

UAE Value Added Tax (“VAT”)

What is VAT?

VAT is a consumption tax, known in some countries as goods and services tax, or GST, and is a tax on the consumption of goods and services, levied at the point of supply. It is imposed on taxable supplies made by taxable persons and on imports into the UAE. It will come into effect on **1 January 2018 in the UAE** at a **standard rate of 5%** and will apply on most goods and services unless specifically designated as zero rated or exempt (see below).

All businesses which provide **taxable goods and services with annual revenue in excess of AED 375 000** are required to register for VAT unless exempt. Businesses are required to register 3 months before this date, in Q4 of 2017, and will be provided with a Tax Registration Number (TRN) once registered. Voluntary registration is permitted for businesses with revenue of less than AED 375 000 but more than AED 187 500.

Where are we today with respect to published laws and regulations

6 months after the VAT Framework Agreement was issued which was signed by all 6 member states of the GCC, the UAE Government published its draft domestic VAT Law (Federal Law No. (8) on Value Added Tax in August 2017). Prior to this the Federal Law No. (7) for Tax Procedures was issued in June 2017 which sets the foundations for the planned UAE tax system, regulating the administration and collection of taxes and clearly defining the role of the Federal Tax Authority (FTA). The VAT Executive Regulations are expected to follow shortly as these are still in the process of being prepared and approved, and these are anticipated to supplement the VAT Law and provide significantly more detail and clarification.

Who will it affect?

All companies that provide taxable goods and services with annual revenue of more than AED 375 000, consumers of non-essential commodities (anything other than basic food and essential commodities defined as medicines, hospital bills and school fees), **commercial tenants** (residential tenants will not be taxed) and **all sales of commercial property**.

Zero rated and exempt supplies

The VAT Law specifies a list of supplies of goods and services that are to be zero rated (i.e. VAT will be charged at 0%) and these include **exports of goods and services to outside the GCC, international transportation and related supplies, supplies of certain air, sea and land means of transportation** (such as aircraft and ships), **certain investment grade precious metals, newly constructed residential properties, crude oil and natural gas, education and healthcare**.

Supplies that are exempt from VAT include **certain supplies of Financial Services** (to be specified by the VAT Executive Regulations), **Residential properties, Bare land and local passenger transport**.

Record keeping and filing requirements (continued)

Detailed records are required to be kept and the Tax Registration Number must be stated on all correspondence including the VAT return, VAT invoice, VAT credit note and all other documents relating to VAT, and records must be kept for **5 years**.

Tax point

The time of supply for goods or services will be the earlier of (i) date of receipt of payment, (ii) date of issue of tax invoice or (iii) date goods transferred or services completed. The Executive Regulations are expected to provide further detail including place of supply rules, supply via an agent, deemed supply, and supply by government entities. For taxable supplies the advertised price should include VAT. The basic rule for goods is that the place of supply is the location of goods when the supply takes place, however special rules apply. The basic rule for services is that the place of supply is where the supplier has the place of residence. Again, special rules apply.

Designated zones

These are areas which are to be designated and treated as being outside the UAE for VAT purposes. It is widely expected that this rule may apply to some of the free zones but it is not discussed in detail in Federal Law No (8) and the Executive Regulations are expected to provide further information on the treatment of such designated zones. Goods being transferred from one Designated zone to another are expected to be done without any tax becoming due however legislation is awaited.

Reverse charge mechanism

This is a mechanism under which the recipient of goods or services is required to pay VAT instead of the supplier. This is when the supplier is not a taxable person in the UAE where the supply has been made. It relieves the non-resident supplier from the requirement to register and account for VAT in the UAE and therefore the VAT registered business in the UAE is required to account for VAT on its tax return and may be able to claim that VAT back on the same return. It will generally apply to cross border business to business transactions. The Executive Regulations are expected to provide further detail.

VAT Groups

Two or more persons carrying on a business may be able to apply for a single VAT registration as a VAT Group which could be a useful way in order to simplify accounting for VAT.

Bad debts

Where a business charged VAT and paid it to the FTA but the customer has not paid and the amount has been written off as a bad debt the business will be able to make a claim to the FTA for VAT, subject to satisfying certain conditions.

Transitional periods

The potential issue of contracts being entered into in 2017 for a supply to be made in 2018 that do not contain express provisions about tax on that supply the price will be considered to include VAT if chargeable. The Executive Regulations are expected to provide further information on transitional periods.