



What is a VAT error?

A VAT error (“tax error”) occurs when a taxable person does not charge and account for the correct amount of output VAT or does not recover the correct amount of input tax. This applies irrespective of whether a taxpayer has overpaid or under-paid the amount of tax due to the FTA.

Either way, the amount of tax that is paid to the FTA is incorrect and will need to be corrected.

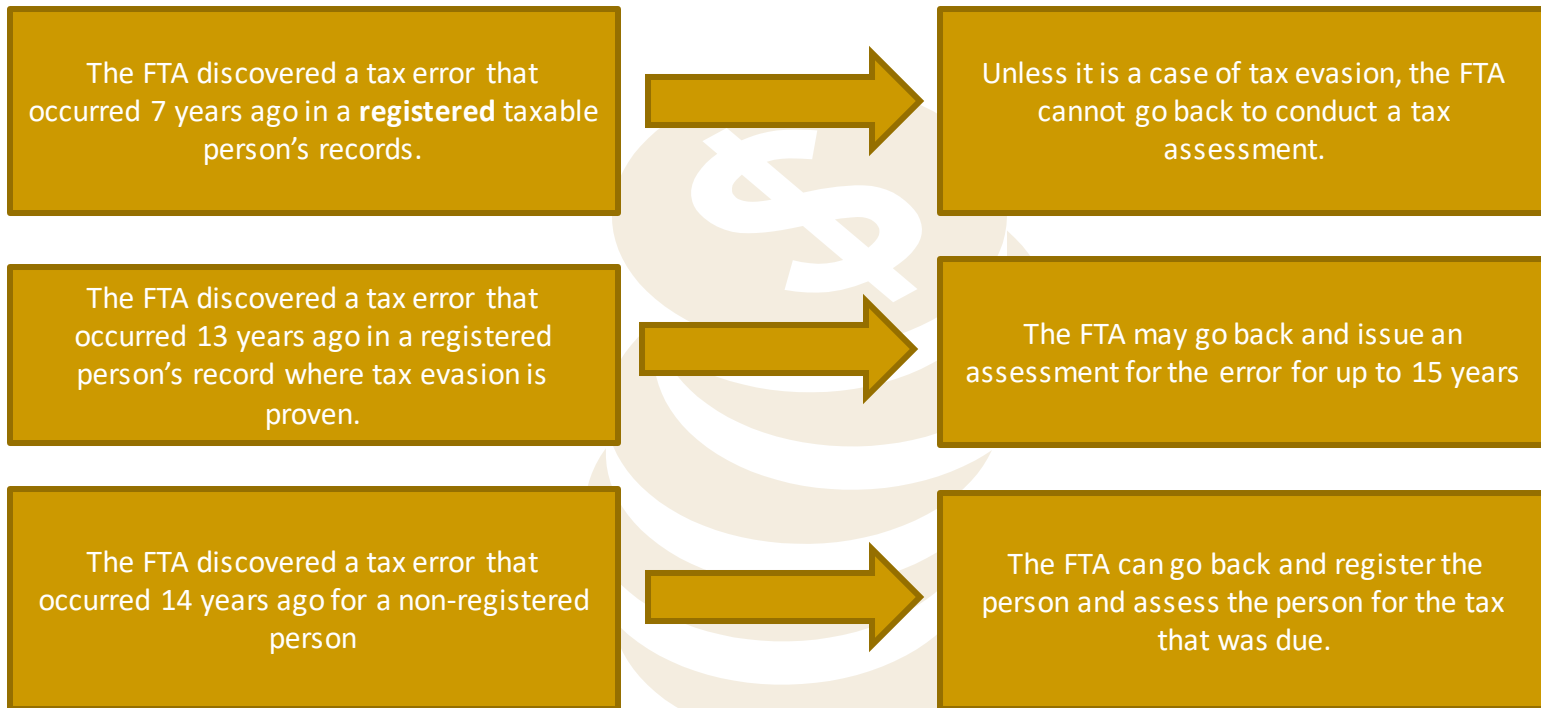
Except in cases of Tax Evasion or non-registration, there is a 5 year time limit for correcting errors arising in previous Tax returns for VAT (“VAT returns”). This means that the FTA can raise an assessment for, or a taxable person can disclose to the FTA, any errors that occurred within 5 years from the end of the tax period in which the error occurred (starting from when VAT was introduced on 1 January 2018).

