

IMPACT OF INDIRECT TAXES ON RETAIL SECTOR IN UAE





FROM WTS DHRUVA'S

CEO

UAE has been known as the land of retail tourism. It is a top destination for both the international tourist as well as the global retailers. As such, it is one of the key pillars for the growth of the UAE economy.

To promote retail tourism the Government has taken a number of initiatives including promoting the annual Dubai Shopping Festival which is now on the calendar of tourists to the UAE.

Any tax on the retail trade, therefore, needs to balance between the priorities of the Government, the desire to promote the retail trade and, finally, revenue enhancement.

Excise Tax was first introduced in the UAE in October 2017. We then had introduction of VAT from January 2018 introduced in both UAE and KSA and in Bahrain from January 2019. Recognizing the impact of VAT on retail tourism, the UAE announced a Tourist Refund Scheme making tourist eligible to a refund of a significant portion of VAT paid minus a processing fee.

Given the impact that these taxes have on the retail sector, WTS Dhruva Consultants has prepared a comprehensive guide on the applicability of VAT in the retail sector. I am delighted to present this guide "Impact of Indirect Taxes on Retail Sector in UAE" which is a result of our extensive experience in the sector and research done by a team of experts.

We hope that you will find this publication helpful and would be delighted to receive your suggestions.

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INTRODUCTION

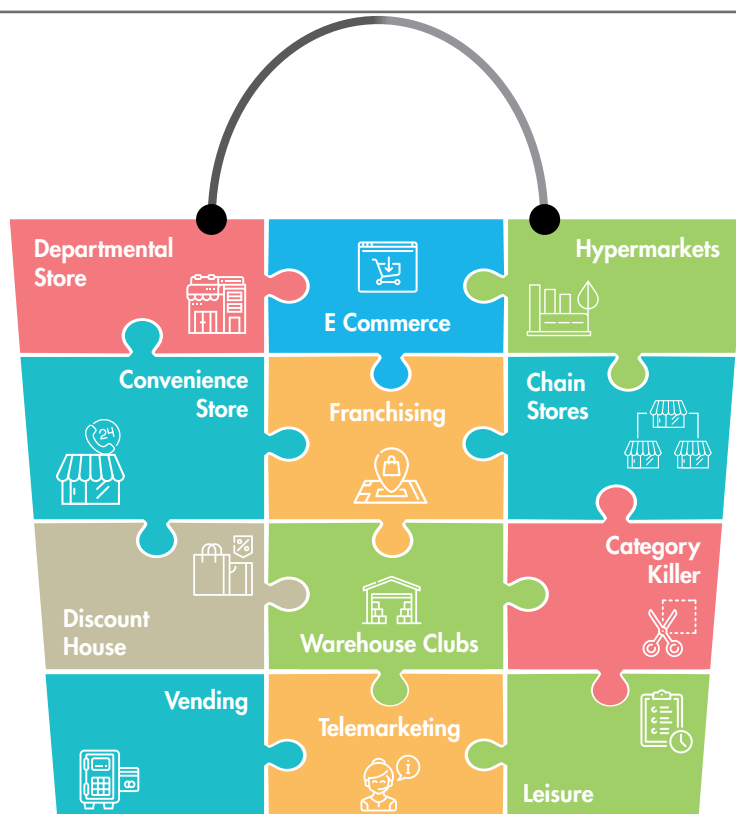
There are two primary drivers of the retail sector in United Arab Emirates ("UAE"); spending from residents and spending from tourists. UAE continues to entertain a growing population whose appetite for unique experiences among both residents and international visitors have ensured that the country's retail sector witnessed a very favorable 2018, with the growth momentum being carried into 2019. UAE's retail sector has witnessed an evolution over the past year as it continued to establish itself as a key player in the global retail arena, proving that it can sustain growth, attract international brands, and meet changing market conditions.

GCC's retail sector is forecast to grow by about 22 per cent to \$308 billion in 2023 from last year with the UAE and Saudi Arabia accounting for the bulk of sales over the next five years. Within the GCC, the UAE is expected to lead

the pack in terms of retail sector growth on the back of government initiatives such as Dh50bn three-year economic stimulus package, easing of visa restrictions and renewed spending on infrastructure projects. During the forecast period, annualised growth in retail sales across the GCC is expected to range between 2.2 per cent to 5.1 per cent.¹

The UAE is ranked fifth among the top-ten retail destinations in the world, and the country has seen its retail market grow CAGR of 3.8 per cent to \$73bn between 2012 to 2016. Tourist spending is among the highest in Dubai, with overnight visitor spending reaching \$29.7bn in 2017 alone, according to the report.¹

Retail business is the procedure of selling consumer goods / services to customers through numerous channels of distribution, and the following are the different types of retailers:

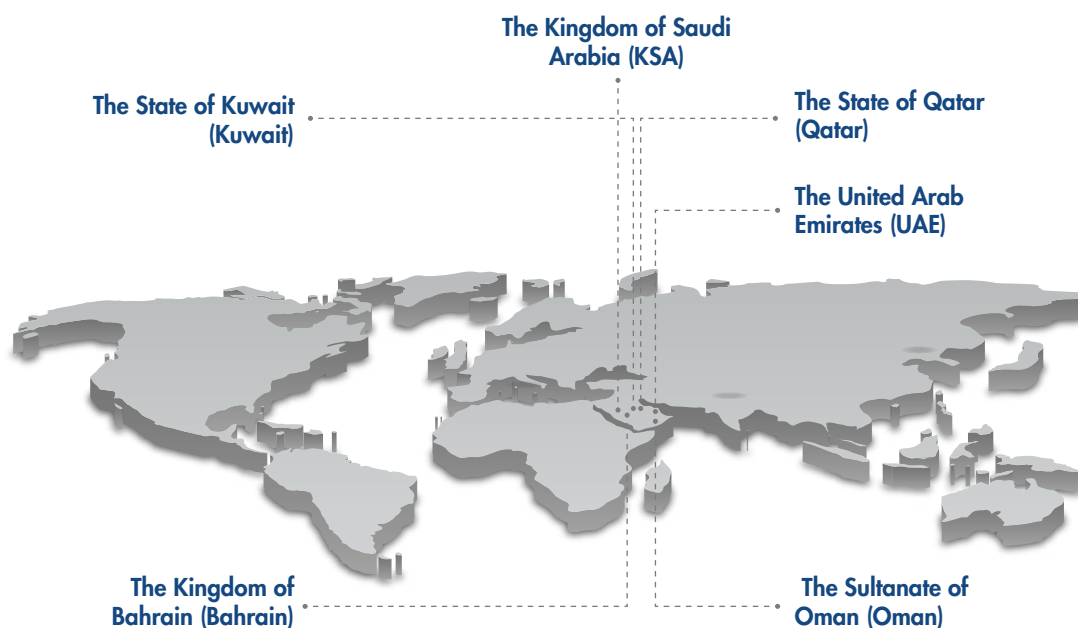


1. <https://www.thenational.ae/business/economy/gcc-retail-sector-to-grow-22-despite-headwinds-to-308bn-by-2023-1.852321>

VAT IN THE REGION

The Member States of the GCC entered into an agreement (GCC Agreement) to establish a common legal framework for the introduction of a general tax on consumption in the GCC known as VAT, levied on the import and supply of Goods and Services at each stage of production and distribution.

Out of the Member States of the GCC namely,



UAE and KSA implemented VAT on January 1, 2018. Bahrain followed them and implemented on January 1, 2019 (in a phased manner). It is anticipated that the remaining member countries would also be implementing VAT in coming years.

The VAT laws of UAE, KSA and Bahrain have extensively defined how VAT applies on retail and related supplies of goods and services in the respective countries. The UAE and KSA levies

supplies of retail services, predominantly, subject to standard rated VAT, which is currently at 5% whereas, Bahrain has made food items listed in the GCC list of basic food items subject to zero-rated VAT.

This report sets out the applicability of VAT on different aspects of the retail sector in the UAE which includes trading in goods, add on services, barter, promotions, loyalty programs, etc.

Disclaimer

This report should not be considered an exhaustive compilation of VAT treatment on the retail sector and may not necessarily cover all transactions. This report should not be considered as an opinion or clarification. This report can neither be defended in the court of law nor be considered as FTA's/any government views on the retail industry.

In case of any disagreement on the nature of the transaction or its tax treatment, should be immediately brought to the attention of the issuer. In the event of any contrary view, it is advisable that a professional opinion should be taken.

The contents of this report are based on the information available and common practice and does not reflect any knowledge or practice of any retail entity.

IMPACT OF VAT ON REVENUE

In UAE, traditional shopping is quite prominent. However, the digital marketplace is growing at a substantial pace over time. Diversified retail shops are set up from small shopping malls/departmental stores in residential streets to large indoor shopping malls.

While the retail sector is traditionally perceived as being primarily involved in the trading of goods; there are multiple complex business scenarios which form this giant sector. We have captured below the key business transactions/scenarios and broad VAT implications on the same in the GCC region.



Traditional POS

POS refers to the area of a store where transactions with customers gets completed with involving and payment towards their purchases. A retail outlet offers multiple product lines such as books, clothes, groceries, electronics, etc. The majority of these goods are subject to standard rate of VAT, i.e. 5%. However, retail stores also sell over the counter approved pharmacy products which may be considered as zero-rated supply of goods subject to conditions and procedural requirements as may be prescribed under the VAT Law. Furthermore, sale of gift cards or recharge vouchers sold by outlets are typically considered as out of scope from a VAT perspective.

In Bahrain, NBR has published a detailed list of food items which are classified as eligible for zero rating. Accordingly, retailers are required to correctly classify the product barcodes on the basis of its taxability, i.e. standard rated or zero-rated basis the conditions prescribed in legislation.

Generally, the supply of goods at POS is on a cash basis where the customers may use various payment methods such as cash, credit card, vouchers, cash in advance for a product, credit card, loyalty points, etc. and the goods are generally immediately supplied over the counter with tax invoice; thereby capturing VAT liability on such sales at POS.

Furthermore, in case of an advance received from the customer where goods are not readily available or require installation then VAT is required to be accounted for when the advance is received from the customer and a tax invoice is required to be issued at the POS towards such advance amount. For the balance, part VAT liability is required to be accounted on installation or transfer of goods or receipt of balance payment, whichever is earlier.

POS related key challenges faced by the retailers in the region are:

Over the counter medicines and medical equipment are available in retail stores. Supply of pharmaceutical products and medical equipment are zero-rated only if such products are supported by certificate from Ministry of Health as mentioned in a cabinet decision. Tracking such certificates and applicable VAT rate on medicines and medical equipment at a given point of time at POS sales becomes crucial to ensure correct issuance of tax invoices and accounting of VAT liability.

Whether the simplified/detailed tax invoices and tax credit notes issued from POS are compliant with VAT legislation. Do the simplified invoices contain only the prescribed fields or are any additional fields are mentioned thereon? How are the systems geared up to issue regular tax invoices in the case of sale to a registered taxable person?

How are the taxable value and tax rounded off in the invoices?

POS systems holds the data only for a couple of days. This limits the regeneration of tax invoices for the past in the same format as issued originally to the customers. Have the IT system configurations been appropriately addressed to ensure compliance with record maintenance requirements?

Due to storage limitations in the POS Systems, retailers generally transfer the data from POS system on a daily basis to the data warehouse for future reference. There may be system bug or interface issues between the POS and the data warehouse resulting in incorrect data transmission and incorrect records maintenance. In such scenario, it becomes critical to have system checks at regular intervals to ensure the accuracy and authenticity of the data. Furthermore, it also needs to be evaluated whether the retailer is able to retrieve data in the time frame specified by FTA for submission during the audits/assessments.

Retailers are dealing with new barcodes on a daily basis in the POS systems. Therefore, tax rates are required to be correctly uploaded and reviewed in the systems for correct invoicing and record maintenance. Is there any mechanism in place where the authorised personnel in the company reviews the item master in POS on regular basis? Is there an inventory system involved in the maintenance of item master, if yes, is the interface done accurately and there are no differences in the inventory and POS System?

Considering that the legislation prescribes the advertised prices to be inclusive of VAT and there are numerous promotional schemes which are run by the retailers; are the prices mentioned for the products on the shelves, counters and leaflets inclusive or exclusive of price after considering such promotional schemes?



E-Commerce

In the modern world, the digital retail industry is growing rapidly. E-commerce is the activity of buying or selling of products/services over the online trading platforms. Online stores can be comparatively cost effective for the retailers and at the same time provide a large variety of products/services to its customers. E-commerce may take place on web sites or mobile apps of the retail stores, or those of e-commerce marketplaces.

Since e-commerce doesn't have any geographical or time barrier, Date of Supply and Place of Supply are the key issues faced by the retailers under VAT.

