

Amendments to the UAE VAT Law

The UAE Government has introduced Federal Decree-Law No. 18 of 2022 to amend certain provisions of Federal Decree-Law No. 8 of 2017.

These Amendments are applicable from **1st January 2023**.

Comparison of Major Amendments and its impact:

Old Provision	New Provision	Impact
<i>Article 7 – Supply in Special Cases</i>		
<p>Only 2 exception which are not considered as Supply</p>	<p>New point (3) inserted which states “Any other supply specified in the Executive Regulation of this Decree-Law”.</p>	<p>The executive regulations may stipulate any supplies that are not considered as a supply earlier</p>

Old Provision**New Provision****Impact****Article 15 - Registration Exception**

(1) The Authority may except a Taxable Person from mandatory Tax Registration upon his request if his supplies are only subject to the zero rate.

(2) Anyone excepted from Tax Registration according to Clause (1) of this Article shall inform the Authority of any changes to his Business that would make him subject to Tax under this Decree-Law pursuant to the time limits and procedures determined in the Executive Regulation of this Decree-Law.

(3) The Authority shall have the right to collect any Due Tax and Administrative Penalties for the period of exception where that Taxable Person was not entitled to the exception.

(1) The Authority may except a Taxable Person from **Tax Registration whether a Registrant or not**, upon his request if his supplies are only subject to the zero rate.

(2) **Where any changes in the Business of the Taxable Person** excepted from Tax Registration according to Clause 1 of this Article, **result or may result in the absence of the reason based on which the Taxable Person was excepted, the Taxable Person shall inform the Authority of such changes within the time limits and pursuant to the procedures determined by the Executive Regulation of this Decree-Law.**

(3) The Authority shall have the right to collect any Due Tax and Administrative Penalties for the period during which the Taxable Person was excepted where it is established that the Taxable Person was not entitled to the

The Amendment provides exception to VAT registration to persons already registered with FTA and any Excepted person needs to inform Authority for any changes in the business

Old Provision

New Provision

Impact

Article 21 - Tax Deregistration Cases

A Registrant shall apply to the Authority for Tax Deregistration in any of the following cases:

1. If he stops making Taxable Supplies.
2. If the value of the Taxable Supplies made over a period of (12) consecutive months is less than the Voluntary Registration Threshold and said Registrant does not meet the condition stipulated in Clause (2) of Article (17) of this Decree-Law.

1. A Registrant shall apply to the Authority for Tax deregistration in any of the following cases:

- a. If he stops making Taxable Supplies.
- b. If the value of the Taxable Supplies made over a period of 12 consecutive months is less than the Voluntary Registration Threshold and the Registrant does not meet the condition stipulated in Clause 2 of Article 17 of this Decree-Law.

2. The Authority may, in accordance with the controls and conditions specified in the Executive Regulation of this Decree-Law, issue a Tax deregistration decision, if the Authority finds that continuity of such Tax Registration may prejudice the integrity of the Tax system.

3. Tax deregistration shall not result in the relinquishment of the Authority's right to claim

The amendment provides **power to authority** to de-register a taxable person in order to protect integrity of Tax system and collect any Due Tax or Administrative Penalties even after Tax deregistration.

Authority has the received the rights to deregister even in the case where the Turnover is not below threshold

Old Provision**New Provision****Impact****Article 26 - Date of Supply in Special Cases**

(1) The date of supply of Goods or Services for any contract that includes periodic payments or consecutive invoices shall be the earliest of any of the following dates, **provided that it does not exceed one year from the date of the provision of such Goods and Services**

- (a) The date of issuance of any Tax Invoice.
- (b) The date payment is due as shown on the Tax Invoice.
- (c) The date of receipt of payment.

(1) The date of supply of Goods or Services for any contract that includes periodic payments or consecutive invoices shall be the earliest of any of the following dates,:

- (a) The date of issuance of any Tax Invoice.
- (b) The date payment is due as shown on the Tax Invoice.
- (c) The date of receipt of payment.
- (d) The date of expiration of one year from the date the Goods or Services were provided.**

The Amendment provides sub clause to determine date of supply for any contract having periodic payments. Therefore the date on which one year has passed from the date when the goods or services are provided will also be considered while determining point of taxation.

Earlier there was no such limitation of One year. Thus now Tax Invoice has to be issued and payment of Taxes needs to be made after completion of **One Year**. **Tracking of One year is important.**

Article 27 - Place of Supply of Goods

Place of Supply Provisions for supply having Periodic Payment was not present

3. The place of supply of Goods that includes Export or Import shall be as follows:

- a. Inside the State in the following instances:

(4) If Clause 1 of Article 26 of this Decree-Law applies, and the ownership of Goods is transferred in the State.