In the case of Tax Evasion or non-registration, the FTA can conduct a Tax Assessment up to 15 years from the end of the Tax Period in which the Tax Evasion occurred or from the date on which the taxable person should have been registered.

The FTA may also charge a penalty where a taxable person has made a tax error.



Statute of limitation (examples)





Errors and how to correct them: Tax Invoices

There may be instances where an invoice contains an error, for example:

- if tax is incorrectly charged (that is, tax was charged but no tax was due on the supply); or
- the wrong amount of tax was charged.

If the tax amount shown on the invoice is **higher** than it should be, the supplier should include the tax amount stated on the invoice within its tax return unless the error has been corrected through issuing a credit note.

If the tax amount shown on the invoice is **lower** than it should be, the supplier should account for the correct amount of tax (that is, what should have been charged) on its tax return.

In both cases, a supplier will need to take steps to adjust for the error – for example, to issue a credit note (where the tax originally charged was too high) and/or re-issue a corrected tax invoice (where the tax originally charged was too low). For example, if you charge VAT on a zero rated supply, then you must issue your customer with a credit note for the VAT that he has paid. On the other hand, if you did not charge VAT on a standard rated supply, then you must re-issue the tax invoice with the correct VAT amount.

A recipient that has been overcharged or under-charged tax should contact the supplier to request a credit note or an invoice that states the correct amount of tax. This is important as a recipient can only recover input tax if it holds a valid tax invoice for the supply, showing the correct amount of tax charged.



Errors and how to correct them: VAT Returns

There may be instances where a tax return that has been submitted to the FTA contains an error and results in a different amount of tax being due to the FTA – for example, the amount of output tax is lower than it should have been and/or the amount of recoverable input tax is higher than it should have been. The value of the error will dictate the way in which it must be corrected.

If the tax value of the error is AED 10,000 or less, the error should be corrected on the tax return for the period in which the error is discovered.

