



Tax Newsletter
October 2022

Amendment of the VAT Decree-Law

Federal Decree Law No. 18 of 2022

Audit / Tax / Advisory

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1.Introduction

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

The Federal Decree Law No. 18 of 2022 amends 24 articles and adds a new article on the Statute of Limitations. The amendments will take effect from 1 January 2023.

In this article, we discuss the changes to the VAT Decree-Law and the possible impact to VAT registered businesses in the UAE.

2. Amendments to existing articles



2.1 Definitions (Article 1)

The introduction of definitions for amended or new terms used in the provisions of the VAT Decree-Law. This includes definitions for:

- Relevant Charitable Activity (as used in Article 57)
- Pure Hydrocarbons (as used in Article 48)
- Tax Evasion (as used in Articles 77 and 79 bis)
- Tax Audit (as used in Article 79 bis)
- Tax Assessment (as used in Article 79 bis)
- Voluntary Disclosure (as used in Article 79 bis)
- Tax Procedures Law (as used throughout the VAT Decree Law)



2.2 Out-of-scope Supplies (Article 7, clause 3)

The new clause emphasizes that the Executive Regulations shall specify other supplies that shall not be considered as a supply for VAT purposes. This means that we may expect further clarifications on out-of-scope supplies.



2.3 Exception from Tax Registration (Article 15, clause 1)

The amended clause states that registered and non-registered Taxable Persons may apply for an exception from VAT registration, where the supplies are solely subject to the zero-rate. The amendment means that a Taxable Person may opt for the exception even after its registration is completed.



2.4 Tax Deregistration (Article 21, clauses 2 and 3)

It is provided that the FTA has the power to deregister a registrant where it deems necessary to keep the safety of the tax system. After deregistration, the FTA keeps the right to collect liabilities. In our view, this provision will apply when a taxpayer uses the VAT registration for fraudulent activities.



2.5 Date of Continuous Supplies (Article 26, clause 1, paragraph d)

The date of supply for continuous supplies now specifically includes the date on which one (1) year has passed from the date the goods or services are provided. This amendment is a clarification of the previous article.



2.6 Place of Supply of Exports & Imports (Article 27, clause 3, paragraph a, point 4)

For supplies that involve periodic payments or consecutive invoices (continuous supplies), the place of supply shall be inside the UAE if the ownership of goods is transferred in the UAE. We understand that this is merely a clarification of current practices by taxpayers.



2.7 Place of Supply for Transport-related Services (Article 30, clause 8)

In this article it is added that for transport-related services, the place of supply shall be where the transportation starts. Previously, only the transportation services were covered under this article for special cases for place of supply.



2.8 Place of Residence of a Principal (Article 33)

This article provides that the place of residence of a principal shall be considered as the place of residence of an agent in two specific cases. In the current law it is mentioned that the place of residence of an agent shall be regarded as the place of residence of the principal. Taxpayers acting as agent should be wary of this amendment.



2.9 Value of Supply (Article 36)

In this anti-avoidance article, the value of supply applicable between related parties shall take precedence over value of supply for deemed supplies. This means that in certain cases when related parties make supplies of goods or services without consideration, the market value should be used to determine the value of the supply as opposed to the cost value.



2.10 Zero-rated Import of goods (Article 45, clauses 4, 5, 6, 12 and 14)

The following import of goods are added to the zero-rated supplies:

- air, sea and land means of transport for passengers and goods and related goods, aircrafts or vessels for rescue and assistance, crude oil and natural gas, and related goods to preventive and basic healthcare.



2.11 Reverse Charge (Article 48, clauses 3 and 8)

The new provisions explicitly states that the domestic reverse charge shall apply to the supply of Pure Hydrocarbons. The definition of Pure Hydrocarbons has been provided in the definitions of Article 1.

A new paragraph is added which extends the power of the Cabinet to determine other goods or services which may be subject to the reverse charge provisions.



2.12 Recovery of Input Tax on Imports (Article 55, clause 1, paragraph a, points 2 and 3)

A documentation requirement is added for recovery of import tax on imports of goods or services:

- Imports of Goods – retention of invoices and import documents.
- Imports of Services – retention of invoices.



2.13 Government Entities and Charities (Article 57, clause 1, paragraph a and b)

It is now specifically mentioned that Input tax paid by Government Entities for Sovereign Activities, and input tax paid by Charities for its Relevant Charitable Activities shall be recoverable for VAT purposes.



