

## **The fiscal system of the United Arab Emirates**

*Outline: - Introduction. I- Substantial tax rules resulting from Gulf Cooperation Council (GCC) agreements. II- The Law for Tax Procedure a) What to do; b) The Authority control; c) Sanctions. III- Implementation of excise and VAT in the UAE.*

### **Introduction**

Following the issuance of the UAE VAT law at the end of August, and the simultaneous launch of the UAE Federal Tax Authority (FTA) website, businesses and individuals can now start to make changes to their core operations, financial management and book-keeping, technology, as well as human resources and consultants if necessary. Up to the beginning of September, the tax system is ruled by the following acts:

[Federal Decree-Law No. \(8\) of 2017 on Value Added Tax](#) issued on 23 / 8 / 2017

[Federal Law No 7 on Excise Tax](#) issued on 17 / 8 / 2017

[Landmark Federal Law No. \(7\) of 2017 on Tax Procedure](#) issued on 11 / 8 / 2017

[Federal Law by Decree No. 13 of 2016 concerning the establishment of the Federal Tax Authority](#)

[GCC Common VAT Agreement](#) executed on 27 / 11 / 2016

[GCC Common Excise Agreement](#) executed on 27 / 11 / 2016

### **I- Substantial tax rules resulting from Gulf Cooperation Council (GCC) agreements**

The GCC Common VAT Agreement and the GCC Common Excise Agreement contain the substantial provisions governing the fiscal system in the region. They set the tax rate for all signatory countries and the basic rules to coordinate and standardize economic, financial and monetary policies.

Nonetheless, according to both treaties, a Member State remains outside the scope of implementation, until the adoption and the entry into force of its local law. In other words, with no domestic law, the treaties have no effect (Article 29 GCC Common Excise Agreement, and Article 78 of the GCC Common VAT Agreement).

The treaties state common definitions and general provisions: supplies within the scope of the tax, place of supply, tax due date, calculation of tax, exceptions, exceptions on importation, persons who are obligated to pay tax, tax deduction, obligations, tax refunds, exchange of information among member States, objections and appeals.

With regards to policies and provisions related to tax evasion, the GCC gave Member States full competence to determine penalties that apply in the event of violation.

Furthermore, these agreements set the framework for tax registration.

For Excise, registration is compulsory for any business that deals with taxable goods, which are products that are harmful to human health and to the environment, as well as on luxury goods. VAT Registration is compulsory for companies with an annual turnover of 375 000 SAR (or their equivalent of any other currency of the GCC Member State). Nevertheless, companies that generate 50% of this threshold annually can voluntarily register for VAT. Most requirements and procedures for VAT compliance are left to the discretion of each Member State under its local law.

## **II- The Law for Tax Procedure**

The Landmark Federal Law No. (7) for 2017 provides the planned UAE tax system with the necessary administrative foundations, controls the administration and collection of taxes and clearly defines the role of the Federal Tax Authority (FTA).

According to Article (3), the aim to regulate the rights and obligations between the Authority and the Taxpayer and any other Person dealing with the Authority; and the common procedures and rules applicable to all Tax Laws in the State (i.e. the territory of the seven Emirates).

### **A- What to do:**

*Book keeping* - In particular, the law requires that every person carrying on a business must keep accounting records and commercial books, as well as any tax information determined by law. Tax returns, data, information, documents must be submitted to the tax authority.

*Registration* - Everyone is required to register in accordance with the law. Registrants must include their tax registration number (TRN) in all correspondence and transactions. They must also inform the tax authority of any circumstance that may require the modification of the information relating to their tax file within 20 working days of the occurrence of this circumstance.

*Tax return* - Each taxable person must also prepare the tax return for each tax period and for each tax. He/she must then submit the tax return to the authority and pay any tax as specified in the tax return or in any tax assessment within the time limit.

*Tax agent* - The law requires that a registry of tax agents must be established at the authority, which will contain records for each agent. Nobody shall practice the profession of tax agent in the United Arab Emirates unless he /she is entered in the register.

### **B- The Authority control:**

The FTA's headquarter are located in the city of Abu Dhabi. The authority is in charge of managing and collecting federal taxes and related fines, distributing tax-generated revenues, as well as applying the tax-related procedures in force in the UAE.

*Audit* - An audit can be undertaken towards any person to determine taxpayer's compliance with the provisions of the Acts. The authority may do the audit in its office or in the place of business of the person (or any other place where the person carries on business, stores goods or keeps records), giving at least five-day notice.