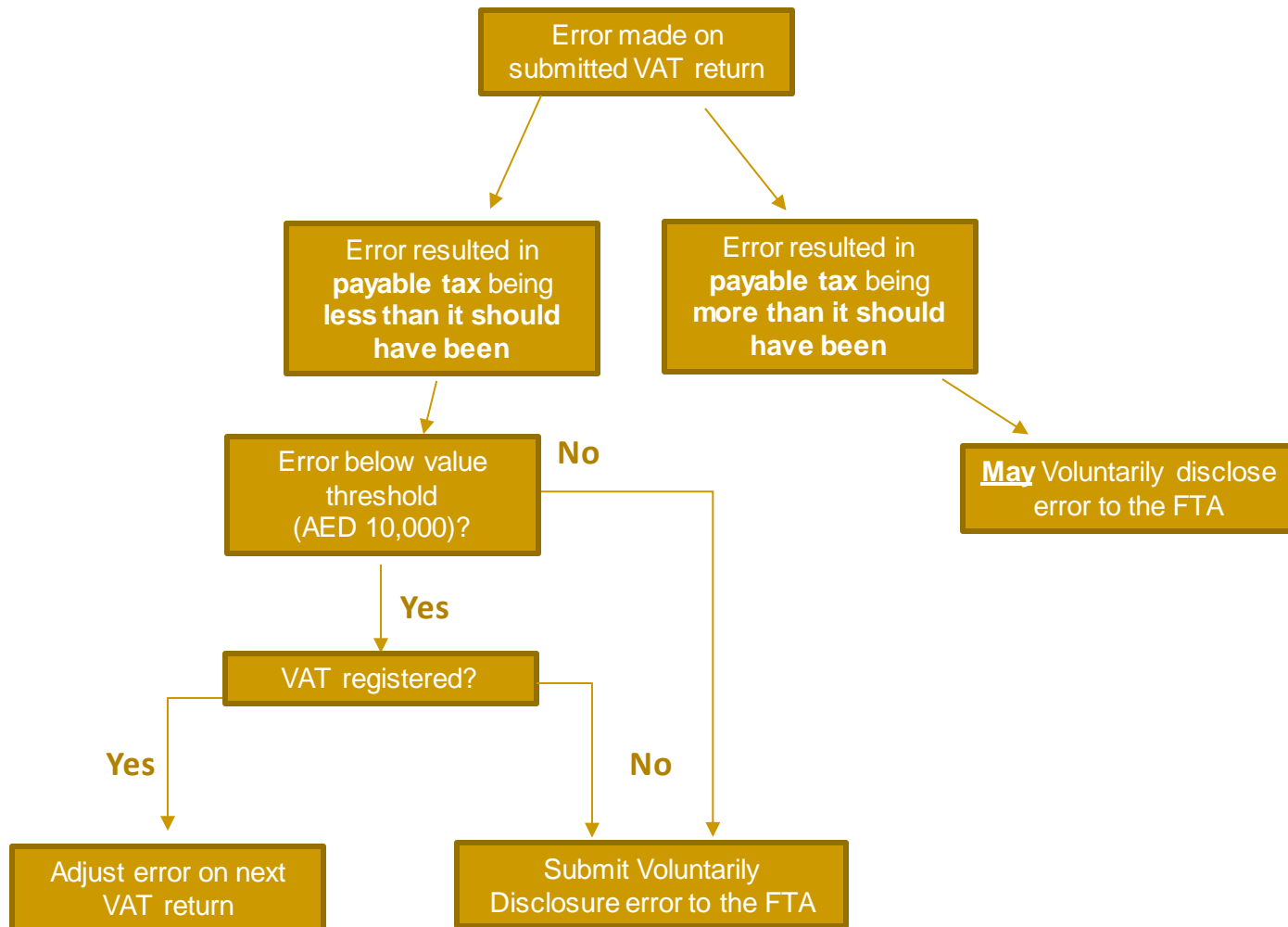
If the error is discovered at a time when it cannot be corrected in this way (for example, once the taxable person is no longer VAT registered), then a voluntary disclosure must be submitted to the FTA instead.

If the tax value of the error is more than AED 10,000, the error should be disclosed to the FTA via a voluntary disclosure.

A voluntary disclosure must be submitted to the FTA within 20 business days of when the taxable person became aware of the error and using the form specified by the FTA.



Errors and how to correct them: VAT Returns

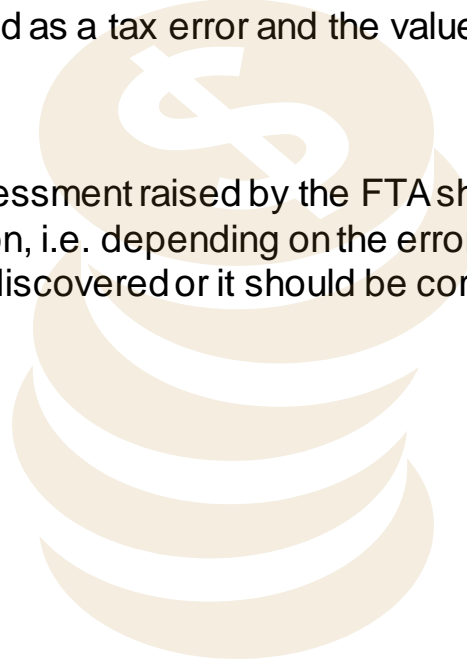




Errors and how to correct them: Assessments

There may be situations when an assessment issued by the FTA (and therefore an amount of tax payable to the FTA) contains an error that results in less or more tax being payable to the FTA than what was due. This is also regarded as a tax error and the value of the error will dictate the way in which it must be corrected.