This amendment clarifies that the place of supply for import or export of goods having periodic payments or multiple invoices will be in the UAE if the ownership of the goods is transferred in the UAE.

Old Provision	New Provision	Impact
<i>Article 33 - The Agent</i>		
<p>The Place of Residence of an agent shall be regarded as the Place of Residence of the principal in the following two cases:</p> <p>(1) If the agent regularly exercises the right of negotiation and enters into agreements in favour of the principal.</p> <p>(2) If the agent maintains a stock of Goods to fulfil supply agreements for the principal regularly</p>	<p>The Place of Residence of the Principal shall be considered as being the Place of Residence of the agent in any of the following cases:</p> <p>(1) If the agent regularly exercises the right of negotiation and enters into agreements in favour of the principal.</p> <p>(2) If the agent maintains a stock of Goods to fulfil supply agreements for the principal regularly</p>	<p>The amendment provides for Place of residence of principal shall be same of that agent of given 2 conditions are fulfilled</p>
<i>Article 45 - Goods and Services Subject to Zero Rate</i>		
<p>The Zero rate shall apply to the following Goods and Services:</p> <p>(4) Supply of air, sea and land means of transport for the transportation of passengers and Goods as specified in the Executive Regulation of this Decree-Law</p> <p>(5) Supply of Goods and Services related to the supply of the means of transport mentioned in Clause</p>	<p>The Zero rate shall apply to the following Goods and Services:</p> <p>(4) Supply or Import of air, sea and land means of transport for the transportation of passengers and Goods as specified in the Executive Regulation of this Decree-Law.</p> <p>(5) Supply of Goods or Services or, Import of Concerned Goods related to the supply of the means of transport mentioned in Clause</p>	<p>The amendment provides that import of certain goods or service will also be considered as zero rated in addition to supply of Certain good or services</p> <p>Thus while Importing Such Goods RCM @ 0% needs to be accounted instead of 5%</p>

Old Provision**New Provision****Impact***Article 45 - Goods and Services Subject to Zero Rate*

(4) of this Article and which are designed for the operation, repair, maintenance or conversion of these means of transport.

(6) Supply of aircrafts or vessels designated for rescue and assistance by air or sea.

(12) The supply of crude oil and natural gas.

(14) The supply of preventive and basic healthcare Services and related Goods and Services according to what is specified in the Executive Regulation of this Decree-Law+D33

(4) of this Article and which are designed for the operation, repair, maintenance or conversion of these means of transport.

(6) Supply or **Import** of aircrafts or vessels designated for rescue and assistance by air or sea.

(12) The supply or **Import** of crude oil and natural gas.

(14) The supply of preventive and basic healthcare Services and related Goods and Services and **Import of concerned** related Goods according to what is specified in the Executive Regulation of this Decree-Law.

Article 48 - Reverse Charge

(3) If a Registrant makes a Taxable Supply in the State to another Registrant of any crude or refined oil, unprocessed or processed natural gas, or **any hydrocarbons**, and the Recipient of these Goods intends to either resell the purchased Goods as crude or refined oil, unprocessed or

(3) If a Registrant makes a Taxable Supply in the State to another Registrant of any crude or refined oil, unprocessed or processed natural gas, or **any pure hydrocarbons**, and the Recipient of these Goods intends to either resell the purchased Goods as crude or refined oil, unprocessed

The Amendment has provided clarity as to Domestic reverse charge is applicable only on **Pure Hydrocarbons**.

Old Provision	New Provision	Impact
<i>Article 48 - Reverse Charge</i>		
<p>processed natural gas, or any hydrocarbons, or use these Goods to produce or distribute any form of energy, the following rules shall apply.</p> <p>a. The Registrant making the Supply shall not charge Tax on the value of the supply of the Goods referred to in this paragraph.</p> <p>(4) The provisions of Clause (3) of this Article shall not apply in any of the following situations:</p> <p>a. Where, before the Date of Supply, the Recipient of Goods has not provided a written confirmation to the supplier that his acquisition of the Goods is for the purpose of resale.</p> <p>(5) Where a Recipient of Goods of any crude or refined oil, unprocessed or processed natural gas, or any hydrocarbons confirms in writing to the supplier that he is a Registrant for the purposes of applying Clause (3) of this Article, the following shall apply</p>	<p>or processed natural gas, or any pure hydrocarbons, or use these Goods to produce or distribute any form of energy, the following rules shall apply:</p> <p>a. The Registrant making the Supply shall not account for Tax on the value of the supply of the Goods referred to in this paragraph.</p> <p>(4) The provisions of Clause (3) of this Article shall not apply in any of the following situations:</p> <p>a. Where, before the Date of Supply, the Recipient of Goods has not provided a written confirmation declaration to the supplier that his acquisition of the Goods is for the purpose of resale or use for production or distribution of any form of energy.</p> <p>(5) Where a Recipient of Goods of any crude or refined oil, unprocessed or processed natural gas, or any Pure hydrocarbons confirms in writing to the supplier that he is a Registrant for the purposes of applying Clause (3) of this</p>	