Similar to POS, e-commerce also provides the facility to the customers for making payment through various modes such as credit card, vouchers, loyalty points or cash on delivery. Therefore, in case of payment via credit card/voucher/loyalty points, supply may be considered as made on the date of purchase and VAT is required to be accounted for the same date of purchase. Furthermore, in case of cash on delivery, the date of supply is the date of delivery or the date of issue of the tax invoice, whichever is earlier. Since there are multiple dates of supply basis the nature of transaction, systems may not be fully equipped to correctly issue tax invoices. Alternatively, the companies may explore issuing tax invoices on the date of purchase which will be compliant with UAE VAT Law and easier from administrative and procedural perspective. Such tax invoice can then be delivered to the customers along with the delivery of products or can be sent through email.

In the e-commerce business, customers from across the globe can place an order and even the sellers can deliver the goods from any part of the world. For example, a customer located in KSA may place an order to a seller in UAE delivering the goods from Oman. Therefore, the sellers are required to determine the Place of Supply and taxability on case to case basis. As most of the e-commerce businesses are mainly

engaged in cross-listing and merely acting as intermediary on behalf of the suppliers; it would be the responsibility of the supplier to determine the taxability of the transactions along with the place/country of taxability.

Furthermore, in UAE, standard rated sales are required to be disclosed Emirate wise in the VAT Return and accordingly determination of Emirate for e-commerce sales is a significant challenge for multiple organisations. Furthermore, as per Tool Tips mentioned for returns in the accounting software requirement, supplies of goods and services made within the period are subject to the standard rate of VAT and which are considered to take place in the Emirate, i.e. fixed establishment related to this supply is located in UAE. Where the Taxable Person has a fixed establishment in UAE, every fixed establishment of the Person is required to be treated as branch in their IT Systems for reporting purpose and in case Taxable Person does not have fixed establishment in UAE; the reporting would be based on the Emirate in which the supply is received. Accordingly, ship to location during the delivery is required to be updated in the IT Systems.

Aggregators act as an intermediary in providing E-Commerce services where they provide a common platform to the multiple vendors and customers for buying and selling of goods/services. The Aggregators are only providing the facility to buy and sell. Therefore, they are not the actual sellers or buyers. They however provide additional services such delivery, credit facility etc. In such cases, it becomes relevant for the Aggregators to capture their business model with respective vendor in the agreement and determine taxability of each transaction separately.

Vendor onboarding becomes one of the critical tasks for the Aggregators as they must be vigilant in accepting sellers from across the globe. As in KSA, if the Aggregators act on behalf of a non-resident supplier then they may be presumed to act in their own name as a principal. Therefore, the seller enrolment form and agreement should be robust and mindful of whether the seller is liable to pay tax in respective country and if not, whether there is any liability on the Aggregator

as commercial and legislative risks in relation to the same need to be appropriately agreed upon. Furthermore, the platform or the Aggregator should have robust systems to track all transactions of sellers and should be capable providing details of all the transaction to the government authorities, if asked for.

Key concerns faced by the retailers engaged in e-commerce business are as follows:





Call Off Stock/Consignment Sales

Many retailers work on a consignment basis with the wholesalers, especially in the fashion segment where trends change quite frequently. Under consignment sales, goods are sent by the seller/consignor on approval basis for a fixed period and the ownership remains with the seller/consignor. In most cases, the consignee earns a fixed percent commission on sales made by him. However, the consignor may also determine the fixed margin for the product and sell to consignor on cost plus price.

Determination of the date of supply for consignment sales is critical for retail companies as goods are dispatched in advance and invoice/payment are made on later stages. The date of supply in such cases will be the earliest of the date when the consignee/recipient accepts the goods or when the recipient has not accepted in 12 months from the date of delivery by the consigner/seller.

Inventory management for the consignment stock is critical as the consignee reports to the consignor based on sales and tax invoices are issued for the same along with applicable VAT. Furthermore, it would be relevant to track the goods which are received by the consignee for the period beyond 12 months and has not yet been accepted by them for sale to the ultimate consumer.



Determination of the date of supply plays a critical role when it comes to Consignment



Shop in Shop

There is an alternative model of business where the retailer receives, stores, and displays the product in their stores on behalf of other sellers. A separate tax invoice is issued on behalf of the third-party seller by the retailer. The retailer earns commission as consideration for their services provided to the seller. Retailers in such cases could be acting as a disclosed agent and therefore it is the seller's liability to discharge VAT to the FTA. However, even in this case, the taxability would need to be determined basis the underlying agreement to analyse the date of supply and the relationship between the retailer and the third-party seller.



Intermediary Services

An intermediary is typically a person who brings together a person seeking a particular service/good with a person who provides the corresponding services/goods, stands between the parties to a contract, and acts in an intermediary capacity. In trade parlance, the intermediaries are the commission agents connecting the supplier and receiver of a particular supply transaction.

However, commercially there have been two business models where either the intermediary acts as an agent and the supply of goods/services takes place directly between the supplier and the customer or the intermediary is a middle man in the supply chain where he procures the goods/services from the main supplier and then supplies those to the customer on principal-to-principal basis.

In the first scenario, the intermediary receives the commission which would be subject to VAT and taxability would be determined on the basis of the place of supply and location of main supplier to whom the agency services are provided. In

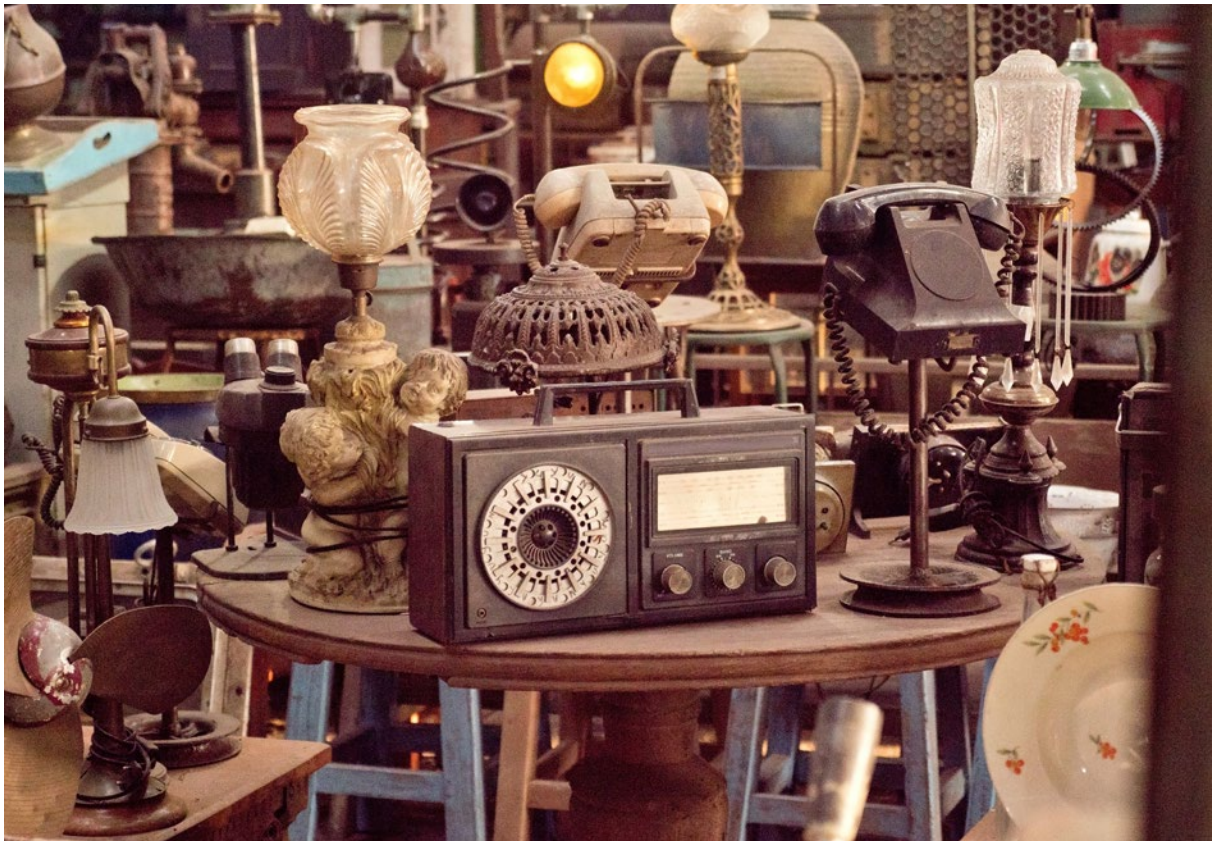
the other case where the intermediary is dealing with the customer on principal-to-principal basis; the entire sales consideration received from the customer would be subject to VAT and intermediary should report the same as his supply in VAT return. The VAT rate in this case is derivation of place of supply and applicable VAT rate on the products/services.



Second-Hand Goods, Antiques or Collectors' items Dealer

There are many retailers in the market who are categorically dealing in Second-hand goods like Cars, Jewellery or Antiques (items which are more than 50 years old) or Collectors' items such

as stamps, coins and currency and other pieces of scientific, historical or archaeological interest. Such dealers / retailers can opt for Profit Margin Scheme under VAT legislation. Under this scheme, the dealer has the option to discharge VAT directly on the profit margin involved in supply of second-hand goods. The profit margin should be calculated by simple mathematical formula of the difference between the purchase price and the selling price of the goods. Such profit margin would be considered as inclusive of VAT and the transaction would be accordingly disclosed in the VAT return. The dealers can opt for the scheme only if these goods were purchased from an unregistered person or VAT was calculated on the profit margin at the time of purchase and input VAT is not recovered by the dealer on such items.





Sales Return

Many products are sold to the customers subject to return within a fixed period of time due to any fault, defect, or any other reason due to which the customer may want to return the product (subject to no wilful/careless act of damage by the customer). In most cases, while the goods are replaced by the retailers; the customer also gets an option of requesting for refund of the consideration.

The retailer in such cases is required to issue Tax Credit Note to the customers irrespective of the tender type. However, there could be certain challenges around issuing tax compliance credit note from the system and whether any fresh tax invoice is required to be issued in case of product exchanges.



Are you 'Tax Credit Note' ready?



During and After Sales Services

Delivery Changes

Certain retailers also provide delivery of the products to the customer for a fixed fee or free of charge. When the retailer charges for delivery; such charges would form part of the consideration and would be subject to VAT.

However, in case the delivery is provided free of cost, it would be relevant to analyse whether such free delivery service would be considered as included in the consideration of product supply; thereby getting treated as single composite supply, or whether there could be implications from a deemed supply perspective.

Trolley Tokens

In many store/supermarkets/hypermarkets, customers are required to deposit a fixed amount for using the Trolleys for shopping. The deposit is refunded once, and the trolley is returned. In such cases there is no supply being made and the amount paid by the customers for temporary usage of trolleys could be construed as refundable deposits; thereby being out of the scope of VAT.

However, sometimes the customers may forget or do not return the trolley at designated place and thus, do not get the deposit money back. In such cases, the taxability of such deposit money is not refunded to the customers need to be evaluated as the same could be subject to VAT.

Sales on EMI basis

Under the sales on an EMI basis, the customer pays upfront an installment (fixed % on product value) to the retailer and the customer pays for the balance in 3/6/12 installments. The retailers usually tie up with banks for auto debit facility basis the card used by the customer for initial installment. Retailers may charge additional fees to their customers for permitting the deferred payment facility. The same would be regarded as consideration and thus, could be liable to standard rated VAT.



Warranty

Warranty is a guarantee provided to the customer by the retailer/manufacturer for a fixed term as per the contract. Under the warranty, the retailer/manufacturer promises to repair or replace the goods sold by them.

There are two types of warranties provided when goods are purchased by the customer:

- Manufacturer/retailer warranties provided free of charge with the original purchase of the goods.
- Extended warranties purchased for an additional charge.

The supply of a manufacturer/retailer warranty for no extra charge is treated as a composite supply along with the goods sold and follows the VAT treatment of principal products. The supply of an extended warranty is a separate supply covering insurance and repairs services, and should be subject to standard rated VAT. The supply of replacement goods or spare parts, provided they fall within the scope of the warranty, should then typically be not subject to VAT again at the time of replacement as the consideration towards such product replacement is included in the consideration charged at the time of warranty sale, if included in the overall scope. However, in case any additional amount is recovered from the customers for replacement of components/parts which are typically not covered under the warranty; there could be VAT implications to that extent.

Furthermore, many retailers have back to back arrangements with the insurance company for extended warranties provided by the retailers for a fixed amount of premium. Under the contract, retailers repair/replace the product and get the same reimbursed from the insurance company. In such case, the fees/premium paid to the insurance company would be input for the retailer and input VAT in relation to the same could be recovered subject to procedural requirements/compliances.

As extended warranties generally start after the end of standard warranties provided by the manufacturers; there could be a transitional period impact depending upon the overall

arrangements between the retailer, customer and the insurer. The retailers need to verify the nature of contract with insurance companies and determine the impact of transactional provisions accordingly. It would also be crucial to determine the time of supply in case of such transition period warranty contracts.