An error discovered in an assessment raised by the FTA should be corrected in the same manner as an error made by a taxable person, i.e. depending on the error, it should either be corrected in the tax return for the period in which it was discovered or it should be corrected by submitting a voluntary disclosure.





Errors and how to correct them: Tax Refunds

A person may submit an application for a tax refund to the FTA – for example, a business which is not established in a GCC Implementing State, does not conduct business in the UAE and is eligible to submit a claim for a refund of VAT incurred.

If an error was made in this application, such that the amount of the refund being claimed was more or less than it should have been (irrespective of the value of the error), then the person must submit a voluntary disclosure to the FTA within 20 business days of becoming aware of the error. For example, if you were performing your own internal audit and you discover a tax error, you must submit a voluntary disclosure to the FTA within 20 business days.

However, if the error in the tax refund application was made as a result of an incorrect tax return or incorrect tax assessment, then the provisions relating to how to correct errors in returns or assessments should apply instead – i.e. the value of the error will dictate whether it can be corrected on a subsequent VAT return or via a voluntary disclosure.



Correcting Errors via VAT Returns

If you have made an error that can be corrected via a tax return, then the correction must be included in the tax return for the period in which you **discovered** the error.

For example:

- if you have quarterly tax return periods ending on 31 March, 30 June, 30 September and 31 December; and
- if you identify an error on 10 October that relates to the tax period ending 31 March; then
- you will need to include the correction on the tax return for the tax period ending 31 December.

The correction is made by adjusting the appropriate box on the tax return, depending on whether the error related to the output tax or input tax amounts. This correction will be included within the 'Amount' and 'VAT' columns of the appropriate box on the tax return, and not within the 'Adjustments' box.



Correcting Errors via Voluntary Disclosure

If you have made an error that must be corrected by submitting a voluntary disclosure to the FTA, the disclosure must be submitted within 20 business days from the date that you became aware of the error.

A voluntary disclosure is a form produced by the FTA that sets out the information that the FTA needs to know in order to consider, and make a decision on, the error that has been made.

The voluntary disclosure form is available in, and should be submitted using, the FTA's e-Services portal. The FTA's e-Services portal can be accessed using the link displayed on the screen.

<https://eservices.tax.gov.ae/en-us/login>

Once the FTA receives the voluntary disclosure, it will be put in a pending state (that is, awaiting action) until the FTA has decided on whether to approve it. The decision will be communicated to the taxable person via eServices on the FTA website.



Penalties

The FTA has the power to levy a penalty in a number of different situations. This includes:

- Where an incorrect tax return has been submitted; or
- Where a voluntary disclosure has been made in order to correct an error in a tax return, a tax assessment is issued by the FTA or a tax refund application is submitted to the FTA.

