



# VAT

Considering the past experiences of various business sectors and to align the provisions of VAT law with the international best practices, the Cabinet issued Federal Decree-Law No. 18 of 2022 which amended various articles of the law and further in October 2022, Cabinet Decision No. 99 of 2022 amended the "UAE VAT Executive Regulations" and same shall be effective from 01 January 2023. Further changes to Federal Decree Law No. 28 of 2022 on Tax Procedures will be effective from 01 March 2023.

**Detailing below few important changes in Federal decree law no 18 of 2022 and their impact(s):**

#### **Extension of the time to complete the tax audit if notification issued within time limit**

Tax audit for a monthly/quarterly tax period cannot generally be conducted after the expiration of 5 years from the end of such tax period. However, if a taxpayer has been notified (with issuance of notice for tax audit) of the commencement of a tax audit within 5 years from the tax period, then audit proceedings can be carried out and/or completed within the period of further 4 years, starting from date of the issue of audit notification.

#### **If tax audit notification is not issued within 5 years from the end of relevant tax period**

Tax audit notification cannot be issued post completion of 5 years from the end of respective tax period. However, the Cabinet may, according to a suggestion by the Ministry, issue a Decision to amend the period specified for the completion of the Tax Audit or the issuance of the Tax Assessment.

#### **Tax audit can be initiated after submission of Voluntary Disclosure in the 5<sup>th</sup> year from tax period**

Voluntary Disclosure for a monthly/quarterly tax period is submitted in its 5th year, FTA may still conduct a Tax Audit or issue a Tax Assessment after the expiration of 5 years from the end of the respective tax period, with the conditions that Tax Audit is completed or the Tax Assessment is issued within one year from the date of submission of the Voluntary Disclosure.

#### **In case of tax evasion and failure to obtain VAT registration**

In the case of Tax Evasion, the Authority may conduct a Tax Audit (or) issue a Tax Assessment within 15 years from the end of the Tax Period in which the Tax Evasion occurred. Tax evasion is defined as "Person's use of illegal means, resulting in the reduction of the amount of the Due Tax, non-payment thereof, or a refund of Tax that the Person did not have the right to have refunded".

In case of failure to get registered with FTA, the Authority may conduct a Tax Audit or issue a Tax Assessment within 15 years from the date on which the Taxable Person should have registered for Tax.

### Entities involved exclusively in zero rated supplies, VAT compliance can be removed for the entities registered/ yet to register

The VAT registered businesses with 100% supplies subject to zero-rated, may apply for exception from the VAT registration and get de-registered.

### Amendment to Date of supply in case of continuous supply

Date of expiration of one year from the date when the goods/services were provided has now been added as a specific date of supply for VAT purposes in Article 26 of the Federal Decree law.

Impacted areas: continuous supply of goods or services eg. contracting companies.

### Deemed supplies to related parties

If related party is involved in the exempt supplies, supplier should issue tax invoice under deemed supply concept with Market value of the goods or service but not at cost incurred.

### Supply/ import of the goods and service that are zero rated under article 45

Amendment in the various clauses of article 45 have been made, wherein VAT law have been extended to include importation of goods and /or service in addition to supply of goods and /or services that are zero rated. This includes import of means of transportation, import of goods and services related to means of transportation, import of rescue aircraft or vessel, import of crude oil and natural gas, imported of basic health care related goods.

Additionally, zero rated VAT would be applicable on importation of precious metals only if supplied or imported for investment purpose as per clause 8 of the article

### Obligation to account Reverse charge mechanism of goods and services under article 48

Applicability of Reverse charge mechanism is on pure hydrocarbons goods instead of hydrocarbons. Provision of declaration of use of hydrocarbons for the production or distribution of any form of energy has been added.

Cabinet has specific rights to declare additional goods and services subject to RCM as per clause 8 of the article.

### Documentation requirements in case of import of service under article 55

Many businesses pay for services to the overseas service providers based on agreements /online subscriptions (monthly) without requiring the service providers to issue invoice mandatorily. As per the recent changes, for import of services, input credit could only be recovered if the taxpayer receives and retains invoices in accordance with the VAT laws.

