

Monthly Updates on Tax

United Arab Emirates

**UAE - Amended Tax Procedures Law
-Effective from 1st March 2023**

The Federal Decree-Law No. 28 of 2022 on Tax Procedures, which was issued on September 30, 2022, revokes Federal Decree-Law No. 7 of 2017 on Tax Procedures as amended by Federal Decree-Law No. 28 of 2021.

The new Tax procedures law will become effective from March 1, 2023. Federal tax authority has also published a public clarification (TAXP005) to provide clarity on the main changes in the New tax procedures law.


Key amendments to the Tax procedures law:

- ▶ Introduction of a new clause that specifies the taxpayer's requirement to submit a voluntary disclosure to rectify errors and report omissions even in cases where the error or omission does not result in a difference in the tax due.
- ▶ Introduction of new article which stipulates the conditions for tax agents' registration.
- ▶ Tax agents are required to maintain records of the currently and previously represented taxpayers for a period of time.
- ▶ A new clause related to the initiation of tax audit period has been added for the Authority to notify the tax payer and the period to notify changed from 5 business days to 10 business days.
- ▶ The maximum administrative penalties that the Authority may apply have now been regulated at 200% of the the tax amount under Article 24 on administrative penalties assessment (initial limit was set to 300%). The minimum amount of AED500 has been removed.
- ▶ Article 9 on allocating payable taxes now gives the Authority the authority to apply overpaid taxes or tax credits to unpaid tax liabilities (if the taxable person does not clearly state the allocation order) - more information will be provided in the Executive Regulations.
- ▶ A new clause related to payable taxes has been added, where an order can be issued for seizure of property as equivalent to the payable taxes. Further, any person who receives any amount as a Tax must pay the amount to the Authority and it shall be treated as a Payable Tax.

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- Oman passes draft law on income tax for high earners

- ▶ Article 25 on tax crimes (designated as tax evasion cases in the present tax procedures law) has undergone the following significant changes:
 - I Tax evasion penalties include a prison sentence and a fine not exceeding (3) times the evaded tax (as per previous law the limit was set at 5 times),
 - II For deliberately providing false information, hiding, stealing, misusing or destroying documents or data: the monetary penalty shall not exceed AED 1,000,000.
- ▶ Statute of limitation article 46- The following changes have been made to Article 46:
 - I If the Authority has given the taxable person a notice to be audited, the 5-year statute of limitations will not apply as long as audit is finished within 4 years of the notice's issuance date.
 - II The statute of limitations will be extended by one year if the taxable person makes a voluntary disclosure within five years of the conclusion of the applicable tax period.
 - III No voluntary disclosure may be submitted after the expiration of 5 years from the end of the relevant tax period
 - IV In tax evasion or tax registration failure cases, the authority may conduct a tax audit or issue a tax assessment within 15 years
- ▶ Changes to dispute resolution process.

[Click here for Public Clarification](#)



VAT Public Clarification – VATP032 – Gold and Diamond - Amendment to Tax Treatment of making service

This Public clarification replaces Public Clarification VAT P029 and provides guidelines on the application of VAT regulations by taking into consideration the making charges received by jewellers in accordance with the amendment to cabinet decision No. 25 of 2018.

As per the new decision by the Cabinet, the definition of goods has been amended that it may include making services directly in connection with Gold, for a limited period between 01 June 2018 and 31 December 2022. The temporary change in definition would allow for the application of reverse charge mechanism on making services that are directly in connection with the supply of gold, where the conditions specified in Cabinet decision No. 25 are met for that specific period only.

From 01 January 2023, the application of reverse charge mechanism will be restricted to the supply of gold and any products where the principal component consists of Gold.



This concludes that if supplier charges separate consideration for Gold and the making services or reflects the price of these components separately, the supplier is required to impose VAT on service component from 01 January 2023.

Tax registrants supplying Gold Items, shall not impose VAT on the supply of a Gold Item if the requirements are met for Reverse Charge Mechanism:

- ▶ Recipient is a VAT registrant.
- ▶ The supplier must acquire a written declaration from the recipient confirming all of the following:
 - I The recipient will use the Gold Item to produce or manufacture other Gold Items, or to re-sell the Gold Item received.
 - II The recipient is registered for VAT on the date of supply.
 - III The recipient shall account for the VAT on the Gold Item supplied to him.

If all conditions are met, the recipient shall calculate VAT on the value of the Gold Items supplied to him, and be held responsible for all the tax obligations related to that supply.

[Click here for Public Clarification](#)



Amended UAE VAT Executive Regulations – effective from 1st January 2023

UAE Federal tax authority (“FTA”) has published Cabinet decision No. 99 of 2022 to amend the UAE VAT executive regulations.

The amended provisions will go into effect on January 1, 2023.

Summarized Amendments are as follows:

a) Article 3 – Supply of services

Clause 2 has been added which mentions that supply of services by natural person serving as members of board of directors will not be considered as supply of services for VAT purposes.

