

UAE Excise Tax: What you need to know!

Afridi & Angell offers a primer on the new excise tax regime in the UAE, focusing on the key provisions of the law, its impact and on what to expect from the region.

One of the key goals of the Gulf Cooperation Council (GCC) is to achieve economic integration between member states which it seeks to accomplish by the removal of trade barriers, facilitating the free movement of production and the unification and adoption of common economic policies.

A number of initiatives have already been successfully implemented by the GCC towards this goal – the establishment of a free trade zone in 1983, the GCC Customs Union in 2003 and the Gulf Common Market in 2008. It is within the context of furthering this economic integration that a common value added tax (VAT) and excise tax framework was ratified to be developed in parallel by the 36th Meeting of the GCC Supreme Council on December 9, 2015.

The resulting Common Excise Tax Agreement of the States of the Gulf Cooperation Council was formally adopted on November 27, 2016 and forms the common framework for the introduction of Excise Tax across all six GCC member states (the Excise Treaty). This Excise Treaty is to form the basis of national Excise Tax legislations by each GCC member state.

On August 17, 2017, Federal Decree-Law 7 of 2017 was issued in the United Arab Emirates (UAE Excise Law) to be

implemented from October 1, 2017. Based on the Common Excise Tax Agreement, the law specified all key areas to be implemented within the UAE excise tax regime, whilst the Executive Regulations (Cabinet Decision 37 of 2017 and Cabinet Decision 38 of 2017) provide the operational provisions of the law.

KEY PROVISIONS OF THE LAW

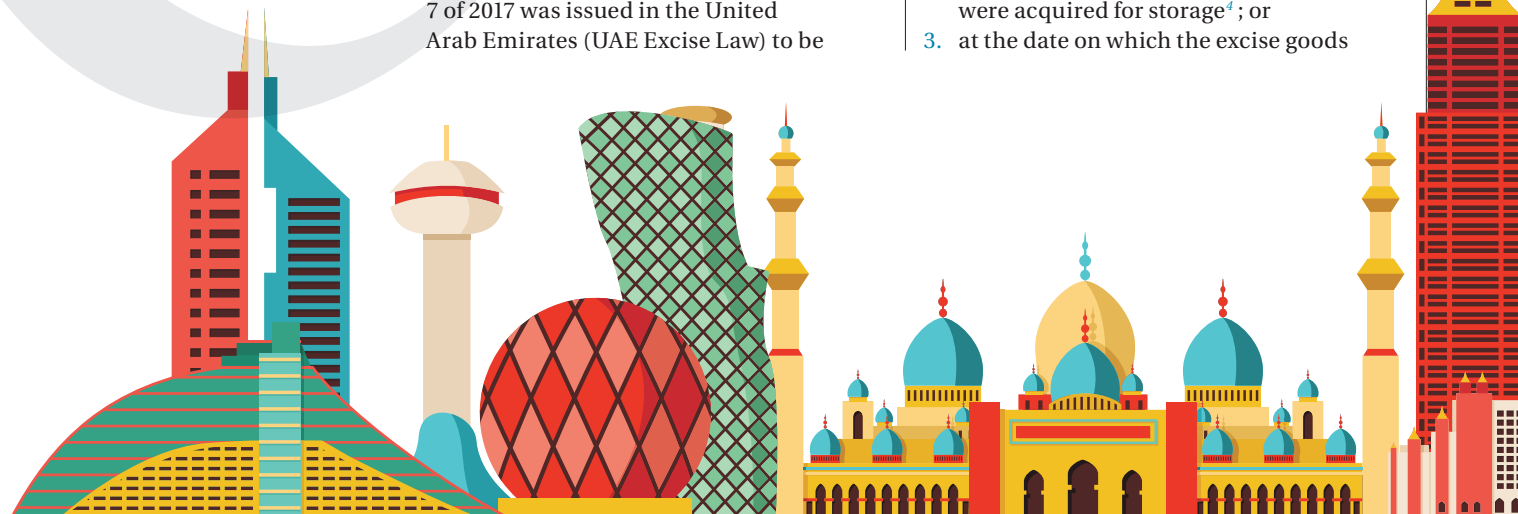
Article 3 of the UAE Excise Law permits the levy of excise tax up to a maximum of 200 per cent, at the discretion of the Federal Cabinet.

Article 2 of Cabinet Decision 38 of 2017 provides that three types of products will be subject to excise tax within the UAE:

1. carbonated drinks¹ at a rate of 50 per cent;
2. tobacco and tobacco products² at a rate of 100 per cent; and
3. energy drinks³ at a rate of 100 per cent.