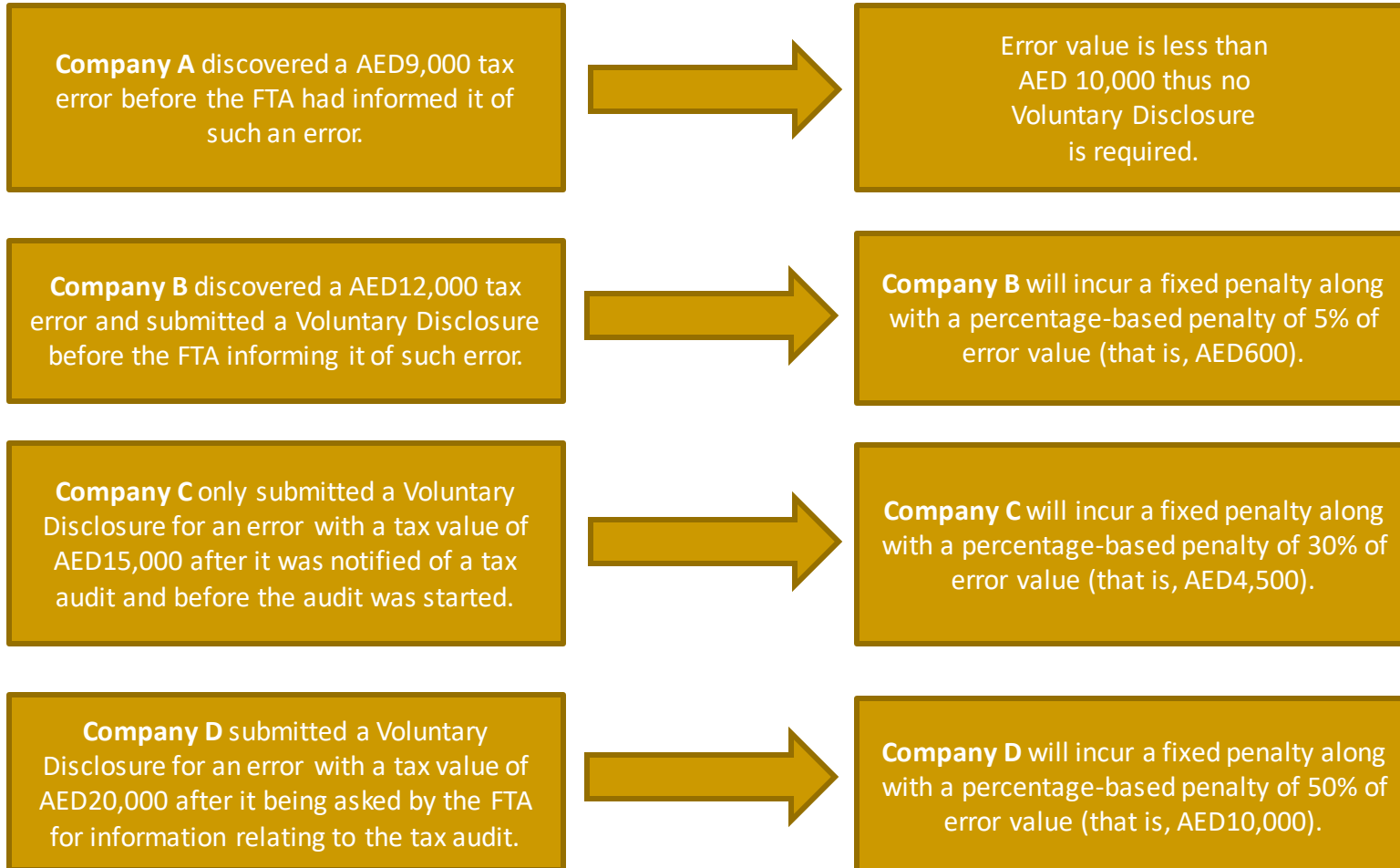
In both of these cases, the penalty will consist of two parts:

1. A fixed penalty of AED 3,000 (for the first time); or AED 5,000 (for subsequent time(s)); and
2. A percentage-based penalty calculated on the unpaid tax amount due to the FTA. The percentage depends on the circumstances surrounding the disclosure of the error. For example, a penalty of:
 - 50% of the unpaid tax amount if a disclosure is not submitted or it is submitted after the FTA notifies of the tax audit and the audit process has started or after being asked for information relating to the tax audit;
 - 30% of the unpaid tax amount if a disclosure is submitted after the FTA notifies of a tax audit but before that audit is started; or
 - 5% of the unpaid tax amount if a disclosure is submitted before / without the FTA notifying them of a tax audit.

The FTA has the power to waive or reduce penalties at its discretion if it considers the taxable person has a reasonable excuse for the error and notified the FTA within a reasonable time.



Penalties (examples)





Penalties – Late Payment

The FTA also has the power to levy a penalty in cases where the Taxable Person fails to settle payable tax within the specified timeframe.

The late payment penalty will consist of the following;

- 2% of the unpaid tax is due immediately once the payment of payable tax is late;
- 4% is due on the seventh day following the deadline for payment, on the amount of tax which is still unpaid;
- 1% daily penalty charged on any amount that is still unpaid one calendar month following the deadline for payment with an upper ceiling of (300%).

Where the Taxable Person discovers an error, they should pay any amounts due immediately to reduce penalties.