

United Arab Emirates

# Amendment of the VAT Decree-Law

October 2022



## In brief

On 26 September 2022, the President of the UAE, H.H. Sheikh Mohamed Bin Zayed Al Nahyan issued the Federal Decree-Law No.18 2022 amending some provisions of the Federal Decree-Law No. 8 2017 on Value Added Tax (the VAT Law).

The amendments will take effect from 1 January 2023.

## In detail

The Arabic version of Decree-Law No. 18 2022 on VAT was published in the official gazette (issue no. 736 of 28 September 2022). In total, 24 articles were changed and one article on the statute of limitation was added to the VAT Law.

The main changes to the VAT Law - effective from 1 January 2023 - are summarized below:

1. **Definitions** - The new Decree-Law introduced new definitions for Relevant Charitable Activity, Pure Hydrocarbons, Tax Evasion, Tax Audit, Tax Assessment and Voluntary Disclosure.
2. **Supplies outside the scope of VAT** - A new clause has been added to Article 7 that states the Executive Regulations may stipulate any other supplies (other than the supply of vouchers and the transfer of a business) that are explicitly considered outside the scope of VAT.
3. **Exception from VAT registration** - Article 15 regarding the exception to register will apply to registered persons in addition to non-registered persons.
4. **Date of supply in special cases** - Article 26(1) determining the date of supply in special cases includes the date on which one year has passed from the date on which the goods or services are provided, as one of the events to determine the date of supply.
5. **Place of supply in special cases** - Article 30(8) regarding the place of supply in special cases, now states that the place of supply of transport-related services will be the place where the transportation starts.
6. **Place of residence of a principal** - Article 33 defines the place of residence of a principal to be the place of residence of the agent. Under the current VAT Law, it was stated that the place of residence of the agent shall be the place of residence of the principal.

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The amendment to the VAT Decree-Law will be effective from 1 January 2023. It is expected that the VAT Executive Regulations will also be amended to capture the changes made in the VAT Decree-Law. Taxable persons are recommended to review the amendments made to the VAT Decree-Law and ensure implementation readiness by the effective date.

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7. **Value of supply** - Article 36 concerning the specific anti-avoidance rule related to the value of supply or import of goods and services between in case of related party transactions will now override Article 37 (value of deemed supply).
8. **Goods subject to zero-rated** - Additional goods are listed in article 45 (clauses 4, 5 and 6) as subject to zero-rate of VAT. This includes the import of means of transportation, import of goods related to means of transportation and import of rescue planes and ships.
9. **Reverse charge** - Clause 3 of Article 48 specifies that the domestic reverse charge will apply to Pure Hydrocarbons (defined in the new Decree-Law as “any kind of different pure combinations of a chemical equation made only of hydrogen and carbon”).
10. **Recovery of input VAT** - Two new clauses have been added to Article 55 regarding the recovery of input VAT which specify the requirements for the taxable person to recover VAT paid or declared on the import of goods or services.
11. **Recovery of input VAT by Government Entities and Charities** - It is now explicitly mentioned in Article 57 that government entities can recover input VAT that is incurred for the provision of sovereign activities. Similarly, charitable organisations can recover input VAT that is incurred for the provision of relevant charitable activities.
12. **Output VAT adjustment** - The output VAT adjustment stipulated in Article 61(1) now covers a scenario where the taxable person applies an incorrect tax treatment. In such cases, the taxable person should now issue a tax credit note to adjust the output tax.
13. **Timeline to issue a tax credit note** - Article 62(2) regarding the mechanism for output VAT adjustment now attaches a condition that the taxable person must issue a tax credit note within 14 days from the date on which any of the instances provided in Article 61(1) occurs.
14. **Payment of tax** - Article 65(4) makes it mandatory for the taxable person to pay the VAT to the Federal Tax Authority (FTA) in cases where such a person issues a tax invoice stating VAT on it or receives an amount as VAT.
15. **Timeline to issue a tax invoice** - Article 67(1) specified the date of issuance of tax invoice under Article 26 (date of continuous supply) to be 14 days from the date of the supply.



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### Introduction of new Article on statute of limitations

In addition to the above amendments, a new article (Article 79 bis) was added to the VAT Law. This article is similar to the one that was recently added to the Excise Tax Decree-Law concerning the statute of limitation.

The new article on statute of limitations covers the following:

- The statute of limitation of 5 years will not apply to cases where the FTA has issued a notice to audit the taxable person, provided such an audit is completed within 4 years from the date of issuance of the notice.
- In the case where the taxable person files a voluntary disclosure in the 5th year from the end of the relevant tax period, the statute of limitation will be extended by one year.
- A voluntary disclosure cannot be filed by the taxable person after the lapse of 5 years from the end of the relevant tax period.

The article also mentions that such extended periods can further be amended by virtue of a separate Cabinet Decision.





# The takeaway

Taxable persons are required to review amendments made to the VAT Decree-Law and ensure implementation readiness by the effective date of 1 January 2023. This would imply a change in the application of VAT for certain supplies (e.g. supply of Hydrocarbons, import of means of transportation, etc.), the timeline of issuance of a tax invoice/tax credit note and the procedures of keeping books and records for a longer period.

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## Let's talk

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