Article 10 of the UAE Excise Law provides that excise tax shall be calculated (i.e. included on the excise tax return) either:

1. at the date of import of the excise goods; or
2. at the date on which the excise goods were acquired for storage⁴; or
3. at the date on which the excise goods



were released for consumption (i.e. when produced, or released for consumption from a designated zone).

Specific provisions in the UAE Excise Law and Cabinet Decision 37 of 2017 provide guidance on the definition, operation and administration of designated zones. Free zones are not exempt from the imposition of excise tax and offer no relief from the operation of the UAE Excise Law. Liability to account for excise tax is not triggered if taxable goods are either exported, or transferred between designated zones.

Excise tax will be calculated on an ad valorem basis on the excise price of the particular good. The excise price will be the higher of:

1. the price published by the Federal Tax Authority (FTA); or
2. the designated retail sales price of the goods, less the excise tax applicable.

At the end of each month, an excise tax return must be filed electronically with the FTA. The taxpayer will submit a declaration of all excise goods produced or released for consumption for the month, and the designated retail selling price of the goods will be auto-populated on the return based on the products declared, and the excise liability automatically calculated.

COMMERCIAL IMPACT

The introduction and imposition of excise tax will significantly change retail pricing of excise goods consumed within the UAE. However, its largest commercial impact will be on businesses that will need to adjust to the administration of a tax regime for the first time within the UAE.

In a region with no tax infrastructure, the introduction of both excise and VAT will impose new requirements on all stakeholders – government, businesses and consumers – to provide the necessary legislative support and infrastructure to maximise tax efficiency, satisfy administrative requirements for compliance with legislation, and understand how the new taxes will affect the cost of various goods.

Producers and suppliers will either pass on the full effect of the additional tax, or absorb part of the additional tax, but at this initial stage we have seen that suppliers have elected to pass on the full cost of excise to consumers, or to reduce the volume of the product sold in order to limit the increase in price. Over time, however, we may find certain excise goods to be withdrawn from the market, modified or substituted in such a way to avoid the application of excise.

PRACTICAL IMPACT

GCC member states have stated that the main purpose of the introduction of an excise tax has been to reduce the consumption of goods that are damaging to health and the environment, and to diversify the government's revenue.

Traditionally, GCC member states have relied heavily upon oil-based revenue sources which contributed consistently above 80 per cent of total government revenue prior to 2015. Following the sharp decline of global crude oil prices since 2015, this revenue has dropped to below 70 per cent without a significant expansion of the overall revenue base. The imposition of excise tax has been one measure along with a unified GCC VAT regime and individual state revenue measures (i.e. Abu Dhabi municipal rental fees) to diversify government revenue in the region to offset falling oil-based revenues. The UAE expects to raise AED7 billion from the imposition of excise tax, along with AED12 billion following the implementation of VAT for a combined first year revenue of AED19 billion.



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REGIONAL DIFFERENCES

All GCC member states will be implementing both excise and VAT. The common agreements, however, allow individual states some flexibility in both the timing and certain aspects of the implementation of each tax within their respective jurisdiction. So far only Saudi Arabia and the UAE have introduced excise tax. Both Saudi Arabia and the UAE have chosen to adopt similar regimes while introducing minor administrative variations to cater for local requirements.

WHAT'S NEXT?

The forthcoming commencement of VAT in the UAE and Saudi Arabia will build upon the tax infrastructure that has begun to develop with the implementation of excise tax.

With regard to excise tax, there are a number of possibilities that could be pursued depending on government policy and strategy. An expansion of the number of excise goods could be adopted. The IMF has suggested the imposition of excise tax on the sale of motor vehicles, or an expansion of the carbonated drinks excise to include a broad range of foods with added sugar, salt or fat to compliment government goals towards a healthier population. It is expected that the GCC will adopt a wait and see approach in the short term, both to allow all member states to complete implementation of both taxes, and to provide time to develop the maturity of the tax infrastructure in the region. However, pressures on government revenues,

geopolitical volatility and realised revenue from both excise and VAT could influence the timeframe upon which adjustments to either tax could occur. ➔

1. *defined as any aerated beverage (except for unflavored aerated water), or any concentrate, powder, gel or extract intended to be made into an aerated beverage (e.g. post mix concentrate).*
2. *defined within Schedule 24 of the GCC Common Customs Tariff.*
3. *defined as any beverage which is marketed as an energy drink, containing stimulant substances that provide mental and physical stimulation (e.g. caffeine, taurine, ginseng and guarana), or any concentrate, powder, gel or extract intended to be made into an energy enhancing drink.*
4. *The legislation makes reference to the term "stockpile".*



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