

## UAE Value added tax (“VAT”) Executive regulations

**(Cabinet Decision No. 99 of 2022 – Issued 21 Oct 2022 (Effective from 1 Jan 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:

Article	Extract as per previous law	Extract as per amended law	PB Comments
<b>Article 3 – Supply of services</b>	<p>The supply of anything other than the supply of Goods shall be regarded as a supply of Services including any of the following:</p> <ol style="list-style-type: none"> <li>1. The granting, assignment, cessation, or surrender of a right.</li> <li>2. The making available of a facility or advantage.</li> <li>3. Not to participate in any activity, or not to allow its occurrence, or agree to perform any activity.</li> <li>4. The transfer of an indivisible share in a good.</li> <li>5. The transfer or licensing of intangible rights, for example rights of authors, inventors, artists, and rights in trademarks, and rights which the legislation of the State deems to be within such category.</li> </ol>	<p>A supply of Services shall be every supply that is not considered a supply of Goods, including any of the following:</p> <ol style="list-style-type: none"> <li>a. The granting, assignment, cessation, or surrender of a right.</li> <li>b. The making available of a facility or advantage.</li> <li>c. Not to participate in any activity, or not to allow its occurrence, or agree to perform any activity.</li> <li>d. The transfer of an indivisible share in a Good.</li> <li>e. The transfer or licensing of intangible rights, for example rights of authors, inventors, artists, rights in trademarks, and rights which the legislation of the State deems to be within such category.</li> </ol> <p><b>2. As an exception to Clause 1 of this Article, 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, shall not be considered a supply of Services.</b></p>	<p>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.</p> <p>FTA has also issued a public clarification VATP031 document on the application of these new provisions related to the services provided by Directors.</p>

Article	Extract as per previous law	Extract as per amended law	PB Comments
<b>Article 72 – Record Keeping of the Supplies Made</b>	<p>1. The records of all Goods and Services supplied by the Taxable Person or on his behalf showing the Goods and Services, suppliers and their agents, shall be kept and retained in sufficient detail to enable the Authority to readily identify Goods and Services, suppliers, and agents.</p> <p>2. Without prejudice to Article 78 of the Decree-Law, the Taxable Person who makes a Taxable Supply of Goods or Services in the State must keep records of the transaction to prove the Emirate in which the Fixed Establishment related to this supply is located.</p> <p>3. As an exception to Clause 2 above, if the Taxable Person who makes a Taxable Supply of Goods or Services does not have a Fixed Establishment in the State, Taxable Person must keep records of the transaction to prove the Emirate in which the Supply is received.</p>	<p>1. The records of all Goods and Services supplied by the Taxable Person or on his behalf showing the Goods and Services, suppliers and their agents, shall be kept and retained in sufficient detail to enable the Authority to readily identify Goods and Services, suppliers, and agents.</p> <p>2. Without prejudice to Article 78 of the Decree-Law, the Taxable Person who makes a Taxable Supply of Goods or Services in the State must keep records of the transaction to prove the Emirate in which the Fixed Establishment related to this supply is located.</p> <p>3. As an exception to Clause 2 of this Article, if the Taxable Person who makes any Taxable Supply of Goods or Services does not have a Fixed Establishment in the State, the following shall apply:</p> <p><b>a. If he has a Place of Establishment in the State, he must keep records of the transaction to prove the Emirate in which the Place of Establishment is located.</b></p> <p><b>b. In the event that he does not have a Place of Establishment in the State, he must keep records of the transaction to prove the Emirate in which the supply is received.</b></p>	<p>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.</p> <p>Clause 4, 5 and 6 have been added to specify requirements for e-commerce companies.</p> <p>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.</p> <p>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).</p> <p>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</p>

Article	Extract as per previous law	Extract as per amended law	PB Comments
		<p>4. As an exception to Clauses 2 and 3 of this Article, if the value of the Taxable Supplies made by the Taxable Person through electronic commerce exceeded (100,000,000) one hundred million dirhams during the calendar year, he must keep records of the transaction to prove the Emirate in which the supply is received in the period specified in Clause 6 of this Article.</p> <p>5. For the purposes of Clause 4 of this Article, electronic commerce refers to the process of selling Goods or Services through electronic means, an electronic platform, a store in social media, or electronic applications in accordance with criteria and conditions determined by the Minister.</p> <p>6. For the purpose of implementing the provisions of Clause 4 of this Article, the provisions of Taxable Supplies via electronic commerce shall apply to a Taxable Person as follows:</p> <p>a. From the first Tax Period that begins on or after 1 July 2023 for 18 months for the Taxable Person whose Taxable Supplies made via electronic commerce exceeded the threshold prescribed in Clause 4 of this Article during the calendar year ending 31 December 2022.</p>	

Article	Extract as per previous law	Extract as per amended law	PB Comments
		b. For two years commencing from the first Tax Period of the calendar year that begins after the date on which the Taxable Supplies made by the Taxable Person through electronic commerce exceeded the threshold prescribed in Clause 4 of this Article.	