Old Provision	New Provision	Impact
<i>Article 48 - Reverse Charge</i>		
	<p>Article, the following shall apply</p> <p>(8) The Cabinet may issue a decision specifying other Goods or Services that are subject to the reverse charge and specifying the relevant conditions and provisions.</p>	
<i>Article 55 - Recovery of Recoverable Input Tax in the Tax Period</i>		
<p>Taking into consideration the provisions of Article (56) of this Decree-Law, the Recoverable Input Tax may be deducted through the Tax Return relating to the first Tax Period in which the following conditions have been satisfied:</p> <p>a. The Taxable Person receives and keeps the Tax Invoice as per the provisions of this Decree-Law, provided that the Tax Invoice includes the details of the supply related to such Input Tax, or keeps any other document pursuant to Clause (3) of Article (65) of this Decree-Law in relation to the Supply or Import on which Input Tax was paid.</p>	<p>Taking into consideration the provisions of Article (56) of this Decree-Law, the Recoverable Input Tax may be deducted through the Tax Return relating to the first Tax Period in which the following two conditions have been satisfied:</p> <p>a. If any of the following cases has occurred:</p> <p>(1) The Taxable Person receives and retains the Tax Invoice as per the provisions of this Decree-Law, provided that the Tax Invoice includes the details of the supply related to such Input Tax, or keeps any other document pursuant to Clause (3) of Article (65) of this Decree-Law in relation to the</p>	<p>This amendment imposes strict conditions for documentary evidence for recovering input VAT on import transactions. Therefore Input under reverse charge should be claimed only when invoice is received and retained by taxable person.</p>

Old Provision**New Provision****Impact***Article 55 - Recovery of Recoverable Input Tax in the Tax Period*

Supply on which Input Tax was paid.

(2) The Taxable Person imports the Goods and receives and retains invoices and Import documents in accordance with the provisions of this Decree-Law and its Executive Regulations in relation to Import on which the Input Tax was paid or declared.

(3) The Taxable Person imports the Services, and receives and retains invoices in accordance with the provisions of this Decree-Law and its Executive Regulation in relation to the Import on which Input Tax was declared.

Article 57 - Recovery of Tax by Government Entities and Charities

A Cabinet Decision shall be issued at the suggestion of the Minister determining the Government Entities and Charities entitled to recover the full amount of Input Tax paid by them, except for:

(1) Tax excluded from recovery as specified in the Executive Regulation of this

(1) Without prejudice to the general provisions of Input Tax recovery, Government Entities and Charities entitled to recover the full amount of Input Tax shall be determined in a Cabinet Decision issued upon the recommendation of the Minister, according to the following.

The amendment explicitly provides that Government entities can recover input tax while providing Sovereign Activities & Relevant Charitable Activities.

Old Provision**New Provision****Impact***Article 57 - Recovery of Tax by Government Entities and Charities*

Decree-Law.

(2) Tax paid for Goods and Services used to perform exempt supplies

a. Input Tax paid by the Government entity for the purposes of its Sovereign Activities

b. Input Tax paid by the Charity for the purposes of its Relevant Charitable Activity.

(2) As an exception to the provisions of Clause 1 of this Article, the following shall be excluded from recovery:

a. Tax excluded from recovery as specified in the Executive Regulation of this Decree-Law

b. Tax paid for Goods and Services used to perform Exempt Supplies.

Article 61 - Instances and Conditions for Output Tax Adjustments

(1) A Registrant shall adjust Output Tax after the date of supply in any of the following instances:

e. If the Tax was charged in error.