2.15 Issuance of Tax Credit Note (Article 62, clause 2)

A 14-day timeframe shall apply for the issuance of Tax Credit Notes if the output tax needs to be adjusted.



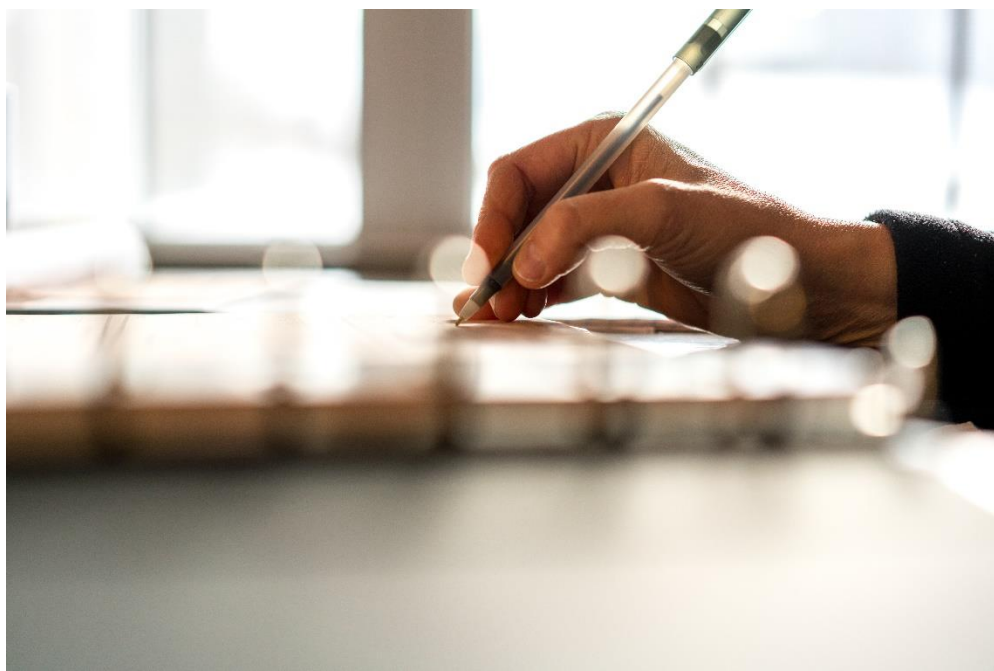
2.16 Receipt of Tax (Article 65, clause 4)

If a person receives an amount as tax or issues a tax invoice indicating such as tax, he shall have the obligation to remit the Tax Due to the Authority.



2.17 Issuance of Tax Invoice (Article 67, clause 2)

This provision clarifies that the 14-day timeframe to issue a Tax Invoice also applies to continuous supplies of article 26 (contracts with periodic payments or consecutive invoices). Currently, the 14-day rule for invoicing only covers one-off supplies of goods or services.



3. Additional articles: Article 79 bis (Statute of Limitations)

The new article provides that the FTA may not conduct a Tax Audit or issue a Tax Assessment after five (5) years from the end of the tax period, except in the following cases:

Exceptions	Timeframe to conduct Tax Audit or issue Tax Assessment
Where the FTA has notified the taxpayer of the commencement of the Tax Audit before the expiration of 5 years	Within four (4) years from the date of notification of Tax Audit
Where the Tax Audit or Tax Assessment relates to a Voluntary Disclosure submitted in the 5 th year from the end of the Tax Period	Within one (1) year from the date of submission of the Voluntary Disclosure
Where the case relates to Tax Evasion	Within fifteen (15) years from end of Tax Period in which Tax Evasion occurred
Where the case relates to non-Tax registration	Within fifteen (15) years from the date on which Taxable Person was required to register

The Article also provides that no Voluntary Disclosures may be submitted by the taxpayer after 5 years from the end of the relevant Tax Period.

4. Key Takeaways

Businesses are required to re-assess their current VAT positions and practices before 01 January 2023, as non-compliance with the amended VAT rules may lead to Tax Assessment and Administrative Penalties imposed by the FTA.

We recommend businesses to initiate the following actions:



01
Identify the key areas of the amended VAT Decree-Law that may impact the current business practices.

02
Prepare an action plan to ensure compliance with the VAT Decree-Law by 01 January 2023. Involve the relevant stakeholders in the business.

03
Execute the action plan to be compliant with the VAT Decree-Law before 1 January 2023.

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