-type: none"> <li>1. Medical and education</li> <li>2. Finance, insurance, postal services</li> </ol>   |
| Innovative concept | To ease the VAT administration, the assessee is informed at the time of registration itself as to which of the three quarterly cycle it should follow for filling the VAT returns. |

## Canada<sup>18</sup>

| Particulars          | Details  |
|----------------------|--|
| Name                 | Federal Goods and Service Tax & Harmonized Sales Tax |
| Date of introduction | GST 01.01.1991 & HST 01.04.1997                      |
| Scope                | Taxable supplies of goods and services               |
| Standard Rate        | GST 5% and HST varies from 0% to 15%                 |
| Reduced rates        | Exempt and Zero rated                                |
| Threshold            | Canadian \$ 30,000                                   |

<sup>18</sup> Source cra-arc.gc.ca

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## exemption limit

|                     |   |
|---------------------|---|
| Liability arises on | On accrual (date of invoice, date of issue of invoice) or receipt of consideration, whichever is earlier. |
|---------------------|---|

|                          |   |
|--------------------------|---|
| VAT returns and payments | Depending on the turnover, tax needs to be deposited either monthly, quarterly or annually. |
|--------------------------|---|

|                          |  |
|--------------------------|--|
| Reverse charge mechanism | Reverse charge applies to importation of services and intangible properties. |
|--------------------------|--|

|        |                           |
|--------|---------------------------|
| Export | Exports are 'Zero' rated. |
|--------|---------------------------|

|                 |  |
|-----------------|--|
| Exempt services | <ol style="list-style-type: none"> <li>1. Supply of real estate</li> <li>2. Financial Services and residential renting</li> <li>3. Supplies by charities</li> <li>4. Health, education services</li> </ol> |
|-----------------|--|

|                    |  |
|--------------------|--|
| Innovative concept | A group concern can supply to another group concern at zero rate |
|--------------------|--|

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## Australia<sup>19</sup>

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| Particulars | Details |
|-------------|---------|
|-------------|---------|

|      |                       |
|------|-----------------------|
| Name | Goods and Service Tax |
|------|-----------------------|

|      |               |
|------|---------------|
| Date | of 01.07.2000 |
|------|---------------|

### introduction

|       |   |
|-------|---|
| Scope | <ul style="list-style-type: none"> <li>▪ Taxable supplies of goods and services made which are connected with Australia and made for a</li> </ul> |
|-------|---|

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<sup>19</sup> Source [www.ato.gov.au](http://www.ato.gov.au)

|                           |   |
|---------------------------|---|
|                           | consideration by a registered (or required to be registered) person in the course of business enterprises   |
|                           | <ul style="list-style-type: none"> <li>▪ Importation of goods</li> </ul>  |
| Standard Rate             | 10 %  |
| Reduced rate              | 0 %   |
| Threshold exemption limit | \$ 75,000   |
| Liability arises on       | <p>Accrual basis: On raising of invoice or receipt of consideration, whichever is earlier.</p> <p>Cash basis [an option available to assessee having turnover below \$ 2 million]: On receipt of consideration.</p> |
| Payment                   | Depending on the turnover, the tax needs to be deposited either monthly, quarterly or annually.   |
| Due date for payment      | Tax needs to be deposited on 21 <sup>st</sup> day following the end of the month/quarter/year.  |
| Reverse charge mechanism  | Reverse charge applies to supplies made by non-residents  |
| Export                    | Exports are 'Zero' rated.   |
| Exempt services           | <p>1. Government supplies such as water services, drainage services etc.</p> <p>2. Health, education, religious supplies Financial Services and residential renting</p>   |

### 3.Vegetable, fruit, meat

Innovative concept 'Group registration' wherein a single consolidated return for the group can be filed.

## Republic of China<sup>20</sup>

| Particulars                        | Details   |
|------------------------------------|---|
| Name                               | Value Added Tax   |
| Date of introduction <sup>21</sup> | 01.01.1994  |
| Scope                              | <ul style="list-style-type: none"> <li>Taxable supplies of goods and services for consideration in China by a taxable person in the course or furtherance of a business</li> <li>Importation of goods</li> </ul> <p>The scope of VAT in China is particularly on 'goods'. At present, only two services (viz. Repair services &amp; Service of supply of goods as per customers requirement) attract VAT.</p> |
| Standard Rate                      | 17 %  |
| Reduced rates                      | 13%, 6%, 4%, 3 % and 0%   |
| Liability arises on                | On raising of invoice or receipt of consideration, whichever is earlier. However, in case of payments in installments, the  |