Other Income

Rental income

Retailers may let out demarcated large commercial spaces or small empty spaces on the shelf for a consideration to third party to display or sell the products of the third party. The rental income from such commercial property and free spaces is subject to standard rated VAT under the UAE VAT Law.

Gondola/Self-checkout display rental/ Premium

Retailers charge premium to the manufacturers/suppliers for displaying their products in the key sections of the stores. The placing of the product at prominent location in the stores directly affects its sales and such premium/consideration charged by the retailer should be taxable as supply of service.



Can Gondola/Self display be considered as a real estate related activity?



Advertisement

Retailers sometimes provide space for advertisement in the store or advertisement of third party at the back of their invoices to others and charge fixed fees from them for providing such space for advertisement. Furthermore, retailers

may also incur advertisement expenses and have ties with the manufacturers to compensate the part of such advertising cost. Space provided to third parties for advertisement and the reimbursement of advertisement expenses from the manufacturer should be liable to VAT at the standard rate.

Sale of scrap and cartons

Often retailers discard the unsellable goods at a value lower than the market price considering the perishable nature of the product, market trend or any other economic factors which would affect the Company. While there is no specific restriction on selling the product at below its market value or at loss (except for transactions with related party), it would be relevant to analyse the consideration that is being paid by the customer for the whole transaction. Typically, in such scenario, the consideration received from the buyer (even if it is less than the market value of the product) should be liable to VAT.

Retailers also receive a lot of cartons which are used for packaging of goods for transportation. Generally, these cartons are sold to the scrap dealer who collects them from the stores at end of agreed period. While there could be multiple pick-up dates scheduled for sale of such cartons between retailer and scrap dealer; it would be practically very challenging to raise a tax invoice on each such date. Thus, retailers may consider raising summary tax invoice at the end of the month for all the cartons sold during a month to a scrap dealer and accordingly levy VAT on the same.

Barter transactions

Retailer may agree with the suppliers/wholesalers to provide services in return for goods from them.

The question in such cases is whether supply of services for non-monetary benefit would be covered under the scope of 'other acceptable forms of payment' and thus, whether barter transactions would be subject to VAT. In this regard, the FTA has issued Taxable Person Guide where it has been clearly specified that:

"...the supplier of any goods and services has to carefully consider what it receives in return for any supply made by it. In doing so, the supplier should not only consider any monetary benefit being received, but also any goods or services that it may be receiving in exchange."

On the basis of the clarification provided in the FTA Guide; it is evident that the supply of services for non-monetary benefit shall also be liable to VAT. The value for the purpose of VAT in case of non-monetary consideration as per Article 35 of the UAE VAT Law shall be the market value of non-monetary part of the consideration and accordingly, the barter transactions should be taxable.



As Barter transaction may not involve compensation in money, will it be a taxable supply?



Charity/Donations

Retailers may collect donations from their customers and pass them a charitable organisation on regular basis. Donations collected from the customer by the retailer are for charitable purposes and the same is not a consideration for any supply of goods/services. Furthermore, the donation amount collected from the customers is not retained by the retailers but passed on directly to the charitable organisations. As there is no underlying supply against the donations collected from the customers; there should not be any VAT implications on the such donation amount. However, where the donation requires specific activity to be done in return by the retailers for the funding, the transaction would need to be analysed to understand whether such activity constitutes supply for the purpose of VAT implications.

Excess cash collection

Many times, the retailer receives excess cash from the customers due to rounding off difference. For example, for an invoice amounting to AED 14.85, the customer may pay AED 15 in cash instead of paying the exact amount by credit card. A view can be taken that the excess cash of AED 0.15 collected against such tax invoice is not for any supply of goods/services but the merely the excess money received due to rounding off.

Based on the tax invoice it can be substantiated that the actual consideration towards the supply of goods is only AED 14.85 (as per the above example) and not AED 15.

This additional AED 0.15 could thus be construed as similar to the tip paid in hospitality industry (although that is not the intention). As per paragraph 5.5 of the 'Taxable Person' Guide' issued by FTA, if the customer freely gives a tip over and above the total charge, no VAT is due on the tip and it is outside the scope of VAT. A similar analogy can be taken for the excess cash received from customers typically at POS.

However, few retail players in the region are paying VAT on such excess cash collected (by considering it as VAT inclusive value) from the customers by considering the excess amount as consideration towards the supply.

Free parking

Many retailers provide a free parking service to their customers or even have a model where parking fees are repaid to the customers who purchased from their stores. In such cases, retailers are required to analyse the deemed supply provisions and accordingly determine the taxability of such transactions. In cases where parking fees are refunded on purchase from the store; an alternate view can be taken that, the consideration towards parking is embedded in the value of goods purchased from the stores and thus, the same is not provided free of cost. Accordingly, deemed supply provisions may not be applicable basis such view taken.

Vending machine

Vending machines are placed at convenient, high traffic locations, such as workplace or campus or airports where the goods are stored in a Machine and the customers make the payment and receives the selected product.

While the customer may pay and receive the product at varied times; UAE VAT legislation has specifically prescribed that in case of vending machine, date of supply is the date on which funds are collected from the machine and accordingly, the VAT shall be computed and discharged on the amount collected from the vending machines.

Foreign currency transactions

Many retailers accept cash in form of foreign currency from their customers in exchange for the purchases made from the stores. In such cases, retailers need to understand the accounting process adopted by them to determine the taxability of such transactions, e.g. the retailer needs to analyse if they are exchanging the currency to AED and then apportioning the payment received against the tax invoice and the balance excess amount is refunded to the customers. Few retailers consider such foreign currency as consideration received for supply of goods and the amount is apportioned accordingly. In such case, no amount is refunded to the customers.

Considering the facts of each scenario, the documentation (specifically the tax invoice) and overall process for handling such foreign currency amount received from the customer; VAT implications would need to be analysed on a case by case basis.



Even though the retailers are accepting foreign currencies at POS, it will be relevant to analyse whether it is a normal supply against money or the transaction is in nature of exchanging currencies?



IMPACT OF VAT ON EXPENSES

Purchases

Retail mainly involves the process of buying from vendors and selling them to customers through multiple channels of distribution. Therefore, purchases play an integral part of their business and the volume of transactions in the retail sector is quite high as tax invoices are typically issued store-wise to the retailer. E.g. If a retailer has 100 vendors and 25 stores, then the Company typically receives a minimum of 2500 invoices per month.

Key issues faced by retailers in relation to the procurements are -



Time lag between receipt of vendor tax invoices and accounting of the same for input VAT recovery – As vendor invoices are received at store level and then forwarded to accounts team for recording post internal check, considerable time is spent between the process which results in delay in recovery of input VAT. It would be important to have stringent internal processes to track the date of receipt of vendor invoices and their accounting within minimal time to ensure there is no loss of input VAT due to internal process gaps.



Considering the high volume of the transactions/tax invoices received for varied types of purchases, standard operating procedures need to be in place for validation of tax invoices and methodology followed for identification of non-recoverable input VAT.



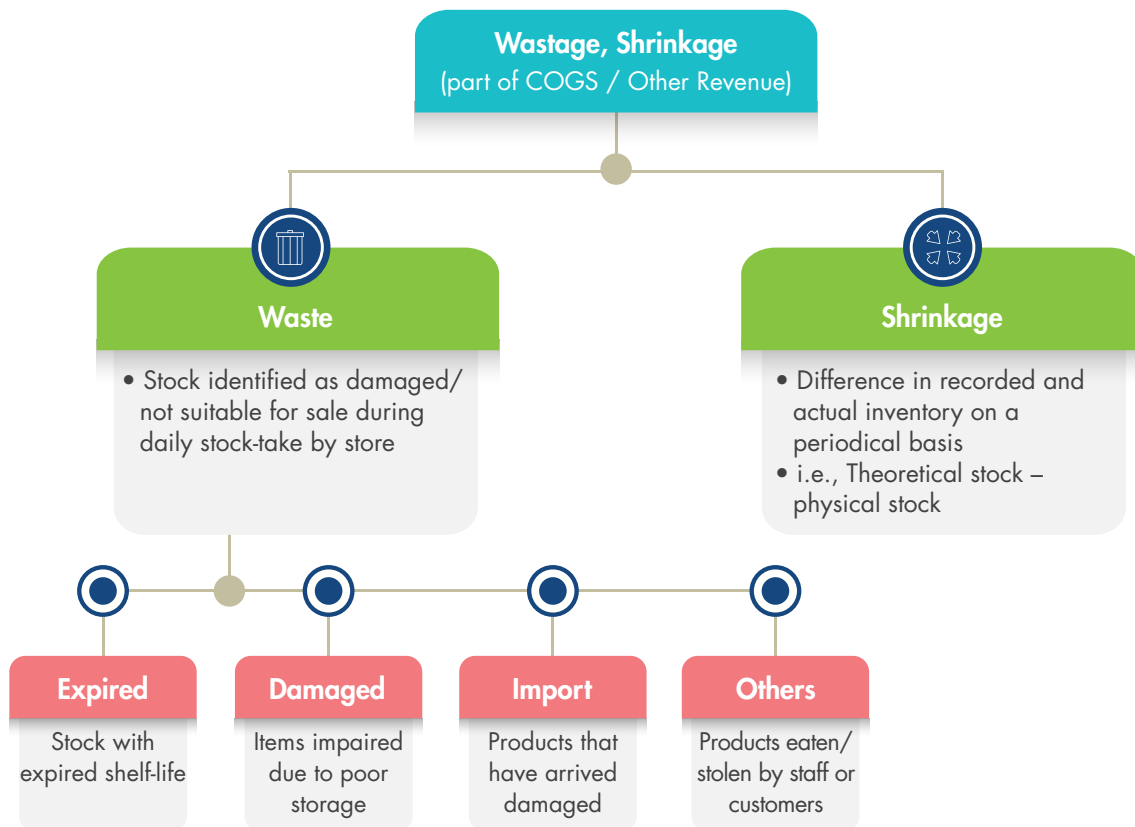
Many times, the retailers face discrepancies in the quantity of the goods ordered/supplied as per tax invoice and the actual quantity of the goods received in stores due to various reason such as shortages/loss during the transit, damaged product dispatched by the vendor, etc. In such cases, it would be relevant to align internally the process for dealing with the shortages, the communications with the supplier and corresponding documents put in place to substantiate the shortage. Also, it would be relevant to ensure that a Tax Credit Note is received from the vendor to the extent of damage so that input VAT is not recovered on the goods which are not received or the retailer may issue the Tax Credit Note (issued by buyer) as prescribed under the legislation.



Tracking of payment to their suppliers within six months from the due date of tax invoices. If such payments are not made, whether the relevant input tax is reversed and then recovered subsequently once the payment is made to the vendor. It would be very crucial to track input VAT on such vendor invoices where the payment is not made within a six-month period as prescribed under the legislation to ensure there is no VAT leakage or double/incorrect recovery of input VAT.

Shrinkage and wastage

The UAE VAT Law neither specifically prescribes the treatment of wastage or shrinkages or write-off of damaged stock nor outlines the documents that are to be maintained by an entity in order to substantiate such wastage/accounting write-off of the damaged stock.



Stock adjustments due to wastage or shrinkage are merely accounting write-offs and the damaged stock, if any, is disregarded under the closed environment and thus, there is no supply done by the retailer in relation to damaged goods. Thus, a view can be taken that the write-offs on account of wastage and shrinkages should not be subject to VAT in absence of underlying supply and consideration for the same.

Damaged or Lost Goods

In addition to such shrinkages/accounting write-offs, the retailers also face damage/loss of inventory during the transportation and the concern arises around the input VAT recovery in relation to such damaged/lost goods.

As per the UAE VAT Law input VAT is recoverable if the input supply is used or intended to be used for making taxable suppliers. In case of damaged/lost goods; a view can be taken

that the retailer intended to use the goods for making a taxable supply; however lost the goods either in the normal course of business or due to unforeseen event/event beyond his control and thus, the input VAT is recoverable in relation to such damaged or lost goods.

Furthermore, if the retailer gets compensated for the damaged or lost goods by the main supplier; it would be relevant to analyse the corresponding contractual terms to determine the taxability of the transaction. While the payments which are compensatory in nature (i.e. made to make the loss good without any underlying supply as per agreed contractual terms) should be outside VAT scope as per the public clarification issued by FTA on 'Compensation based Payments'; the scenario would need to be evaluated on case to case basis to understand overall arrangements, which person is making the payment towards loss and whether there are any agreed terms/ contracts.

ARE FREE ZONES VAT HEAVENS?

Free Zones are specific areas in the UAE set up with the objective of offering tax concessions and customs duty benefits to expatriate investors. Free Zones are governed pursuant to a special framework of rules and regulations. Each Free Zone is designed around one or more industry categories and only offers licenses (e.g. for a Free Zone Enterprise (FZE)), to companies within those categories. Most of the free zones in UAE broadly offer trading, services, and industrial licenses to investors looking to set up their businesses.

