

UAE Federal Tax Authority (FTA) has announced amendments to Emirates' Reporting – Electronic Commerce Supplies by Qualifying Registrants

Ministerial decision No. 26 of 2023 has been issued on the criteria and conditions for electronic commerce for purpose keeping records of supplies made.

Also, FTA has released a **public clarification document VATP033** to clarify the amendment to Emirates wise reporting.

Article 72 of UAE VAT executive regulations was amended to include requirements for taxable persons to report and keep records of e-commerce transactions according to the Emirate in which these supplies are received.

1. Overview

- ▶ It concerns Electronic Commerce supply made through an Electronic Commerce Medium. - Electronic means, an electronic platform, a store in social media, or electronic applications. - Electronic commerce medium covers websites, portals, gateway interface etc.
- ▶ **Qualifying Resident**
Taxable persons making taxable supplies of goods and services through electronic commerce which exceed **AED 100 million** over a calendar year are referred to as “**Qualifying Registrants**”.
- ▶ Registrants are required to report their standard rated supplies per Emirate in the relevant box 1 of their VAT returns.
- ▶ Qualifying Registrants must also maintain relevant supporting documents and information proving the Emirate in which the goods or services were received as FTA may require these documents and information as a part of tax audit.

2. Criteria for the supply of goods or services to be considered as being supplied through Electronic Commerce Medium:

- ▶ The Goods and Services are listed or advertised on the Electronic Commerce Medium.
- ▶ The goods and services are ordered through the Electronic Commerce Medium, regardless of whether the payment is made online or not.
- ▶ In the case of a supply of goods, the goods are delivered to a location specified by the customer given that the location is not owned or operated by that supplier.
- ▶ In the case of a supply of services, the services are provided, or the right to receive the services is granted to the customer with minimal or no human intervention.

3. Factors to be taken into account to determine the Emirate for reporting

- ▶ For supply of services, FTA will accept the place of residence of the customer or the establishment most closely connected to the service for a business customer as the location where the services are received. This takes precedence over billing address or IP address.
- ▶ For supply of goods, Emirate in which the goods are received shall be determined by the location specified by the customer. This takes precedence over place of residence or billing address of customer.

4. Undisclosed agent

It shall be regarded as an **undisclosed agent agreement** when the name of the supplier of the relevant goods or services is not disclosed by the E-commerce medium. In such case:

- ▶ The supplier shall be regarded as supplying the goods or services to the e-Commerce Medium, and the e-Commerce Medium shall be regarded as supplying the same goods or services to the customer.
- ▶ Hence, the operator of the E-commerce Medium (**If a Taxable person**) shall be responsible to account for VAT on the supply to the customer and should consider the supply to the end customer when determining the value of the taxable supplies made by it through e-commerce.

5. Incidental supplies

- ▶ Online transactions (Payment Systems).
- ▶ Logistics (Delivery of goods), and other similar activities,

These will fall in the category an electronic commerce supply of goods if these ancillary services are provided by the same supplier of the goods.

6. Threshold for Qualifying Registrants

From 1st July 2023, Qualifying Registrants, including registrants acting as undisclosed agents, are required to notify the FTA via the first VAT return to be submitted after exceeding the AED 100 million threshold,

At notification, the registrant must confirm the date the AED 100 million threshold was exceeded.

- ▶ First assessment is based on 2022 calendar year (1stJan – 31st Dec).
- ▶ If it does not exceed, then the registrant must regularly conduct an assessment If the 100 million threshold was exceeded during any subsequent calendar years.

7. Revised Reporting Mechanism for Qualifying Registrants

From 1st July 2023, Qualifying Registrants will be required to separately identify the Emirate in which e-commerce and non-e-commerce standard rated supplies are to be reported, per tax period.

The information should be submitted as an underlying declaration and split between e-commerce and non-e-commerce standard rated supplies whilst the amounts declared in each of the relevant Emirate fields under box 1 of the VAT return shall still be the aggregate of the two.

8. Qualifying Registrants will be required to comply with the above reporting mechanisms for the following periods:

- ▶ **18 months** starting from the first tax period commencing on or after 1 July 2023 for registrants that have exceeded the AED 100 million threshold during the calendar year 2022.
- ▶ **2 years** starting from the first tax period of the calendar year commencing after the date on which the registrant has exceeded AED 100 million threshold for any year after 2022.
- ▶ Qualifying Registrant shall re-assess at the end of the 18 months or 2 years if it has exceeded the threshold for the calendar year that just ended and notify FTA through its tax return if it needs to continue applying E-commerce supplies reporting mechanisms.

FTA is looking at organising awareness session on this matter and have requested registrants (who expect to be qualifying registrants) to send their interest to FTA by 15th March 2023 by sending an email to emiratesreporting@tax.gov.ae

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