Any Person subject to a tax audit, as well as his or her tax agent or legal representative, must offer all necessary assistance to the tax auditor in order to perform his duties. The tax auditor may request original documents or copies or he may take samples of goods, equipment or other property available at the Person's place of work.

*Tax assessment* - The authority must issue a tax assessment to determine the value of the tax payable and send it to the taxable person within five days if: a) the taxable person fails to apply for registration within the time limit; b) if the person does not submit a tax return within the same period; c) if he/she does not pay the declared tax; d) if the taxable person presents an incorrect tax return; and e) if the tax is not calculated on behalf of another person when it is required to do so by tax law.

**C- Sanctions:**

Following the tax assessment, the FTA may impose penalties – from fines to imprisonment – for non-compliance with tax provisions. However, taxpayers can challenge the conclusions. The law creates a system of appeals for tax disputes, starting within the FTA – request for reconsideration of the decision – moving to a Tax Resolution Committee – objection to the decision of the FTA – and ending before the Competent Court pursuant to the Civil Procedure Law in the State. According to Article (48), the burden of proving the accuracy of the Tax Return falls upon the Taxable Person, and the burden of proving cases of Tax Evasion falls upon the Authority.

**III- Implementation of excise and VAT in the UAE**

The new laws outline most of the main rules to comply with; however, many gaps and details need to be clarified as soon as possible – before the end of 2017 – through Executive Regulations and Cabinet’s decisions.

Here, some preliminary information about Excise and VAT, and the initial obligations to undertake under the law.

RATE	<p><b>Excise:</b> 50% for carbonated drinks, 100% for tobacco products, and 100% for energy drinks</p> <p><b>VAT:</b> 5%</p>
WHO	<p><b>Excise tax is the responsibility of any person engaged in:</b></p> <ul style="list-style-type: none"> <li>• the import of excise goods into the UAE</li> <li>• the production of excise goods where they are released for consumption in the UAE</li> <li>• the stockpiling of excise goods in the UAE in certain cases</li> <li>• anyone who is responsible for overseeing an excise warehouse or designated zone i.e. a warehouse keeper</li> </ul> <p><b>VAT Tax liability</b>, including for Tax Account, falls upon a Taxable Person who makes any Taxable Supply or any Deemed Supply; the importer of Concerned Goods; and the Person registered for Vat who acquires Taxable Goods.</p> <p>Without prejudice to the Taxable Person’s responsibility to the FTA, a Person may appoint a <u>Tax Agent</u> to act in his name and on his behalf with regards to his tax affairs with the Authority (art. 15 Landmark Federal Law No. 7 of 2017).</p>

<p><i>WHAT</i></p>	<p><b>Excise Goods:</b> goods that will be determined as being subject to Tax by a Cabinet Decision upon the recommendation of the Minister</p> <p><b>Taxable supply for VAT Purposes:</b> a supply of Good or Services for Consideration while conducting Business in the State, and does not include Exempt Supply.</p> <p>The Law distinguishes <u>Exempt supplies</u> and <u>Zero Rate supplies</u> (Article (45). The latter include – among others – certain exports, international transportation, supply of certain education and healthcare services, supply of crude oil and natural gas, and the supply or Import of investment precious metals. Real Estate is also subject to a specific provision.</p> <p><b>Record-Keeping</b> for any Taxable Person (Article 78, VAT Law; Article 24, Excise Law); Any Person conducting any Business (Article 4, Procedural Law).</p>
<p><i>WHEN</i></p>	<p>Excise Tax will come into effect from <u>October 1, 2017</u> Registrations will open mid-September 2017.</p> <p>VAT come into effect beginning <u>January 1, 2018</u>. Registration will open in September and is due by the end of 2017.</p> <p>The GCC VAT Agreement set the following threshold (which in the UAE is calculated pursuant to Article 19 Law No. 8 of 2017):</p> <p>Mandatory Registration starting from the Q4 of 2017: businesses exceeding AED 375,000 Voluntary Registration starting from Q3 of 2017: 50% of the Mandatory registration Threshold (AED 187,500)</p>
<p><i>WHERE</i></p>	<p>Business conducted in the territory of the United Arab Emirates. If the place of supply is another GCC country, the rules of that country will apply.</p> <p>Import of Taxable Goods in the UAE is subject to the VAT, so that a person non-registered for VAT will be required to pay tax at the custom.</p>
<p><i>HOW</i></p>	<p>All the procedure will be completed online through the portal of the FTA’s website: registration, tax return submission, payment, invoicing.</p>