Under VAT, tax concessions have also been provided to people operating in Free Zone. However, only the Free Zones listed in a Cabinet Decision qualify for special VAT treatment. These nominated Free Zones are known as Designated Zones for VAT purposes. If a Free Zone is not a Designated Zone, it is to be treated as a part of the UAE Mainland.

Designated Zones are subject to strict control criteria. It is required to have security procedures in place to control the movement of goods and people to and from the Designated Zone. Further Designated Zone is required to have Customs procedures to control the movement of goods into and out of the Designated Zone and treated as being outside the territory of the UAE for VAT purposes for certain supplies of goods.

Supply of Services

The Place of Supply of service for Designated Zone is deemed to be considered as UAE Mainland. Therefore, general VAT rules for supplies of services will apply.

Supply of Goods

The Place of Supply for goods is on the basis of the location of Goods. Therefore, Supply of Goods within Designated Zones are considered to be out of scope from VAT. However, if the goods are consumed by the customer in Designated Zone then the place of supply will be treated to be in UAE Mainland and VAT will be applicable under normal rules and regulations.

The consumption includes any utilisation, application, employment, deployment or exploitation of the goods. However, doesn't include when goods are purchased for incorporation/attached into another goods which is not consumed or used in production of another goods which is not consumed.

Further, there must be a direct connection between the purchased goods and the production of another good. For example, the exception will generally apply to tools and equipment used to manufacture other goods; in contrast, a computer used by the business to create designs for goods which are later manufactured will not have sufficient connection with the goods to be treated as "used in the production" of the goods.

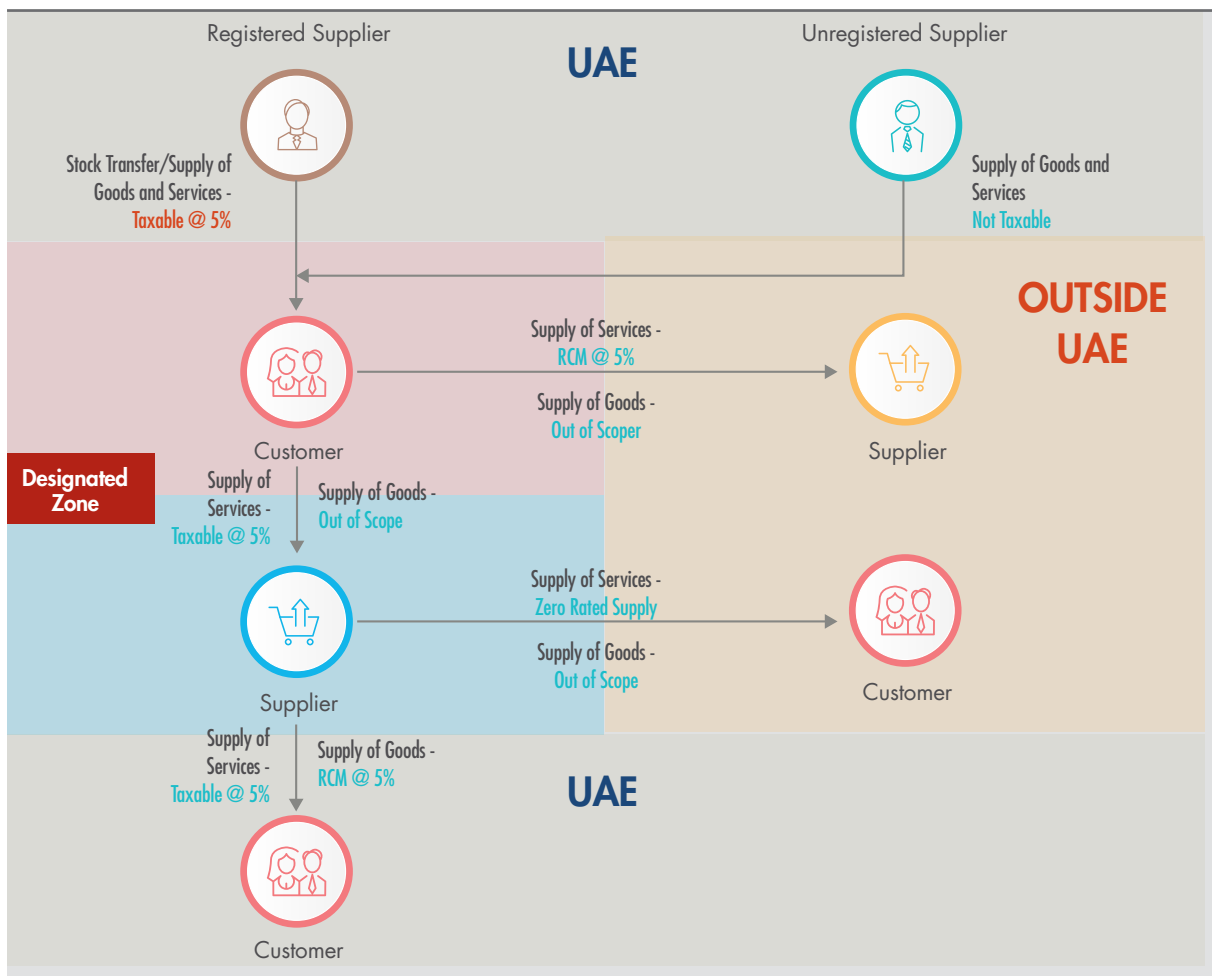
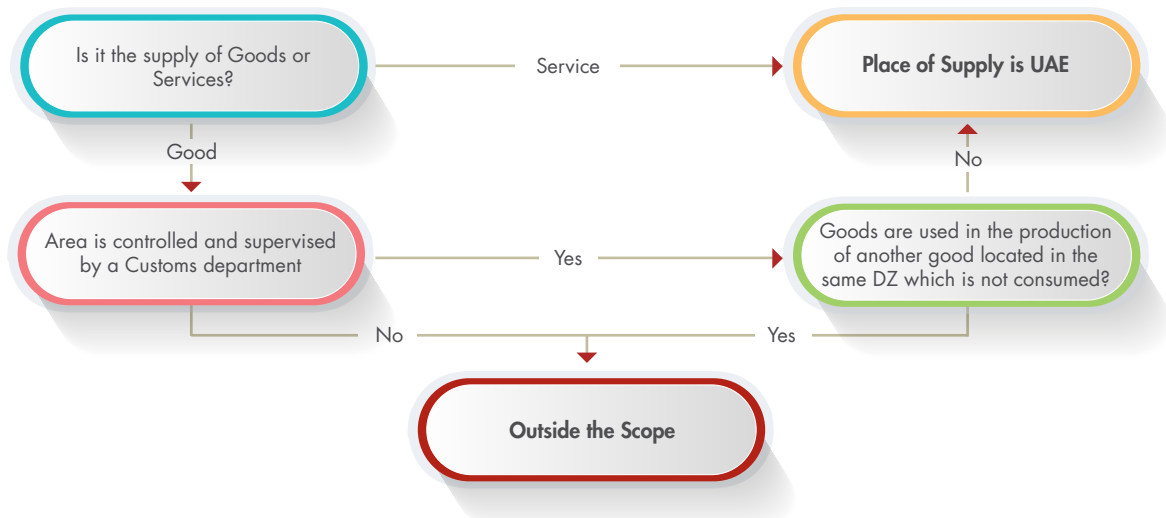
The onus is on the supplier to ensure that it treats a supply correctly for VAT purposes. Therefore, as a general rule, suppliers should not treat supplies of goods as being outside the scope of UAE VAT unless they are satisfied that there is no risk that the goods may be used by the purchaser for non-qualifying purposes.

In case the goods are unaccounted for in designated zone i.e. lost then they are assumed to be imported into UAE and liable for payment of VAT under Reverse charge basis.



Many retailers use Free Zones as the central hub for MENA Region Therefore, they must be vigilant in determining the taxability and impact of each transaction.





DO PROMOTIONS COST YOU?



In order to have a competitive advantage, retail stores run various promotional schemes for their customers. Promotions can be in form of discounts, free gifts, samples, gift vouchers, raffle draws, bundled promotions, etc.



Are the retailers tax compliant when dealing with promotions?



Free samples

Retailers provide samples of a product to promote sales in the market. Such free samples could get covered within the ambit of 'deemed supply' subject to certain conditions such as the following:

1. VAT is recovered by the retailers on the concerned goods and services procured by them.
2. The value of such deemed supply to each recipient is more than 500 AED or the total value of all such deemed supplies in a 12-month period is more than 40,000 AED.

Given the above, the free samples distributed to the customers could be liable to VAT.

Buy one get one free

Retailers offer multiple goods or services to the customers with bundled schemes, e.g. buy one get one free, buy two get one free, buy three for 10 AED. In such cases, single composite consideration is received from the customer for the products offered to them and accordingly, the total consideration received by the retailer towards such bundled promotions would be construed as consideration for all the products sold and VAT is required to be calculated at the applicable VAT rate. In such cases, the key issue which could be faced is disclosure on the tax invoices, product/SKU pricing in product master, and applicability of VAT on the basis of the principal supply.

Percentage based or fixed amount discount

Retailers may offer the customers with a percentage-based discount or a lump sum discount as a fixed amount on overall product selling price.

In case of discount, the customer gets benefited by the reduced price and he pays only balance amount. Thus, in such cases VAT on goods/ services would be applicable on the value of consideration received from the customer after discount subject to fulfilment of conditions prescribed by the VAT legislation, i.e. such discounts should be funded by the retailers and the customers should benefit from the reduction in the price.

In such cases, it would be relevant for the retailers to ensure that cost of discounts is not passed on or funded by any third party. In the event discount or any part of the same is funded either by the manufacturer or any other person, such funding could be liable for VAT.

Discount coupons

Retailers provide the customers with a discount coupon which can be redeemed against future purchases from the stores. Discount coupons could fall within the ambit of 'vouchers' and thus, issuance of discount coupons could be outside the scope of VAT unless it is issued for the consideration exceeding the advertised face value of such coupon. Depending upon the conditions placed on such discount vouchers for its redemption; the same could be treated as discount when the customer redeems the voucher against subsequent purchase of goods.

Raffles/Lottery

Customers participate in raffle draw/spin the wheel and get a chance to win a prize. Often the customers are required to spend a minimum value to participate in the draw. However, sometimes the draws are made randomly and they may not be required to buy anything, such as draws kept for all walk-in customers on opening of a new store. In this case, the gifts/prizes distributed to the participants could fall under the ambit of deemed supply. However, in such one of events,

instead of tracking the value of gifts/deemed supplies to each customer; the retailers may take a view of not recovering input VAT on the products distributed free of cost and thus, not treating the transaction as deemed supply for VAT purposes.

Trade-in/Exchange

Customers are offered to exchange their old product in replacement for the newer product. The customers may be required to pay only the differential consideration which results in discount on the price of new product. However, the old product returned by the customers could be considered as non-monetary consideration and the retailer may be liable to pay VAT on the consideration received plus the market value of the non-monetary part, i.e. on total the selling price of the new product.

Cashback/Retrospective discount by retailer

Retailers offer a percentage-based discount or a fixed amount discount after the threshold purchases over the certain period. For example, ABC Store offers a discount of 500 AED after the accumulated purchases of 10,000 AED in a financial year. Mrs A reaches the threshold in November and receives a discount/cash back of 500 AED. In such cases, the retailer receives the full consideration first and in latter stages reimburses or pays back a part of consideration to the customer as discount.

In such cases, since the discount is offered to the customers against the past period purchases, the retailers may issue a Tax Credit Note to the extent of discount amount; however it would be cumbersome to identify and tag the original tax invoice against which such discount is offered and thus, the tax credit note may not fulfil the procedural requirements. Alternatively, the retailers may explore of passing on this discount to the customers on their next purchase value and pay VAT on the value (net of discount) at the time of such purchase.

Cashback by third party/banks

Third party/banks tie up with the retailers to provide cashback to the customers after purchase. Retailers supply to the customer for full consideration and subsequently the third party/banks provide cashback to the customers on receipt of confirmation of supply from the retailers.

Under such scenarios, the cash back provided by third party/banks would be considered as a separate transaction. Since there is no underlying supply of good or services between the banks and the customers involved in the reimbursement of such consideration or between the retailers and the banks/third party; the transaction should be treated as out of scope from VAT.

Furthermore, third party/banks may have a back to back arrangement with the retailers to bear part of the cash back amount. In such cases, the cashback recovered from retailers should also be outside VAT scope as it could be construed as purely funding arrangement between the bank/third party and the retailer. It would be necessary examine the contractual arrangement between the third party/banks with the retailer as to whether the transaction amounts to business promotion/marketing.

Accessories/Parts without consideration

Retailers provide additional goods/accessories/parts with the main product as a bundled supply. These goods are generally sold as accessories/parts along with the main product in the market. For example, retailer may provide camera bag with a purchase of camera.

