

inBrief



Be VAT ready – Tax Procedures Law is already here!

By Vivek Agrawalla | August 2017

It has already been in the public domain for a while that VAT will be applicable in the UAE (and the GCC) from the beginning of 2018. Under the VAT regime, businesses will be collecting taxes on behalf of the government and will file tax returns accordingly. Although the tax is collected at each stage of value addition, the burden of tax falls only on the end consumer. For all the other stages, one can claim a refund. For this reason VAT is called ‘consumption tax’.

Various statutory and administrative actions are being taken for the timely and effective implementation of VAT. Following the establishment of the Federal Tax Authority (the **Authority**) under Federal Law No. 13 of 2016, the much awaited Tax Procedures Law has been issued as Federal Law No. 7 of 2017. The Tax Procedures Law establishes the framework for federal taxes administration in the UAE. Details will be added by executive regulations to be issued to supplement the Tax Procedures Law.

All the persons conducting any business or profession in the UAE are required to maintain accounting records. While the Tax Procedures Law defines a “Person” and a “Business” very broadly, note that in the context of VAT, persons and businesses subject to VAT will be specified in the substantive law which is yet to be issued. All taxable persons are required to register with the Authority to obtain a Tax Registration Number (**TRN**). The TRN is required to be quoted in all correspondence with the Authority. Tax returns are required to be filed in Arabic, however the Authority may permit filing in another language provided the person agrees to provide the Arabic copies when requested by the Authority.

The Tax Procedures Law creates a regime for registration of tax agents with the Authority. A registered tax agent can represent any person before the Authority and assist the person to file tax returns. To practise the profession, a person must be enrolled in the Register maintained by the Authority for such purpose, and the person shall also be licensed for this purpose by the Ministry of Economy and the competent local authority.

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Vivek joined Afridi & Angell in 2012 and is a senior associate in the banking and finance team. He advises companies and financial institutions on a range of financing transactions. Vivek specialises in debt syndication, debt financing, cross-border financing, acquisition financing, structured financing, asset financing, securitisation, derivatives, commodity derivatives, trade finance and regulatory advice. Prior to joining Afridi & Angell, Vivek worked as a senior associate at a leading law firm in Mumbai, India, and as an in-house lawyer at one of the leading private sector banks of India.

The Authority has been given wide powers of audit. A tax audit may be conducted at the Authority's office or at the place of business of the person subject to the tax audit or any other place where such person carries on business, stores goods or keeps records. Ordinarily a five days prior notice is required to be given for a tax audit. However, on specified serious grounds, the Authority can conduct a tax audit without prior notice. To protect the rights of a tax assessee, a tax audit without notice requires prior written approval of the Director General of the Authority. In addition, approval of the Public Prosecutor is required if the audit is to take place at the assessee's residence. An assessee also has a right to know the identity of the persons conducting a tax audit, ask for approvals for tax audit, obtain copies of any originals impounded by the Authority and attend the tax audit. The Authority also has the power to assess tax and administrative penalties. Tax evasion and related conduct is a criminal offence. Any penalty does not relinquish the requirement of paying the unpaid tax.

The Tax Procedures Law establishes a Tax Disputes Resolution Committee to decide disputes regarding the calculation and payment of tax. The Committee's decision shall be final if the amount of the tax and administrative penalties does not exceed AED 100,000.

The Authority's officers are bound by strict confidentiality obligations in relation to the information they obtain during a tax audit. Unless a tax evasion is proven, the Authority cannot conduct a tax audit after the lapse of a period of five years. The burden of proof for accuracy of a Tax Return lies on the person filing the return, and for tax evasion it lies on the Authority. VAT will come into force on 1 January 2018. Any business that is required to be registered for VAT and charge VAT from 1 January 2018 must be registered prior to that date.

The promulgation of the Tax Procedures Law is a significant step forward in the implementation of VAT in the UAE. Given the penal sanctions under the Tax Procedures Law, it is in the interest of all potential tax assesseees to prepare early to comply with VAT. ■

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