(1) A Registrant shall adjust Output Tax after the date of supply in any of the following instances:

e. If the Tax was charged **or the Tax Treatment was applied in error.**

The amendment clarifies that output tax can be adjusted also for cases where tax treatment was **wrongly applied in addition to tax charged in error.**

Old Provision**New Provision****Impact*****Article 62 - Mechanism for Output Tax Adjustment***

(2) If the Output Tax calculated by the Registrant exceeds the Output Tax which should have been charged on the supply, the Registrant shall issue a Tax Credit Note according to the provisions of this Decree-Law

(2) If the Output Tax calculated by the Registrant exceeds the Output Tax which should have been charged on the supply, the Registrant shall issue a Tax Credit Note according to the provisions of this Decree-Law **within (14) days from the date in which any of the situations provided for in Clause 1 of Article 61 of this Decree-Law took place.**

The Amendments clarifies that Tax Credit notes should be issued within 14 days from the date of the adjustment event

Article 65 - Conditions and Requirements for Issuing Tax Invoices

4. Any Person who receives an amount as Tax pursuant to any document issued by him shall pay this amount to the Authority even if it is not due.

4. Any Person receiving an amount as Tax or issuing a Tax Invoice in respect of an amount, must pay such amount to the Authority, **and this amount shall be regarded as being similar to Due Tax under the provisions of this Decree-Law.**

The amendments explicitly states that any amounts received as **Tax** such amount will be treated same as **Due Tax** and must be paid to the Authority.

Old Provision	New Provision	Impact
<i>Article 67 – Date of Issuance of Tax Invoices</i>		
<p>The Registrant shall issue a Tax Invoice within 14 days as of the date of supply as stated in Article (25) of this Decree-Law.</p>	<p>(1) The Registrant shall issue a Tax Invoice within 14 days as of the date of supply as stated in Article (25) or Article (26) of this Decree-Law.</p> <p>(2) The Executive Regulation of this Decree-Law shall determine the cases that are subject to periods other than that specified in Clause 1 of this Article, or the cases in which the Tax Invoice shall be issued immediately in accordance with the controls specified therein.</p>	<p>The Amendments clarifies that timeline for issuing Tax invoice is 14 days for continuous supplies as well.</p>

Addition of New Article:

Article 79 (bis) – Statute of Limitation:

Clause:

1. Except in cases under Clauses 2, 3, 6, 7 of this Article, the Authority may not conduct a Tax Audit or issue a Tax Assessment to the Taxable Person after the expiration of 5 years from the end of the relevant Tax Period.
2. The Authority may conduct a Tax Audit or issue a Tax Assessment to the Taxable Person after 5 years from the end of the relevant Tax Period, if he has been notified of the commencement of such Tax Audit's procedures before the expiration of the 5-year period, provided that the Tax Audit is completed or the Tax Assessment is issued, as the case may be, within 4 years from the date of notification of the Tax Audit.
3. The Authority may conduct a Tax Audit or issue a Tax Assessment after the expiration of 5 years from the end of the relevant Tax Period if such Tax Audit or Tax Assessment issuance relates to a Voluntary Disclosure submitted in the fifth year from the end of the

Tax Period, provided that the Tax Audit is completed or the Tax Assessment is issued, as the case may be, within one year from the date of submission of the Voluntary Disclosure.

4. The Cabinet may, according to a suggestion by the Minister, issue a Decision to amend the period specified for the completion of the Tax Audit or the issuance of the Tax Assessment as per Clauses 2 or 3 of this Article.
5. No voluntary disclosure may be submitted after the expiration of 5 years from the end of the relevant Tax Period.
6. 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.
7. In case of Tax Registration failure, 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.
8. The statute of limitation set forth in this Article shall be interrupted for any of the reasons provided for in the Federal Law No. 5 of 1985, promulgating the Civil Transactions Law, or any other Federal law replacing it.

Comments:

The Authority has inserted new article on statute of limitation which sets out time frame within which Tax authorities must complete tax audit or issue a tax assessment.

As per new article inserted FTA may not conduct a Tax Audit or issue a Tax Assessment to a Taxable Person after the expiration of 5 years from the end of the relevant Tax Period however in below cases the period of **5 years is not applicable**:

- a. Notification of tax audit before the expiry of the 5 years then Tax Audit or Assessment has to be completed within 4 years from date of notification of tax audit
- b. Tax Audit or Tax Assessment issuance relates to a Voluntary Disclosure (VD) submitted in the fifth year from the end of the relevant tax period then Tax Audit or Assessment has to be completed within 1 year from date of submission of VD.
- c. In case of tax evasion then Tax Audit or Assessment has to be completed within 15 year from the end of the tax period in which Tax evasion took place