In such cases, supplies should be considered as a composite supply and the consideration received for the main product should be considered as bundle and VAT is accordingly liable to be paid on the total consideration received.

“VAT paid/borne by the retailer” promotion

Retailers promote supply of goods and services where it is advertised as the retailer will bear the cost of VAT on behalf of the customers. In such cases, the retailer charges the customer only for the goods or services and would not charge any VAT amount on such supply to the customer.

In such cases, retailers typically provide the customers a discount equivalent to VAT component and reduce the consideration to that extent. Balance amount is considered inclusive of VAT as per the legislation and the VAT on the same is back calculated for the purpose of disclosure on the tax invoices. From the customer's perspective, the cash flow gets reduced to the extent of discount received (which is equivalent to VAT amount).

SUPPLIERS' /MANUFACTURERS' PROMOTIONS



Suppliers/Manufacturers offers a lot of promotions/incentives to the retailers which are in turn passed on to the customers. We have captured few of such incentives below to discuss the VAT implications:



As Supplier Incentives/Promotions can be perceived in two different ways, it would be relevant to analyse the VAT treatment in view underlying documents”



Rebates/Cashback

Suppliers/Manufacturers provide incentive to the retailers in the form of cashback /rebates/ kickbacks/volume discount for incentivising purchases. Retailers are offered a fixed or percentage discount on reaching the threshold limit of purchases/basis the ultimate sales made by them to the customers.

The rebates/kickbacks provided to the retailers are considered as deduction in the purchase price and are treated as discount from the supplier/ manufacturers to the retailers on the basis of the arrangements in the underlying agreement. In such cases, the supplier/manufacturer should issue Tax Credit Note to the retailer basis which the input VAT recovered earlier could be reversed.

However, in certain cases, such kickbacks/ incentives are not passed on as discount but provided as incentive on performance of certain conditions/milestones as per the agreement. In this case, such incentives would be treated as consideration towards promotional support services provided by the retailers and should be recognised as revenue of the retailers; thereby being subject to VAT.

Sales at reduced price

Suppliers/Manufacturers may direct the retailers to sell the goods or services at a reduced price to the customers and the same is required to be recovered from them by the retailer. For example, if selling price of the goods is 100 AED, and the suppliers/manufacturers request to sell them for 80 AED to the customers, the balance 20 AED will be reimbursed to the retailer by the supplier/manufacturer.

In such cases, it would be critical for the retailers to evaluate whether the transaction is one supply of product sale of AED 100 where the consideration is split between the customer AED 80 and the supplier/manufacturer AED 20 or whether the retailer is required to consider the transaction into two separate taxable supplies. The first transaction being with the customer where the goods are sold at a discounted price and the second transaction being with the supplier/manufacturer for recovery of the balance amount.

Advertisement/POS display material

Manufacturers provide display materials to the retailers for no consideration along with the main

product to boost the sales specially in case of newly introduced products in the market. Such materials are directly related to promotion of the manufacturer's product. The supply made by the manufacturer may or may not be reusable and returnable by the retailers.

Since the display materials are provided free of cost along with the main product to the retailers for promotional activities; the same may not be treated as separate supply and should get covered as promotional material along with main product.

Discounting on early payments

Manufacturers offer special discount to the retailers on supply of goods and services for making payment before the agreed due date. Therefore, when the retailer makes an early payment, they receive a percentage-based discount on the consideration payable.

Since the manufacturers provides a discount to the retailer on the consideration received against taxable supply of goods or services, the same may be considered as discount on previous supplies made and the manufacturers should issue a Tax Credit Note for the same.



IS LOYALTY TAXABLE?



A customer loyalty programme is a rewards programme and a very effective marketing strategy used by the companies. These programmes generally reward customers with discounts, special offers, rebates, points, depending on the type of loyalty programme system, and thus encourage frequent purchases of the Company's brands.

Whenever a customer purchases the goods or services from the company/retailer, they award the customers with credits (often described as 'points'). The customer can redeem the points in exchange for goods or services.

Is loyalty a form of consideration or reduction from it?

Issue of Membership Cards

The Company merely issues the membership cards under the loyalty programme for identification/tracking of the customer accounts and his loyalty points balance. The Company is not engaged into the business of selling membership cards or issuing them under the loyalty programme without any consideration from the customer. Thus, given that there is no underlying supply of goods/services against consideration; issue/allotment of loyalty programme membership card should be treated as out of scope of VAT.

Issuance of Points

Based on the definition of voucher under UAE VAT legislation, loyalty points could fall within the ambit of vouchers and thus, issuance of the points is could be outside the scope of UAE VAT unless it is issued for the consideration exceeding the advertised face value of the points.

The points could be issued by the Company operating the scheme to other participating Companies or the same could be issued by the participating companies to various customers. In either case, the nature of transaction (as mentioned above) would remain the same and thus, in both cases, the issuance of points would be outside the scope of VAT.

Redemption of Points

Customers may redeem the loyalty points accumulated from previous purchases against eligible future purchases of goods or services. The redemption can be done in the following ways:

Goods sold or services provided fully against accumulated points

Exchange of goods or services fully for accumulated points is considered to be without any consideration and amounts to free Supply of Goods or Services.

Thus, the supplies against which loyalty points are redeemed for full value should qualify as Deemed Supply and would be liable to VAT under the UAE VAT Law even if no monetary consideration is received against it, if the following conditions are satisfied:

1. Supply of goods or services is without consideration.
2. VAT is recovered by the Companies on the concerned goods and services procured by them.
3. The value of supply to each recipient is more than 500 AED or the total value of all supplies in a 12-month period is more than 40,000 AED.

Discount Vouchers redeemable against future purchases (where the Programme is run within the same organisation, and thus, the discount voucher is a cost to the Company)

Discount vouchers are issued for a fixed face value to the members, which may be redeemed by them in any of the approved retail stores. The Company may treat issuing Vouchers to its members as Discount Vouchers when they can be redeemed in one of its own outlets/participating retail stores.

Value of Goods and Services is more than the discount value

The discount vouchers issued under the loyalty scheme are redeemed for purchasing goods or services from the same organisation, to the extent of the value of the discount voucher, the organisation would bear the cost. Furthermore, the customer benefits from the reduced price and he pays only part payment in cash redeeming loyalty points for the balance value.

Thus, such discount vouchers should be eligible to be treated as a discount to the extent of value stated therein. In such cases, VAT on goods/services would be applicable on the value after discount.

For Example

Item A	100.00
Item B	200.00
Total	300.00
Less: Discount voucher	(50.00)
Taxable Value	250.00
VAT @5%	12.50
Total amount Payable	262.50

Value of Goods and Services is equal to the discount value

In the case of full payment for the goods and services by discount voucher, supply is considered for no consideration and amounts to free Supply of Goods or Services.

Therefore, if the following conditions are satisfied:

1. Supply of goods or services is without consideration;
2. VAT is recovered on the concerned goods and services procured; and
3. The value of supply to each recipient is more than 500 AED or the total value of all supplies in a 12-month period is more than 40,000 AED;

then the above supplies will qualify as Deemed Supply and may be liable to VAT under the UAE VAT Law.

For Example

Item A	100.00
Item B	200.00
Total	300.00
Less: Discount voucher	(300.00)
Taxable Value	0.00
VAT @5% payable*	10.00

*Assuming the cost of such goods sold as AED 200 as in case of deemed supplies, the value for the purpose of discharging VAT should be the total cost incurred by the Taxable Person to make this Deemed Supply of Goods or Services. If the details of cost are not available, VAT would be payable on AED 300.

Cash voucher redeemable in against future purchases

Sometimes, the Companies issue Cash Vouchers to the customer that are in nature of tender/cash with a fixed face value and are redeemable in approved retail stores. The issuance of such vouchers could be outside the VAT scope, however, the redemption of such voucher for goods/services would have a VAT impact.

For Example

Item A	100
Item B	200
Taxable Value	300
VAT @ 5%	15
Total Payable	315
Less: Voucher	50
Net Payable	265

Thus, such cash vouchers are treated as tender and VAT is payable by the organisation on the full value of goods and services sold against the vouchers.

Loyalty points as tender/discount

Treatment of loyalty points as tender/discount depends on the loyalty programme that is being run by the organisation.

In cases where the loyalty points are issued by one operating company although they can be redeemed across different organisations within or outside the group, where points are redeemed for goods/services, the Company where points are redeemed receive cash compensation to the extent of points from the operating company. In other words, if the customer redeems points worth AED 50 for purchasing goods worth AED 100, the Company receives AED 50 cash from the customer and balance AED 50 (for which points were redeemed by the customer) from the Company that operates this loyalty programme.

Thus, the Company where points are redeemed does not bear any cost/loss to the extent of points, and thus, it should treat the loyalty points redeemed as tender, thereby discharging VAT on the full value of goods/services that are supplied.

There are times when the loyalty points are issued and redeemed within the same organisation, as there is only one company that is running and participating in the scheme. In such cases, if customers are redeeming the points at a particular outlet of the company that were issued by another outlet of the same Company. Overall, at Company level, the cost is being borne to the extent of points redeemed as the Company is not receiving equivalent compensation for this transaction through some other source. Thus, in such cases, the loyalty points could be construed as discount and would follow the same treatment as mentioned under point no. 2 above.

TOURIST REFUND SCHEME ('TRS')

TRS is run in UAE by FTA through Planet as the operator of the scheme. The scheme was effective from mid-November 2018. Tourists who are non-resident and not a crew member on a flight and aircraft and have minimum spend of 250 AED are eligible to VAT refund on their purchases in UAE. The refund for shoppers will be 85% of the VAT amount a validation fee of 4.80 AED per refund voucher is levied. Furthermore, such refund can be claimed by the tourists only within 90 days from the date of the tax invoice and subject to other terms and conditions which are/will be prescribed by FTA.



How does the TRS System work for the Retailer?



How does the TRS System work for the Tourist?



EXCISE TAX IN THE REGION

The Member States of the GCC entered into an agreement ('GCC Agreement') to sign the Unified Excise Agreement to implement an excise tax, which is a tax on certain products that are harmful to human health.

The tax is in line with the existing Unified Economic Agreement between GCC countries, an agreement that aims to develop ties to coordinate and standardise economic, financial and monetary policies. According to this agreement, the excise tax is set to be implemented in October 2017.

Excise Tax was first implemented by KSA in June 2017 followed by UAE in October 2017, Qatar and Bahrain in January 2019, Oman in June 2019. It is expected that Kuwait would also be implementing excise tax in due course.

How excise tax works is illustrated as follows:



Tax shall be imposed on the following activities



Production of Excise Goods in UAE, where such production was in the course of doing business



Import of Excise Goods



Release of Excise Goods from a Designated Zone



Stockpiling of Excise Goods in UAE, where such Stockpiling was in the course of doing business (generally applicable when the excise tax is introduced)

In the UAE, excise tax is currently applied on the following goods

100% Excise



Tobacco products

Goods listed within Schedule 24 of the GCC Common Customs Tariff



Energy drinks

- Any beverages which are marketed, or sold as an energy drink, and containing stimulant substances that provide mental and physical stimulation, which includes without limitation: caffeine, taurine, ginseng and guarana.
- Any concentrate, powder, gel or extract intended to be made into an energy enhancing drink

50% Excise



Carbonated drinks

- Any aerated beverage except for unflavoured aerated water.
- Any Concentrations, powder, gel, or extracts intended to be made into an aerated beverage.

Furthermore, in August 2019, FTA issued a Cabinet decision to levy excise duty on the following additional goods, proposed to be effective from 1 December 2019 or 1 January 2020.