### Recovery of Tax by Government entities & charities under article 57

Amendment of vat law has made it clear that to recover the input tax credit, the transactions must be incurred for the purpose of:

- ▶ Sovereign Activities of the government entity
- ▶ Relevant Charitable Activity of the charity

### Additional condition to issue output tax adjustment

If the tax treatment was applied in error, then registrant shall adjust the output tax after the date of supply e.g. where the supply was treated as exempt / zero instead of Standard rated. This output tax adjustment must be made within 14 days from the date of identification of the adjustment.

## Important changes Executive Regulation under cabinet decision 99 of 2022 and their impact(s):

- ▶ The new record keeping requirements for supplies made through e-commerce stipulate taxable persons to keep records to prove the Emirate in which the supply is received. No changes introduced for record keeping for non-ecommerce supplies.

Amendment includes :

- ▶ Definition for electronic commerce
- ▶ Threshold of which taxpayers would be required to apply the record keeping mechanism, and
- ▶ Specific time period to comply with the amendments
- ▶ VAT treatment of functions performed by member of a board of directors(independent/professional) may require the latter to deregister from VAT if the services provided in the capacity of the natural person.

The functions of a member of a board of directors, performed by a natural person appointed as such, for any government entity or private sector establishment, are no longer considered a supply of services for VAT purposes, in VATP031 Public Clarification clarified in more detail.

## Important changes Tax Procedure Law effective from 01 March 2023

### Voluntary Disclosure must be submitted even if the value of tax payable is Zero or more due to error.

If taxpayer discovers that there is an error or omission in the tax return having no difference in the amount of tax due to authorities, he must correct this declaration by submitting a VD. It is helpful to adjust the zero rated / exempt / reverse charge related transactions unreported/ underreported during the vat return filings.

### Changes in the Administrative Penalties Assessment

- ▶ Administrative penalty shall not exceed 200%(earlier 300%) of the amount of the tax for which the administrative penalty assessment was issued
- ▶ Authority has revoked the minimum penalty amount of AED 500 for any violation
- ▶ Administrative penalties for the failure to facilitate and offer assistance to the tax auditor to a person's legal representative and tax agent
- ▶ Council of Ministers shall issue a decision specifying the administrative penalties for each of the violations stated in the Amended Tax Procedures Law and other tax Laws or any other violation specified by a decision of the Council of Ministers

### Tax Assessment Review Request can be submitted

Additional layer to the tax dispute process where taxable person can submit application to the Authority to review its tax assessments and related administrative penalties (in part or in full) issued within 40 business days from the date of receiving the tax and penalty assessment, and subject to non-submission of reconsideration application in relation to the same assessment prior to submitting review request.

### Objection to the Committee

For submitting an objection to the Tax Disputes Resolution Committee (TDRC) included a clause stating that the Cabinet may issue a decision adjusting the required amount of payable tax that should be paid to the Authority prior to submitting the objection application.

### Allocation of unidentified tax payments available

Allocating payable taxes now provides the Authority with the right to allocate overpaid taxes or tax credits to outstanding tax liabilities (in the absence of the taxable person specifying the allocation order) - further details to be mentioned in the Executive Regulations of the new TPL.

### Intimation of the tax audit

Authority shall inform the person of the tax audit at least 10 business days before conducting the tax audit it was 5 business days earlier.

### Collection of due tax from the registrants

Where payable taxes due to the Authority are subject to potential loss, the Director General of the Authority may request from the judge at the Competent Court to issue an order for the seizure of property owned by the person as equivalent to the payable taxes. The payable taxes due to the Authority shall prevail over other liabilities due to other parties. It is also now mandatory for the taxable person to make any payments received as taxes to the Authority.

### Accountability of the information shared after translation

Person who submits any translated copies of data, information, records, and any other documents related to any tax to the authority shall be responsible for the accuracy and correctness of such translated copies.

## How we can help you

Businesses in the UAE must imbibe the amended VAT regulations and establish for themselves a specific VAT-oriented business system. UHY believes in providing high-quality service to clients in order to align their working model with legal compliance requirements in UAE.

### Our role as tax advisers include:

- Analysing the impact of VAT on your business – A complete analysis of the VAT effect on your business helps us provide tailor-made solutions for the financial, operational, and legal aspects of your business.
- Advising on managing the VAT transaction – Our team will help your business to manage VAT transactions effectively without any room for errors w.r.t to amendment's effective from 01.01.2023
- Assisting on compliances with federal tax authority

For detailed discussion on the above you can



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