<sup>20</sup> Source Chinatax.gov.cn

<sup>21</sup> Recently, China introduced Shanghai VAT Pilot Project

|                         |   |
|-------------------------|---|
|                         | relevant date when the installment is due.  |
| Payment                 | Depending on the turnover if it is monthly or quarterly then payment within 15 days from end of the month or quarter                                      |
| Due date for VAT return | Within 15 days from end of the month/ quarterly   |
| Export                  | Exports are 'zero' rated.   |
| Exempt services         | <ol style="list-style-type: none"> <li>1. Agricultural products and fertilizers</li> <li>2. Contraceptives, Second hand goods (by individuals)</li> </ol> |
| Innovative concept      | Small businesses can pay VAT @ 3% (however input tax credit would not be available).  |

## New Zealand<sup>22</sup>

| Particulars          | Details  |
|----------------------|--|
| Name                 | Goods and Service Tax  |
| Date of introduction | 01.10.1986   |
| Scope                | <ul style="list-style-type: none"> <li>▪ Supply of goods or services made in New Zealand by a registered person</li> <li>▪ Importation of goods</li> </ul> |
| Standard Rate        | 15 %   |
| Reduced rate         | Zero rated and exempt  |
| Threshold            | NZ\$ 60,000  |

<sup>22</sup> Source ird.govt.nz

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## exemption limit

|                     |  |
|---------------------|--|
| Liability arises on | On raising of invoice or receipt of consideration, whichever is earlier. |
|---------------------|--|

|         |   |
|---------|---|
| Returns | Depending on the turnover it is either monthly, bi-monthly or six-monthly |
|---------|---|

|                                  |   |
|----------------------------------|---|
| Due date for returns and payment | On 28 <sup>th</sup> day following the end of the month or bi-month or six-month. However, different date for the certain periods. |
|----------------------------------|---|

|                          |   |
|--------------------------|---|
| Reverse charge mechanism | Reverse charge applies to supply of services made by non-residents. |
|--------------------------|---|

|        |                           |
|--------|---------------------------|
| Export | Exports are 'zero' rated. |
|--------|---------------------------|

|                 |  |
|-----------------|--|
| Exempt services | <ol style="list-style-type: none"> <li>1. Real estate</li> <li>2. Financial services</li> <li>3. Residential rental</li> </ol> |
|-----------------|--|

|                    |   |
|--------------------|---|
| Innovative concept | The headline price in advertisement and stores must be always GST-inclusive except when supplies are to whole-sale clients. |
|--------------------|---|

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## Singapore<sup>23</sup>

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| Particulars | Details |
|-------------|---------|
|-------------|---------|

|      |                       |
|------|-----------------------|
| Name | Goods and Service Tax |
|------|-----------------------|

|      |               |
|------|---------------|
| Date | of 01.04.1994 |
|------|---------------|

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<sup>23</sup> Source iras.gov.sg

## introduction

|       |  |
|-------|--|
| Scope | <ul style="list-style-type: none"> <li>Supplies of goods and services in Singapore by a taxable person in the course or furtherance of a business</li> <li>Importation of goods</li> </ul> |
|-------|--|

Standard Rate      7 %

Reduced rate      Zero rated and exempt

Threshold      Singapore \$ 1 million

## exemption limit

Liability arises on      On raising of invoice or receipt of consideration or supply (of goods or services), whichever is earlier.

Returns      Usually quarterly returns. However, business can opt for monthly returns.

Due date for returns and payment      Last day of the month following the end of the month or quarter.

Reverse charge mechanism      Reverse charge applies to supply of services

Export      Exports are 'zero' rated.

Exempt services      Real estate, Financial services, Residential rental

Innovative concept      Divisional registration wherein if an assessee has several divisions he may register the said divisions separately. Each such division should submit its own return. The supplies



between the divisions are ignored for GST purposes.

## European Union

| Particulars                                 | Details  |
|---|--|
| Name  | Value Added Tax  |
| Territory                                   | <p>Of the 27 states the prominent states are: United Kingdom, France, Germany, Sweden, Spain, Italy, Ireland, Poland, Austria, Belgium, Denmark, Netherland, Portugal, Hungary.</p> <p>EU is a 'single market' meaning the goods and services can move freely in cross border trade between member states.</p> |
| Scope                                       | <p><b>Supplies to Taxable persons:</b> VAT is payable by the taxable person on acquisition (i.e. purchaser) at the rate applicable in his (acquirer's) country</p> <p><b>Supplies to non-taxable persons:</b> VAT is payable by supplier (i.e. seller)</p>   |
| Standard Rate                               | Minimum 15 %   |
| Reduced rates                               | 5 % and 0 %  |
| For threshold exemption limit, payment, etc | Refer specific country   |