100% Excise



Electronic smoking devices, tools and liquids used in electronic smoking devices

As per the decision confirming the customs code classified for import purpose

50% Excise



Sweetened beverages, sugary drinks (SSB)

Any products with added sugar or other sweeteners in the form of a beverage, liquid, concentrate, powders, extracts or any products that may be converted into a drink

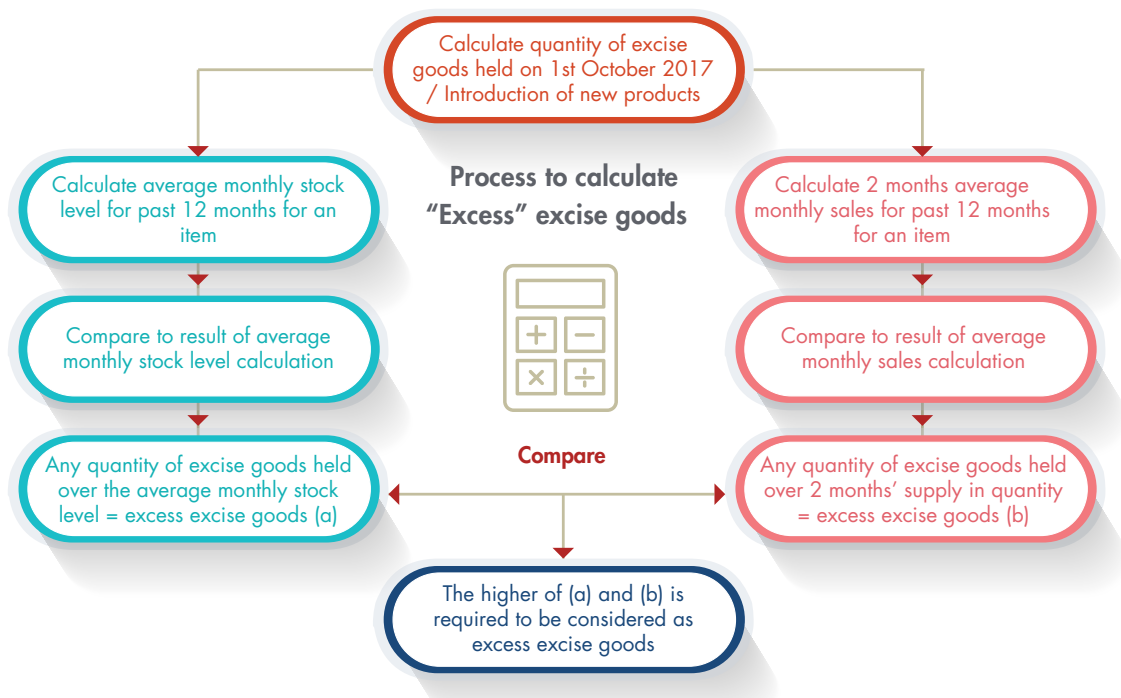
The FTA has released an updated excise tax guide in August 2019 introducing new excise tax reporting requirements and declarations. This has significantly impacted the existing excise tax compliance functions in the organisation in terms of understanding the new requirements from tax and reporting perspective, system changes required if any to capture the relevant transactions for reporting, etc. These changes are to take effect immediately and required to be reported in the excise return due in September 2019.



IMPACT OF EXCISE ON RETAIL SECTOR

Stockpiler

A stockpiler is considered to be someone who owns "excess" excise goods in his stock available in the course of doing business in the UAE where Tax on those goods has not been previously paid, relieved, remitted, or deferred.

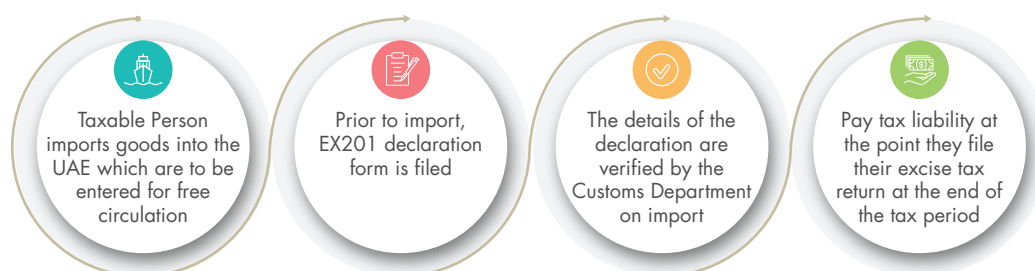


Therefore, if the retailer qualifies as a stockpiler, they are required to register with FTA and discharge excise tax in Box 5 of the Excise Return.

Furthermore, all retailers dealing in excisable goods are required to keep **audited records** of excise goods quantity as on 1st October 2017/effective date of introduction of new excisable products.

Importer

A retailer importing excisable goods into the UAE is required to register with FTA and required to complete the following steps for excise tax compliance:



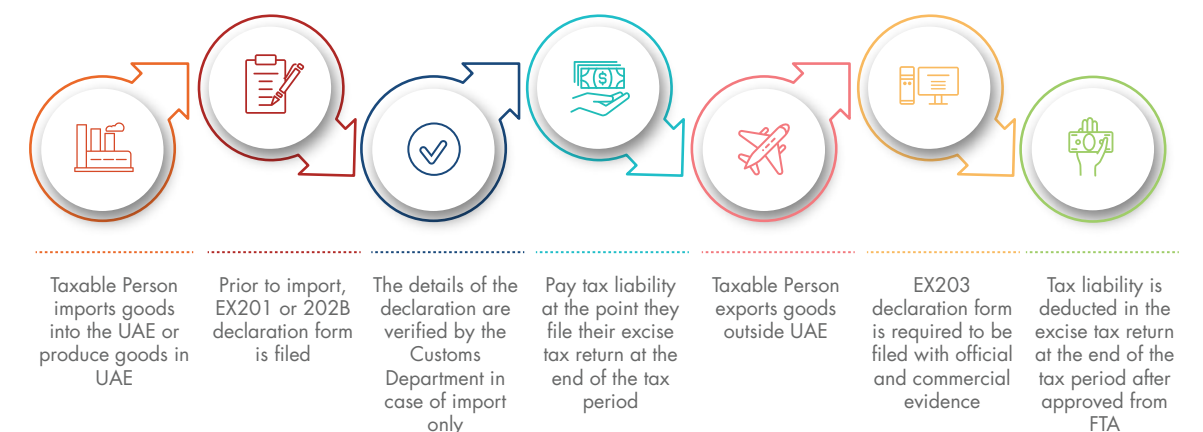
Producer

A retailer who produce or manufacture excisable goods into the UAE is required to register with FTA and required to complete the following steps for excise tax compliance:



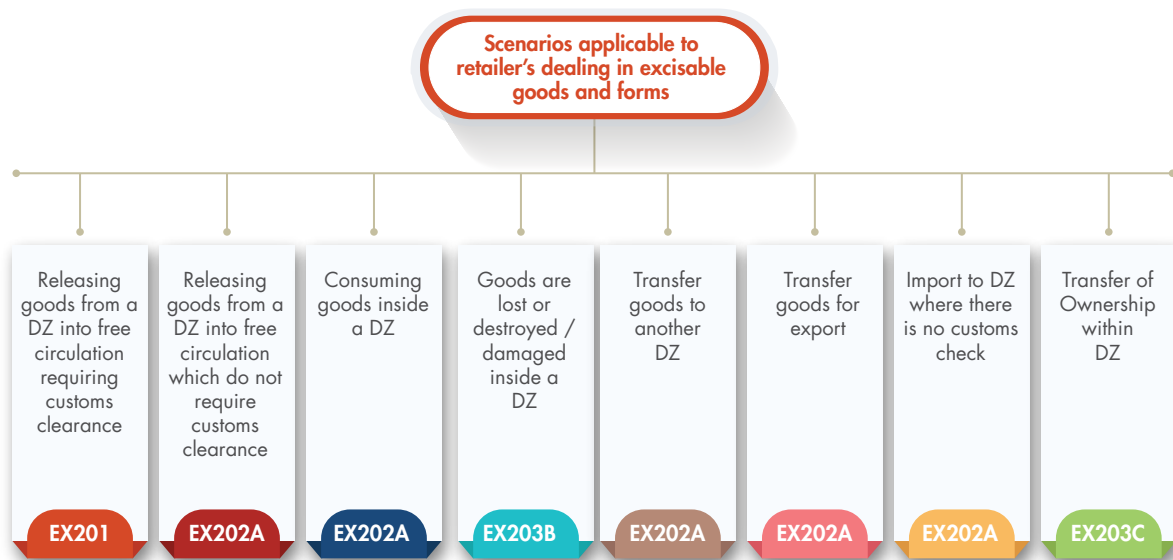
Exporter

A retailer exporting excisable goods outside the UAE is required to register with FTA and required to complete the following steps for excise tax compliance:

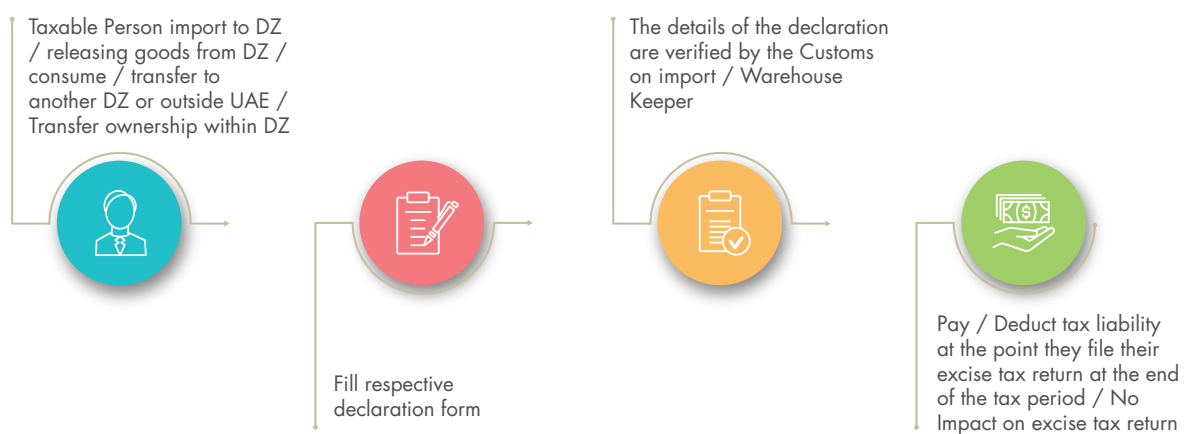


Registered retailers making local purchase of excisable goods with the intention of exporting them outside UAE are required to fill Form EX203A with FTA at the time of procurement.

Designated Zone



Retailer in DZ is required to register with FTA and complete the following steps for excise tax compliance:



ARE YOU TAX AUDIT READY?

Since the introduction of VAT in UAE, the Federal Tax Authority (FTA) has issued numerous reference guides, public and private clarifications, awareness sessions and tax clinics to ensure businesses comply with the tax legislation. FTA have further initiated the Tax Audits and field visits to evaluate the overall level of compliance, adherence to the law and regulations.

Typically, in tax audits a taxable person is intimated by the FTA via email with a questionnaire and a template required to be filled in for tax period under review/audit and to be submitted within five working days. As the tax period under review can range from a month/quarter to the period right from the implementation of VAT. Therefore, it would be critical for the taxable person to ensure the audit readiness for submission of data within the strict timelines at time of actual audit. In case of any delay or failure in submission of the required audit data may expose the taxable person to penal implications.

Further, there could be surprise field visits by FTA to any of the taxable person to verify the documentation and overall compliance with VAT.

It has been generally perceived among the taxable person that the successful VAT Refunds is conclusion of the VAT Audit. However, VAT Refund process is purely a preliminary assessment of tax position basis the VAT returns filed and is not a holistic or diagnostic review of the entire business. The VAT Audit may be undertaken even in cases where refunds have been granted earlier and such VAT audit requirement could be based on various factors.

Retailers must gear up for the tax audit and field visits and ensure the VAT compliance in day to day business processes.

There are four phases of Tax Audit which can assist retailers in being tax compliant, which are as follows:



Organisations should critically evaluate potential grey areas of their business and re-examine the entire strategy. It could be great idea to look at the best industry practices. Similarly, the tax function should be adequately trained and resourced to look beyond the basic tasks like return preparation. This will help in efficient management of the entire Tax Function - **Strategy and Audit process**

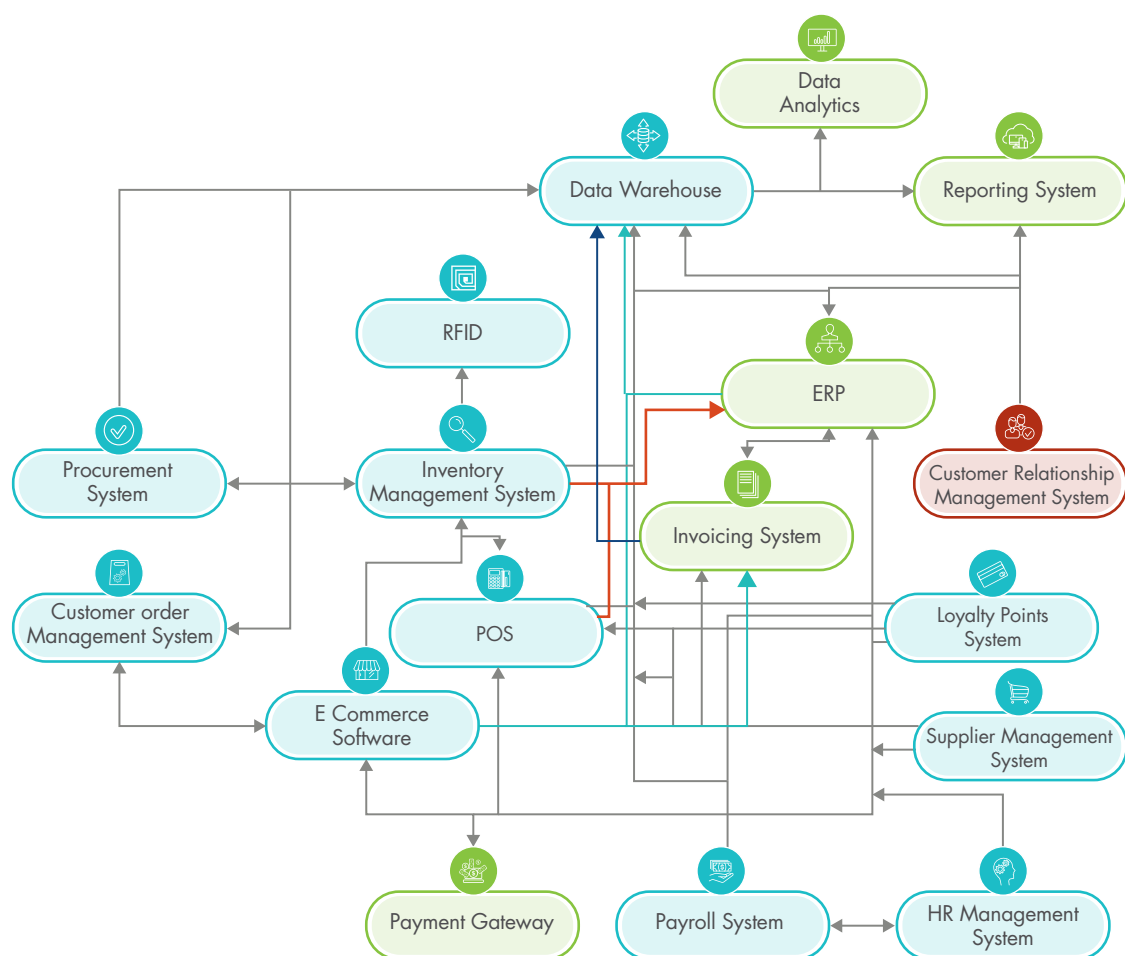
RETAIL IT SYSTEMS – IS TAX TECHNOLOGY THE SOLUTION?