FTA has also issued a public clarification VATP031 document on the application of these new provisions related to the services provided by Directors.

b) Article 72 – Record Keeping of the Supplies Made

Clause 3 has been revised to clarify that, if the taxable person's place of establishment is in UAE the records of the transaction should be retained to demonstrate the Emirate in which the place of establishment is situated.

Clause 4, 5 and 6 have been added to specify requirements for e-commerce companies.

Ecommerce companies making taxable supplies more than AED 100,000,000 are required to keep records of transactions to prove the Emirate in which the supply is received.

These new requirements shall apply:

- Starting from the first tax year commencing on or after July 1, 2023 and continuing for 18 months (where the taxable supplies crossed the prescribed threshold during the 2022 calendar year).
- For a period of two years beginning with the first tax period of the year that comes after the day the taxable supplies crossed the AED 100million threshold.

[Click here for more detailed guide](#)



VAT Guide (VATGRM1) on Refund of VAT incurred on the construction and operation of Mosques

FTA has issued VAT guide on Cabinet decision 82 of 2022, explaining the requirements and procedure for recovering input tax incurred on the construction and operation of mosques.

The individual undertaking the construction of mosque (donor/ construction company) may submit a request to FTA in order to recover input tax that was incurred on the construction in case they satisfy the following conditions:

- The Donor must have incurred the VAT
- The goods and services must have been acquired specifically for the construction of a Mosque.
- The Donor obtained and retains a Mosque Operation Commencement Certificate; and
- Any of the following conditions are met:
 - **The General Authority of Islamic Affairs and Endowments or the regional authority responsible for mosque affairs (the "Competent Authority") accepted the Donor's plan to transfer ownership of the Mosque to any other person, unless doing so would result in a taxable supply, or**
 - **In accordance with the Competent Authority's consent, the Donor runs the mosque.**
- Eligible goods and services



Few similar rules are applicable to the operator of the Mosque:

- The VAT must have been incurred by the Operator.
- The products or services must have been purchased specifically for use in running and maintaining the mosque.
- The mosque must be registered as a mosque with the Competent Authority.
- Throughout the time for which a refund request is filed, the Operator is in possession of a written, time-limited permit from the Competent Authority for the Operation of the Mosque.
- Eligible goods and services

Furthermore, certain timelines as per Ministerial decision No 162 of 2022 has been set in relation to recovery of tax on the construction of mosques and recovery of tax on the operations of mosques.

[Click here for the detailed VAT guide](#)

[Click here for detailed blog](#)

UAE issued Cabinet decision on Tax residency



Cabinet decision No. 85 of 2022 was issued on "Determination of Tax residency" laying down the criteria for being considered as a tax resident for a legal and natural person in the UAE. The decision will be effective from 1st March 2023.

[Click here for the detailed guide](#)

UAE - Upcoming Economic Substance Regulation (ESR) deadlines

UAE entities that are within the scope of ESR are required to submit an annual Notification form within 6 months from the end of the financial year, and an Economic Substance Report within 12 months from the end of their financial year.

The Regulations require UAE entities that carry out any of the defined "Relevant Activities" listed below to maintain and demonstrate an adequate "economic presence" in the UAE relative to the activities they undertake. Relevant activities are as follows:

- Banking Business
- Insurance Business
- Investment Fund management Business
- Lease – Finance Business
- Headquarters Business
- Shipping Business
- Holding Company Business
- Intellectual property Business
- Distribution and Service Center Business

Failure to submit a timely notification or report may attract penalties ranging from AED 20,000 – AED 400,000.

ESR filing deadlines in December 2022:

Financial Year End	Filing deadline
December 2021	ESR report deadline of 31 st December 2022
June 2022	ESR notification deadline of 31 st Dec 2022



Kingdom of Saudi Arabia

Extension in the timelines of tax amnesty until 31 May 2023

Zakat, Tax and Customs Authority (ZATCA) announced an extension to the tax amnesty scheme on 30th Nov 2022.

The amnesty has been extended for additional 6 months period from 1st December 2022 to 31st May 2023.



The amnesty initiative was introduced earlier during June 2022 giving an exemption from penalties to all the registered taxpayers who meet the conditions to benefit from the initiative.



Kingdom of Saudi Arabia

Oman passes draft law on income tax for high earners

As per media reports, a draft law was passed on 6th November 2022 by the country's Shura Council, introducing income tax on high earners. Once approved by the council of ministers and a final approval is received from His Majesty Sultan Haitham bin Tariq Al Said, the tax will then become law. The sultanate of Oman would be the first GCC country to introduce income tax on high earners.

Oman has been planning on introducing income tax on high earners from past two years, as a part of financial ministry's 2020-2024 economic scheme and an effort to reduce the fiscal deficit. The plan was mentioned in a bond prospectus published by the ministry in 2020

Please contact us for further details on the areas covered in this newsletter:

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