GCC E-alert

Contents

UNITED ARAB EMIRATES (UAE)

1. Excise Tax

Following the ratification by all six GCC countries (the UAE, KSA, Qatar, Kuwait, Bahrain and Oman) of the Convention to introduce excises taxes on “goods that are deemed harmful to human health and to the environment, as well as on luxury goods, according to a list of goods and corresponding tax rates”, the President of the UAE issued Federal Decree Law No. 7 of 2017 on Excise Tax (the **Excise Tax Law**).

In accordance with the Excise Tax Law, the Excise Tax will be levied at a rate of **100% for tobacco** and **energy drinks**; and **50% for sugary drinks**. The Excise Tax will be imposed on certain activities involving “excise goods” such as the production or import of excise goods into the UAE as well as the stocking of excise goods in the UAE where these activities are in the course of doing business.

The Excise Tax Law provides that the Executive Regulation shall determine the procedures, controls and conditions for tax registration/deregistration. Registration is scheduled to start in September.

Coming into Force

The taxable person will have to submit a tax return to the Tax Authority at the end of each taxation period and pay the taxes appearing on its tax return within the timeframe, and according to the procedures, to be set out in the Executive Regulation. The Excise Tax is scheduled to **come into force on 1 October 2017** and will be applicable to goods on-shore as well as those in the Free Zones.

The Excise Tax payable by a taxable person for any tax period shall be the sum of Excise Tax payable for that period less the Excise Tax deductible. The taxpayer may carry forward any excess refundable tax to subsequent years and offset such excess against tax payable or penalties imposed.

The amount of tax paid may also be refunded to persons registered in another GCC country that has implemented Excise Tax provided they have paid the Excise Tax in the UAE, exported the products to that other GCC country and paid the Excise Tax to that other GCC country.

Records

The taxpayer is required to keep the following records: (i) records of all excise goods produced, imported or stocked, (ii) records of exported excise goods and evidence of such export, (iii) records of stock levels (including of goods lost or destroyed), (iv) tax records that include the tax due on produced/imported excise goods, excise goods that have been stocked and tax deductible in accordance with the Excise Law.

Finally, the taxable person (or any authorised person) must include the Tax Registration Number (**TRN**) on all correspondence/documents (including tax returns) and transactions with the Tax Authority.

2. VAT

On 27 August 2017, the Ministry of Finance of the UAE has released the Federal Decree Law No (8) of 2017 on Value Added Tax (the **VAT Law**). The VAT Law provides the legal framework for the introduction of VAT **from 1 January 2018**.

Registered businesses will charge VAT to all supplies (and deemed supplies) of goods and services to their customers at the prevailing rate and incur VAT on goods/services that they buy from suppliers. The difference between these sums will be reclaimed or paid to the Government.

Supply of Goods and Services

According to the VAT Law, a supply of goods includes the transfer of ownership of the goods or the right to use them as an owner from one person to another and the entering into a contract between two parties triggering the transfer of goods at a later time. A supply of service is any supply that is not considered a supply of goods.

The VAT Law contains two exceptions to what constitutes a supply: the issuance or sale of any voucher unless the received consideration exceeds its declared monetary value and the transfer of the whole or an independent part of a business from a person to a Taxable Person for the purposes of continuing such business that was transferred.

Rates and Exemptions

The **standard rate** of VAT for goods and services will be **5%** with certain exempted goods and services that may be zero rated or exempt from VAT or outside the scope of VAT.

Zero rated means that the tax rate on that good is zero per cent, and therefore the consumer will not have to pay any tax on it such as:

- Exports of goods and services to outside the GCC;
- Supply of certain education services and relevant goods and services;
- Supply of certain healthcare services and relevant goods and services;
- International transportation and related supplies;
- Supplies of certain sea, air and land means of transportation (such as aircrafts and ships);
- Newly constructed residential properties that are supplied for the first time within three years of their construction either through sale or lease in whole or in part; and
- Certain investment grade precious metals (e.g. gold, silver, of 99% purity).

Certain industries and goods will be **exempt** from VAT such as:

- Supply of some financial services (described in the VAT Law);
- Residential properties;
- Bare land; and
- Local passenger transport.

Deductible VAT

VAT on expenses that were incurred by a business will be deductible in the following circumstances:

- The business must be a taxable person (the end consumer cannot claim any input tax refund).
- VAT should have been charged correctly (i.e. unduly charged VAT is not recoverable).
- The business must hold documentation showing the VAT paid (for e.g. valid tax invoice).
- The goods or services acquired are used or intended to be used for making taxable supplies.
- VAT input tax refund can be claimed only on the amount paid or intended to be paid before the expiration of 6 months after the agreed date for the payment of the supply.

VAT on Import

VAT is due on the goods and services purchased from abroad. If the recipient in the UAE is a registered person with the Tax Authority for VAT purposes, VAT would be due on that import using a reverse charge mechanism.

If the recipient in the UAE is a non-registered person for VAT purposes, VAT would be paid on import of goods from a place outside the GCC. Such VAT will typically be required to be paid before the goods are released to the person.

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VAT and Custom Duties

VAT shall be payable in addition to the custom duties paid by the importer of the goods and cannot be deducted. VAT shall be computed on the value that includes the customs duties.

Transitional Rules

Special rules will be provided to deal with various situations that may arise in respect of supplies that straddle the introduction of VAT. For example:

- Where a payment is received in respect of a supply of goods before the introduction of VAT but the goods are actually delivered after the introduction of VAT, this means that VAT will have to be charged on such supplies. Likewise, special rules will apply with regards to supplies of services straddling the introduction of VAT.
- Where a contract is concluded prior to the introduction of VAT in respect of a supply which is wholly or partly made after the introduction of VAT, and the contract does not contain clauses relating to the VAT treatment of the supply, then **consideration for the supply will be treated as inclusive of VAT**. There will, however, be special provisions to allow suppliers to charge VAT in situations where their recipient is able to recover their VAT but where there is no VAT clause.

Records and Invoices

All businesses in the UAE will need to record their financial transactions and ensure that their financial records are accurate and up to date.

A registrant making a taxable (or deemed) supply shall issue an original tax invoice and deliver it to a recipient of goods or services or keep it in his records in the event of a lack of recipient. Any person who receives an amount as tax pursuant to any document issued by the person must pay this amount to the Tax Authority. A registrant shall issue a tax invoice within 14 days of the date of supply.

Executive Regulation

The VAT Law specifies that the Executive Regulation shall include the information to be included in the Tax Invoice; conditions and procedures required to issue an electronic Tax Invoice; instances where the Registrant is not required to issue a Tax Invoice to the Recipient of Goods or Services; instances where other documents may be issued in place of the Tax Invoice, as well as their specifications and the information to be included therein; and instances where another Person may issue a Tax Invoice on behalf of the Registrant supplier.

However, the Executive Regulation has not been issued yet but is expected to be released during Quarter 4 of year 2017. We will keep you updated as soon as it is.

Finally, the VAT registration process is scheduled to open in mid-September. A business must register for VAT if their taxable supplies and imports exceed the **mandatory registration threshold of AED 375,000**.