With the increasing globalisation of retailing, constant connectivity, contextual relevance, and a multi-screen world are changing both online and offline shopping. As the in-store experiences blur, it is opening up exciting new possibilities for forward-thinking retailers. Today's retail business is highly dependent on information and if barriers are not met, a thriving business will soon be doomed.³

Today, the information technology (IT) investment in the retail sector has increased significantly. IT

plays an important role in the management of complex retail operations. Market knowledge, as well as control of data and information is essential to obtain a competitive advantage in the retail sector. Today's consumers are well updated than ever, and they shop to greatly increased expectations for service and price. Organisations are beginning to notice that technology's role is one of an enabler. Essentially, information technology can speed up processes and increase sales, improve customer retention rates and deliver cost saving benefits to the company.⁴

Retail IT Systems



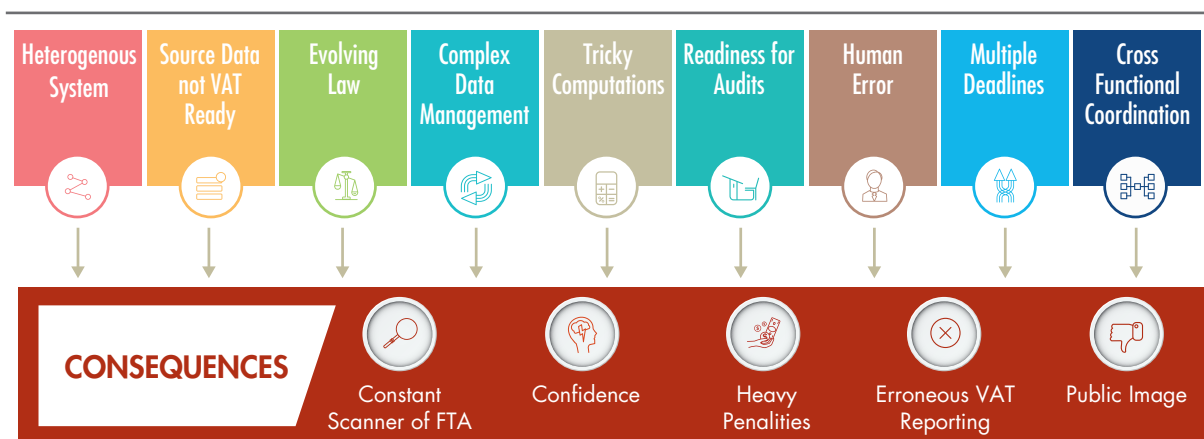
3. Mansoor, K. and Mehra, P., 2010, Retail Industry Development.

4. Article on Information Technology in Retail Sector by Aruna R. Shet in International Journal of Scientific Engineering and Research (IJSER)

As seen in the flowchart Retail IT Systems are a complex business environment, there are multiple IT Systems involved for the day to day activities. When transiting into VAT, re-engineering of the Retail ERP systems is/was required to be done to make them VAT compliant and all the aspects of VAT Laws and Regulations must be incorporated to generate the tax compliant documents and the reports for various compliance purposes. Starting from the POS terminals/other invoicing and accounting systems to management reporting systems, VAT impact needs to be taken care for the end to end business transactions/systems.

VAT is a transaction tax where every transaction needs to be recorded and given the appropriate VAT treatment. Tax codes are used by the organisations to determine VAT at transaction level and It is imperative that all kinds of transactions are carefully coded in the system masters to capture the correct VAT treatment while invoicing and accounting.

A large number of ERP systems are able to manage data and put them into a format capable of complying with the GCC VAT laws. The inconvenience for companies managing a large quantum of data can typically be illustrated in the diagram below:



Taxes have become one of the thriving factors for the businesses since tax audits can be a cumbersome activity for the day to day operations of the business resulting into an increasing need of real time Tax Reporting. Tax Technology provides the Management with a fantastic opportunity to leverage data analytics within tax functions for greater contributions to the bottom line across GCC.

Many retailers (operating through separate legal entities for each brand/division) are part of a Tax Group and most of the entities in the tax group use different types of system basis their needs/ business specific requirements. There is an increasing amount of time being spent by the Tax and Accounts team on the tax related functions to make them Tax Compliant. By automation of these processes, the core tax and finance team can concentrate on key business processes

and transaction analysis more effectively and efficiently to add value in the supply chain.

Therefore, in such complex and time-consuming environment; it is critical that the retailers use appropriate Tax automation tools and technologies that enable them to be fully Tax-compliant. This is all the more critical when the current POS systems are unable to generate reports that are mandated by the FTA. One such report that POSs are generally unable to create (at a transaction level) is the FAF file.

There are many FTA accredited automation VAT tools which are listed on FTA website. The entities with complex IT system environments where the FAF audit files/VAT legislation requirements cannot be incorporated fully; may evaluate such tools for all tax compliances and management reporting from a tax perspective.

CONCLUDING THOUGHTS

The retail sector is a key contributor to UAE's economy, and it makes it critical for businesses to gear up to the market with EXPO 2020 around the corner and initiatives taken by DED and DFRE and assist them in achieving the projected growth.

Tax compliance has been slowly and gradually gaining the place in the Boardrooms in GCC. With VAT implemented for around two years in UAE and KSA and almost a year in Bahrain, retail entities are also gearing up with statutory requirements from compliance, audit and assessment perspective.

A robust compliance system and the use of tax automation would enable large retail companies to comply with specific tax requirements regarding the information requested by the tax authorities during Tax Audit. Often, due to voluminous transactions, the authenticity of the tax data gets compromised and is not adequately / appropriately reviewed. Budgeting for such the implementation of a robust IT infrastructure in order to support tax functions.

It is imperative for the management not only to monitor the correct tax treatment is applied in the supply chain but also to ensure the correct disclosure and reporting authorities in relation to its tax functions, as may be required by the legislation.

Representations to tax authorities on matters requiring clarifications could also be explored to ensure correct VAT implications and to avoid any default / penal implications. Recently, tax authorities has also introduced a facility of 'administrative exception' to taxpayers facing procedural challenges in issuing the tax invoice / tax credit note. Many retailers can also take benefit of the scheme and evaluate such procedural limitations in their systems basis which the application for the administrative exception can be filed and benefit to that extent is taken up to be VAT compliant.

Tax governing bodies in the respective GCC country where VAT is implemented have been taking continuous and fruitful efforts to issue various public and private clarifications, cabinet decisions and conducting time to time trainings / awareness sessions to ensure the VAT awareness / education among the businesses. Such efforts from the tax authorities are a welcome move specially in the region where tax environment is still in the developing phase and gaining momentum in the economy.



APPENDICES

VAT Legislation

UAE VAT Law

Article (1) Key Definitions

Consideration

"All that is received or expected to be received for the supply of Goods or Services, whether in money or any other acceptable forms of payment."



Taxable Supply

"A supply of Goods or Services for a Consideration by a Person conducting Business in the State and does not include Exempt Supply."



Deemed Supply

"Anything considered as a supply and treated as a Taxable Supply according to the instances stipulated in the UAE VAT Law."

Voucher

"Any instrument that gives the right to receive Goods or Services against the value stated thereon or the right to receive a discount on the price of the Goods or Services. Vouchers do not include postage stamps issued by the Emirates Post Group."



Article (5)

Supply of Goods

"The following shall be considered a supply of Goods:

1. Transfer of ownership of the Goods or the right to use them to another Person according to what is specified in the UAE VAT ER.
2. Entry into a contract between two parties entailing the transfer of Goods at a later time, pursuant to the conditions specified in the UAE VAT ER."



Article (6)

Supply of Services

"A supply of Services shall be every supply that is not considered a supply of Goods, including any provision of Services specified in the UAE VAT ER."



Article (9)

Supply via Agent

1. "The Supply of Goods and Services through an agent acting in the name of and on behalf of a principal is considered to be a supply by the principal and for his benefit."
2. "The Supply of Goods and Services through an agent acting in his name is considered to be a direct supply by the agent and for his benefit."



Article (7)

Supply in Special Cases

As an exception to what is stated in Articles (5) and (6) of the UAE VAT Law, the following shall not be considered a supply:

1. "The sale or issuance of any Voucher unless the received Consideration exceeds its advertised monetary value, as specified in the UAE VAT ER."
2. "The transfer of whole or an independent part of a Business from a Person to a Taxable Person for the purposes of continuing the Business that was transferred."



Article (11)

The Cases of Deemed Supply

"The following cases shall be considered as Deemed Supply:

1. A supply of Goods or Services, which constituted the whole assets of a Taxable Person or a part thereof, but are no longer considered to be as such, provided that the supply was made without Consideration.
2. The transfer by a Taxable Person of Goods that constituted a part of his business assets from the State to another Implementing State, or from the Taxable Person's business in an Implementing State to his Business in the State, except in the case where such transfer:
 - a. Is considered as temporary under the Customs Legislation.
 - b. Is made as part of another Taxable Supply of these Goods.
3. A supply of Goods or Services for which Input Tax may be recovered but the Goods or Services were used, in part or whole, for purposes other than Business, and such supply shall be considered as deemed only to the extent of the use for non-business purposes.
4. Goods and Services that a Taxable Person owns at the date of Tax Deregistration."



Article (34)

Value of Supply

"The value of supply of Goods or Services for Consideration shall be as follows:

1. If the entire Consideration is monetary, the value of the supply shall be the Consideration less the Tax.
2. If all or part of the Consideration is not monetary, the value of the supply is calculated as the overall monetary part plus the market value of the non-monetary part of the Consideration and shall not include the Tax.
3. For Services received by the Taxable Person who is obligated to calculate the Tax in accordance with Clause (1) of Article (48) of the UAE VAT Law, the value of the supply shall be equal to the market value of the consideration without addition of the Tax on that supply.
4. If the Consideration is related to matters other than the supply of Goods or Services, the value of the supply shall be equal to the part of the Consideration that is related to such supply as stated in the UAE VAT ER."



FTA

Under a separate Statute, the Government has set up the FTA to implement, manage, monitor and audit the taxpayers in the UAE. The authority works under the Ministry of Finance. The taxpayers are required to liaise with the FTA officials for all matters pertaining to VAT and access the VAT and excise tax legislation, public clarifications and various awareness sessions published by FTA through its official website www.tax.gov.ae.

Key VAT Provisions

Registration

A person residing in the UAE or in a VAT implementing state is required to obtain registration if the total value of all supplies exceeds the mandatory registration threshold, i.e. AED 375,000 over the previous 12-month period. The Application for registration should be filed within 30 days of being required to register.

A person can apply for registration voluntarily if the total value of supplies or expenses subject to tax exceeds the voluntary registration threshold of AED 187,500 over the previous 12-month period.

Date and Time of Supply

Date of Supply is the date when the obligation to pay tax arises.

