

20 Questions on VAT Implementation for SMEs

As SME's and business owners formulate their goals for this financial year, the introduction of VAT has added a new dimension. To explain VAT in summary, we started with the "Change in Procedures with the introduction of VAT" blog and this article is a follow-up to add more insight to VAT impacts to businesses with the remaining answers to everything you want to know on VAT:

Q1. Post collection of VAT for my business what are the procedures?

The new Tax Procedure Laws (TPL) issued by the government of UAE sets the foundation for the imminent UAE tax regime, and the intent is to regulate the taxpayer rights and obligations, administration and collection of taxes for the Federal Tax Authority (FTA).

TPL defines the procedures that a taxpayer has to abide from January 1st 2018 in UAE based on VAT, excise and other relevant taxes. It states the respective rights and obligations of the FTA and taxpayers and also covers tax procedures including audit, objections, refunds collection and compliance requirements.

Q2. How will partial exemption work?

Where a VAT registered person incurs input tax on its business expenses, this input tax can be recovered in full if it relates to a taxable supply made, or intended to be done, by the registered person. In contrast, where the expense relates to a non-taxable supply (e.g., exempt supplies), the designated person may not recover the input tax paid.

In certain situations, an expense may relate to both taxable and non-taxable supplies made by the registered person (such as activities of the banking sector). In these circumstances, the registered person would need to apportion input tax between the taxable and non-taxable (exempt) supplies. Businesses will be expected to use input tax (ratio of recoverable to total) as a basis for apportionment in the first instance although there will be the facility to use other methods where they are fair and agreed with the Federal Tax Authority.

Q3. What situation would lead to the imposition of penalties?

Penalties will be imposed for non-compliance.

Examples of actions and omissions that may rise to penalties include:

- A person failing to register when required doing so

- A person failing to submit a tax return or make a payment within the required period;
 - A person failing to keep the records required under the issued tax legislation;
 - Tax evasion offenses where a person performs a deliberate act or omission with the intention of violating the provisions of the published tax legislation.
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Q4. Will there be any special schemes for SMEs?

No special rules are planned for small or medium-sized enterprises. However, the FTA will provide materials and resources available for these entities to assist them with their inquiries.

Q5. Will there be transitional rules?

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

- Where a payment is received with a provision of goods before the introduction of VAT but the goods are delivered after the introduction of VAT, this means that VAT will have to be charged for such supplies. Likewise, special rules will apply with regards to supplies of services spanning the introduction of VAT.
 - Where a contract is concluded before the introduction of VAT in respect of 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 can recover their VAT but where there is no VAT clause.
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Q6. How will insurance be treated?

Insurance (vehicle, medical, etc.) will be taxable. Life insurance, however, will be addressed as an exempt financial service.

Q7. How will financial services be treated?

It is expected that fee-based financial services will be taxed but margin based products are likely to be exempt.

Q8. How will Islamic finance be treated?

Islamic finance products are consistent with the principles of Shariah and therefore often operate differently from financial products that are common internationally.

To ensure that there are no inconsistencies between the VAT treatment of standard financial services and Islamic finance products, the treatment of Islamic finance products will be aligned with

the treatment of similar standard financial services.

Q9. Can UAE nationals claim VAT?

A scheme will be introduced to allow a UAE national who is not registered for VAT to reclaim VAT paid on goods and services relating to constructing a new residence which will be privately used by the person and his family. This will allow the recovery of VAT on such expenses as contractor's services and building materials.

Q10. How quickly will refunds be released?

Refunds will be made after the receipt of the application and subject to verification checks, with a particular focus on avoiding fraud.

Q11. Will FTA issue rulings or provide tax advice?

In the course of its interaction with taxpayers, the FTA may provide its views on various matters in the law. Taxpayers may choose to challenge these views. It should be noted that penalties may be imposed on taxpayers who are found to violate any tax laws and regulations.

Q12. Will it be possible to issue cash receipts instead of VAT invoices?

A supplier registered or required to be registered for VAT must issue a valid VAT invoice for the supply. To be considered as a valid VAT invoice, the document must follow a particular format as mentioned in the legislation. In certain situations, the supplier may be able to issue a simplified VAT invoice. The conditions for the VAT invoice and the simplified VAT invoice is mentioned in the legislation.

Q13. Will there be any VAT that businesses are not allowed to claim?

VAT will not be deductible in respect of expenses incurred for making non-taxable supplies. Furthermore, input tax cannot be deducted if it is incurred in respect of specific expenses such as entertainment expenses, e.g., employee entertainment.

Q14. Under which conditions will businesses be allowed to claim VAT incurred on expenses? VAT on expenses that were incurred by a business can be deducted 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 (e.g., valid tax invoice).
 - The goods or services acquired are used or intended to be used in making taxable supplies.
 - VAT input tax refund can be claimed only on the amount paid or expected to be paid before the expiration of 6 months after the agreed date for the payment of the supply.
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Q15. Will non-residents be required to register for VAT?

Non-residents that make taxable supplies in the UAE will be required to register for VAT unless there is any other UAE resident person who is responsible for accounting for VAT on these supplies. This exclusion may apply, for example, where a UAE business is required to account for VAT under a reverse charge mechanism in respect of purchase from a non-resident.

Q16. Will VAT be paid on imports?

VAT is due on the goods and services purchased from abroad.

In case the recipient in the State is a registered person with the Federal Tax Authority for VAT purposes, VAT would be due on that import using a reverse charge mechanism.

In case the recipient in the State 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.

Q17. How will Government Entities be treated for VAT purposes?

Supplies made by government entities will typically be subject to VAT. This will ensure that government entities do not benefit advantage as compared to private businesses.

Certain supplies made by government entities will, however, be excluded from the scope of VAT if they are not in competition with the private sector or where the entity is the sole provider of such supplies. It is likely certain government entities will be entitled to VAT refunds – this is designed to avoid budgeting issues and provide a level playing field between outsourced and insourced activities.

For the supplies provided for government entities, the treatment of such supplies shall depend on the same amount and not on the recipient of the supply. Therefore, if the supply is subject to the standard tax rate, the treatment would remain the same even if it is provided to a government entity.

Q18. Will Businesses have to report on their activity in each of the Emirates?

It is expected that companies will need to complete additional information on their VAT returns to report revenues earned in each Emirate. Guidance will be provided to businesses with regards to this.

It is expected that the rules will be relatively straightforward for most businesses and will be based, for example, for B2C transactions, on the location of the transaction (e.g., in a retail environment, the site of the shop).

Q19. Will the goods exempt from customs duties also be exempt from VAT?

Not necessarily. Some products that are imported may be exempt from customs duties but subject to VAT.

Q20. What happens if there are objections to the law?

Since any regulatory change faces some opposition for reasons such as special cases, or issues overlooked, a Tax Disputes Resolution Committee will be formed to decide on any complaints or requests for reconsideration on FTA's decision. Following are the procedures:

- 1) If any such objection arises, it needs to be submitted in written format within 20 business days from the date of notification of the decision by the FTA.
 - 2) The committee –TDRC will then review the dispute and decide within 20 days from the date receipt of the objection.
 - 3) Once a decision is made, TDRC will inform the taxpayer within five business days.
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