As per **Article 25** of UAE VAT Law:

In case of single supply, the date of supply of goods / services shall be the earliest of the following:

a.	Date on which goods were transferred	If transfer was under supervision of supplier
b.	Date on which recipient took possession of goods	If transfer was not under supervision of supplier
c.	Date of completion of assembly or installation of goods	Where goods are supplied with assembly or installation
d.	Date on which recipient of goods accepted the supply; or Date no later than 12 months after the date on which goods were transferred or placed at the recipient of goods disposal.	If the supply was made on a returnable basis
e.	Date on which goods were imported under Customs legislation	
f.	Date on which provision of service was completed	
g.	Date of receipt of payment	
h.	Date on which the tax invoice was issued	

Invoicing and Credit Notes

Tax Invoice

A registrant making a taxable supply shall issue an original tax invoice and deliver this to the Recipient of Goods or Recipient of Services within 14 days of the date of supply in UAE.

Such tax invoice shall contain the particulars which are prescribed under the legislation else the document could be treated as invalid under VAT legislation. In case of such invalid / incorrect tax invoice; the supplier could be subject to penal implications and the receiver would not be able to recover the input VAT.

Tax Credit Notes

A registrant shall issue a Tax Credit Note when there is a reduction of Output Tax in relation to any supply made and deliver the same to the Recipient of Goods or Recipient of Services. Even such Tax Credit Note would need to be in alignment with the requirements of the law.

VAT Returns

Every taxable person is required to file a VAT return on the FTA portal on or before the 28th day of the month following the tax period concerned and the payment of VAT shall be made before such due date of filing the return.

The VAT return shall be submitted online through the VAT tab after logging into the FTA e-services portal.

The standard Tax Period for a taxable person shall be a period of three calendar months ending on the date that the FTA determines. However, FTA has assigned monthly tax periods to many large taxpayers and first tax period post VAT implementation was varied for different taxpayers followed by subsequent quarterly / monthly tax periods.

Filing Voluntary Disclosures

Voluntary Disclosure (VD) is a scheme / facility provided by the FTA in which a taxable person

or a taxpayer notifies the FTA of an error or an omission in a Tax Return, Tax Assessment or Tax Refund Application.

If there is an error which resulted in calculation of tax payable being less than required by more than AED 10,000 then the taxable person shall file VD before 20 business days from the date when the person became aware of the error. Example: if the paid tax was AED 8,000 and actual tax is calculated at AED 20,000, the difference in tax payable is more than AED 10,000.

If there is an error resulting in calculation of tax payable tax being less than required by AED 10,000 or less, then the taxable person has two options:

- a. To rectify in the current tax period – the person shall correct the error in the Tax Return of the tax period in which such error has been discovered before the due date for submission of the Tax Return; or
- b. To rectify through VD for past concerned tax period – the person shall make VD to the FTA within 20 business days from the date when the person became aware of the error.

Input VAT Deduction

Input VAT deduction means the provision to deduct the value of VAT paid on inward supplies from the value of VAT payable on outward supplies. The credit of input tax shall be available to the registered person subject to prescribed conditions and procedural requirements. Such input tax for which credit can be claimed is referred to as recoverable input tax.

VAT incurred on expenses is eligible to be recovered for the following supplies:

- a. Taxable supplies.
- b. Supplies that are made outside the State which would have been taxable supplies had they been made in the State.
- c. Specific exempt supplies provided outside the State.

Input VAT Deduction

Typically, the Taxable Person shall keep the following records:

- a. Records of all supplies and Imports of Goods and Services.
- b. All tax invoices and alternative documents related to receiving Goods or Services.
- c. All Tax Credit Notes and alternative documents received.
- d. All tax invoices and alternative documents issued.
- e. All Tax Credit Notes and alternative documents issued.
- f. Records of Goods and Services that have been disposed of or used for matters not related to Business, showing taxes paid for the same.
- g. Records of Goods and Services purchased and for which the Input Tax was not deducted.
- h. Records of exported Goods and Services.
- i. Records of adjustments or corrections made to accounts or tax invoices.
- j. Records of any Taxable Supplies made or received in accordance with Clause (3) of Article 48 of the UAE VAT Law, including any declarations provided or received in respect of those Taxable Supplies.
- k. A Tax Record that includes the following information:
 1. Due Tax on Taxable Supplies.
 2. Due Tax on Taxable Supplies pursuant to the mechanism in Clause (1) of Article (48) of the UAE VAT Law.
 3. Due Tax after the error correction or adjustment.
 4. Recoverable Tax for supplies or Imports.
 5. Recoverable Tax after the error correction or adjustment.





VAT Return Compliance

Basic Information

Heading	Particulars
TRN	Auto populated
Legal Name of the Entity (English)	User must verify the details before submitting the VAT Return to the FTA
Legal Name of the Entity (Arabic)	
Address	

VAT Return Period

Heading	Particulars
VAT Return Period	Auto populated
VAT Return Due Date	User must verify the details before submitting the VAT Return to the FTA
Tax Year End	
VAT Return Period Reference Number	

VAT on Sales and all other outputs

Heading	Box. No	Particulars
Standard rated supplies in Abu Dhabi	Box 1	<ul style="list-style-type: none"> Total amount (excluding VAT) collected for standard rated goods and services and its corresponding VAT amount Supplies include deposits received as part payment, deemed supplies, reimbursements of expenses, etc. Adjustments related to commercial properties or bad debts are to be shown in adjustments column in the return
Standard rated supplies in Dubai		
Standard rated supplies in Sharjah		
Standard rated supplies in Ajman		
Standard rated supplies in Umm Al Quwain		
Standard rated supplies in Ras Al Khaimah		
Standard rated supplies in Fujairah	Box 2	<ul style="list-style-type: none"> Tax refunds provided to tourist under the tax refund tourist scheme. Amount in negative and thus reduce the output tax liability
Tax Refunds provided to Tourists under the Tax Refunds for Tourist Scheme		
Supplies subject to Reverse Charge Provisions	Box 3	<ul style="list-style-type: none"> Supplies received from foreign vendors not declared to UAE customs through import declaration under RCM basis Local supplies (oil and gas industry)
Zero Rated Supplies	Box 4	Total amount of goods and services that were zero rated and sold during current period in the UAE.
Exempt Supplies	Box 5	Total amount of goods or supplies sold during the current period that were exempt under the UAE VAT Law.

Heading	Box. No	Particulars
Goods imported into the UAE	Box 6	<ul style="list-style-type: none"> Total amount of goods imported into the UAE during the current period through UAE Customs or from agents on behalf of an unregistered persons. This is an auto populated field basis the customs declaration
Adjustments to goods imported into the UAE	Box 7	Adjustments made to imported goods in box 6 basis the actual import records of the company
Totals	Box 8	Total amount of all the above supplies, arriving at total output tax due to FTA and total adjustments made for the tax period

VAT on expenses and all other inputs

Heading	Box. No	Particulars
Standard Rated Expenses	Box 9	Purchases incurred during the current year at 5% on which input tax is recovered by the taxable person
Supplies subject to Reverse Charge Provisions	Box 10	The value of transactions under reverse charge on which the input VAT is recoverable
Totals	Box 11	Total amount of VAT entitled to recover as well as adjustments made to those values

Net VAT due

Heading	Box. No	Particulars
Total value of due tax for the period	Box 12	Total value of Output tax due for the period (sum of VAT and adjustments)
Total value of recoverable tax for the period	Box 13	Total value of Input tax recoverable for the period (sum of VAT and adjustments)
Payable tax for the period	Box 14	Total due tax less total recoverable tax for the period and will indicate net tax due or recoverable

Excise Tax forms and Return compliance

Heading	Box No.	Form	Particulars
Excise due on importations	Box 1	EX201 Import Declaration	Importers and taxable persons who are importing
Excise due on production	Box 2	EX202B Producer Declaration	Taxable persons who produce excise goods
Excise due on release of goods from a DZ (no customs clearance required)	Box 3	EX202A Designated Zone Reporting	Importers and taxable persons for releasing goods from a DZ which do not require customs clearance into free circulation
			Importers and taxable persons for consuming goods inside a DZ
		EX203B Lost and damaged declaration	Taxable persons whose excise goods are lost or destroyed/damaged inside a DZ
Excise due on release from DZ	Box 4	EX201 Import Declaration	Importers and taxable persons who are releasing goods from designate zone requiring customs clearance
Excise due on stockpiling of excise goods	Box 5	Manual entry, no declaration	
Total excise tax due during the period	Box 6	Total of Box 1 to 5	
Total Excise deductible during the period	Box 7	EX202A Designated Zone Reporting	Taxable Persons to claim a deductible tax for excise goods entered into DZ not requiring customs clearance
		EX203 Deductible declaration	Taxable persons to claim deduction on tax already paid (exported or captive consumption) or for amounts of excise tax paid to the FTA in error
Total Excise payable	Box 8	Box 6 less Box 7	
Other Reporting which do not have impact on VAT Return		EX202A Designated Zone Reporting	Used by importers and taxable persons for transfer goods to another DZ
			Transfer goods for export
			Import to DZ where there is no customs check
		EX202B Producer Declaration	Taxable persons who have purchased excisable goods where tax has already been paid and intend to export outside UAE
		EX202B Producer Declaration	Taxable persons who have sold excise goods within DZ that do not require customs clearance to another registered taxable person

Frequency	Approval	Impact
At the time of Import	Customs	Positive Tax Liability
To be filed at the end of each tax period	No Approval Required	Positive Tax Liability
To be filed when goods are released	Warehouse Keeper	Positive Tax Liability
To be filed when goods are consumed	No Approval Required	Positive Tax Liability
To be filed when goods are impacted	Warehouse keeper and FTA	Positive Tax Liability
At the time of customs clearance	Customs	Positive Tax Liability
At the time of entry to DZ	Warehouse Keeper	Deductible
To be filed at the end of each tax period	No Approval Required	
To be filed on movement	No Approval Required	No Impact
To be filed per export		
To be filed per import		
To be filed whenever such purchases are made	No Approval Required	No Impact
To be filed when purchase made	No Approval Required	No Impact

Glossary of Terms

FAF	FTA Audit File
FTA	Federal Tax Authority
GCC	Gulf Cooperation Council
DZ	Designated Zone
EMI	Equated Monthly Installments
COGS	Cost of Goods Sold
POS	Point of Sale
UAE	United Arab Emirates
DED	Department of Economic Development
DFRE	Dubai Festivals and Retail Establishment
UAE VAT ER	Cabinet Decision No. (52) of 2017 on the Executive Regulations of the Federal Decree-Law No (8) of 2017 on Value Added Tax
UAE VAT Law	Federal Decree-Law No. (8) of 2017 on Value Added Tax
UAE Excise ER	Cabinet Decision No. (37) of 2017 on the Executive Regulation of The Federal Decree-Law No (7) of 2017 on Excise Tax
UAE Excise Law	Federal Decree-Law No. (7) of 2017 on Excise
VAT	Value Added Tax
TRS	Tourist Refund Scheme
Consumer Protection Law	United Arab Emirates Ministerial Committee for Legislations Abu Dhabi
Consumer Protection Executive Regulations	CABINET OF MINISTERS' RESOLUTION (12) OF 2007 In respect of Executive Regulation to the Federal Law no. 24 of 2006 In respect of PROTECTION OF CONSUMERS



About WTS Dhruva

WTS Dhruva Consultants is a part of Dhruva Advisors LLP, a boutique tax and regulatory services organization. At Dhruva we work closely with regulators on policy issues and with our clients on tax advocacy and advisory matters. Dhruva Advisors LLP is headquartered in Mumbai-India, with 8 offices pan-India and globally, including Dubai and Singapore. Globally, we are a team of approximately 300 Tax Professionals comprising of Chartered Accountants and Tax Attorneys, led by 16 Partners. Over 40 of these key Tax Specialists are based in the GCC region itself.

We are a member firm of W T S Global, a network of selected tax and specialist regulatory organizations that operates in more than 100 countries. W T S members have won various global accolades, including European Tax Awards and Asia Tax Awards.

Key differentiators:

- Strategic approach to complex problems;
- Specialized, in-depth, and robust advice;
- Strong track record of designing and implementing pioneering solutions;
- Trailblazers in tax controversy management;
- Long history of involvement in policy reform;
- Technical depth and quality;
- Partner-driven approach.

Our recognitions

- WTS Dhruva Consultants has been recognised as the "Best Newcomer Firm of the Year" at the ITR European Tax Awards 2020.
- Dhruva Advisors has been consistently recognised as the "India Tax Firm of the Year" at the ITR Asia Tax Awards in 2017, 2018, 2019, 2020 and 2021.
- Dhruva Advisors has also been recognised as the "India Disputes and Litigation Firm of the Year" at the ITR Asia Tax Awards 2018 and 2020.
- Dhruva Advisors has been recognised as the "Best Newcomer Firm of the Year" at the ITR Asia Tax Awards 2016.
- Dhruva Advisors has been consistently recognised as a Tier 1 firm in India in Corporate Tax, Indirect Tax and Transfer Pricing
- WTS Global has been recognised as the "European Indirect Tax Firm of the Year" at the ITR European Tax Awards 2018.
- WTS Global has also been recognised as the "European Indirect Tax Firm of the Year 2017" at the ITR European Tax Awards 2017.
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