



GCC Indirect Tax Newsletter

July Edition

Insights
Tax and Legal Services
PwC Middle East



The United Arab Emirates (UAE)

Value Added Tax

1. Public Clarification “TAXP001” on Amendments of the penalties regime and Public Clarification “TAXP002” on redetermination of administrative penalties

On 28 April 2021, the UAE Cabinet issued the Decision No. 51 of 2021 to amend certain provisions related to the request for waiver of penalties as stipulated under the Cabinet Decision No. 36 on the Executive Regulations of Federal Law No. 7 of 2017 on Tax Procedures.

On 25 and 27 May 2021, the Federal tax Authority (“FTA”) issued two Public Clarifications “TAXP001” “TAXP002” providing illustrative examples on the reduction and redetermination of penalties further to the Cabinet Resolution No. 49/2021 issued earlier last month to amend the provisions of Cabinet Resolution No. 40/2017 relating to administrative penalties imposed for violation of Tax Laws in the UAE.

1.1. Public Clarification “TAXP001” on Amendments of the penalties regime

This Public Clarification provides further details of the new penalty rates applied and discusses in more details practical examples of the amended penalty rates. Below is a summary of the explanations provided:

Late payment penalties [Violation 9 of the penalty schedule]

In cases of voluntary disclosure and tax assessment, the late payment penalties shall be imposed on the amount of unsettled tax as follows:

- In case of voluntary disclosure(s), on the first day following the 20th business day **from the submission date** of the voluntary disclosure.
- In case of tax assessment, on the first day following the 20th business day from the date of receipt of the tax assessment.

Fixed penalties for submission of incorrect tax returns [Violation 10 of the penalty schedule]

- A fixed penalty of AED 1,000 for the first violation and AED 2,000 for any repeated instance.
- As an exception to the above, if the tax difference is less than the fixed penalty, the fixed penalty shall be equal to the tax difference but not less than AED 500.
- Importantly, the fixed penalty will not be imposed if the tax return is corrected prior to the due date for submission of the return.

Percentage based penalty upon submission of voluntary disclosure [Violation 11 of the penalty schedule]

The percentage based penalty is:

- Imposed in case 1) the payable tax amount as per the submitted tax return or tax assessment is less than the tax amount required to be calculated as per the relevant tax legislation; or 2) the tax which the person is entitled to recover is calculated at a value higher than what they are entitled to as per the tax legislation.

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- Applicable on the difference between the tax declared and the tax due and the penalty rate varies depending on when the amendment of the previously submitted VAT return is performed. The percentage of the penalty ranges from 5% in case of submission of the voluntary disclosure within one (1) year from the due date of the tax return or tax assessment or refund application and may reach up to 40% in case of submission of the voluntary disclosure after the 4th year.

Mechanism to specify the date of imposition of certain penalties applied on a monthly basis

- Monthly penalties are applicable for the purpose of imposing penalties on violations No. 4, 9, and 14 of Table 1 of the Resolution;
- The date on which the penalty shall be imposed in the following month is determined as follows:
 - On the day of the month corresponding to the day of the month on which the penalty was originally imposed on. For example, if the date of imposition of the monthly penalty was 30 May, the corresponding day in the following month shall be 30 June.
 - On the first day of the following month if the current month does not have a corresponding date. For example, if the date of imposition of the monthly penalty was 30 January, the corresponding day in the following month shall be 1 March.

Please refer to the VAT Public Clarification “TAXP001” for further details on the application of new penalties.

1.2. Public Clarification “TAXP002” on redetermination of administrative penalties

This Public Clarification provides further explanation on the application of the discount on penalties imposed before the effective date of the Cabinet Resolution 49/2021 i.e. 28 June 2021.

The FTA explained the conditions to benefit from this discount as follows:

1. The unsettled penalty was imposed based on the Cabinet Decision No. 40 of 2017 i.e. the old Cabinet Resolution on the Administrative Penalties for Violations of Tax Laws in the UAE;
2. The unsettled penalty was imposed in full before 28 June 2021; and
3. The taxable person has undertaken all of the following
 - a. Paid the total amounts of the **payable tax** by 31 December 2021 i.e. no payable tax remains outstanding to the FTA and the FTA have received the amounts by 31 December 2021 notwithstanding whether the tax amount is payable before or after 28 June 2021; and
 - b. Paid 30% of the total amounts of the unsettled **administrative penalties** imposed before 28 June 2021, no later than 31 December 2021.

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Where the above conditions are satisfied, the FTA will redetermine **at the end of 2021** that the unsettled part of the administrative penalties, i.e. equivalent to 70% of the total amount of penalties imposed, **shall no longer be required to be paid**.

The FTA will link the redetermination process to the registered taxable person's e-Services account who will be able to access the information relating to the process as of 28 June 2021.

Amending certain provisions related to requests for waiver of penalties

The Cabinet Decision No. 51 of 2021 amended certain provisions under Article 26 of the Cabinet Decision No. 36 on the Executive Regulations of Federal Law No. 7 of 2017 on Tax Procedures.

Article 26 stipulates the required conditions for a taxable person to request from the FTA a waiver or reduction of the administrative penalties imposed. The new Decision introduced the following changes on the qualifying conditions:

- The requirement that the taxable person has not been subject to any administrative penalties in the 2 years preceding the application **has been abolished**.
- The timeframe for submitting the application for reduction or exemption of penalties has been extended from 10 working days to **40 workings days**.

The new Decision introduced a formal process to apply for the reduction or waiver which should be submitted through a form to be determined by the FTA.

Please refer to the VAT Public Clarification "TAXP002" for further details on the application of new penalties.

2. VAT Public Clarification "VATP026" on VAT registration of "Sole Establishments"

This Public Clarification clarifies the VAT registration obligations of a person in respect of its sole establishments. Below is a summary of the explanations provided:

- A natural person who owns a number of Sole Establishments should register for VAT as a natural person if the taxable supplies made or services provided exceed the mandatory VAT registration threshold.
- A natural person can own a number of Sole Establishments which may undertake different lines of business, and in this case must obtain **only one VAT registration** to include all Sole Establishments under the one VAT registration, with the understanding that a Sole Establishment does not have a legal personality independent or different from its owner. It is not permissible to register each sole establishment separately for VAT.
- All supplies and services provided by the registrant must be declared, including those for all his or her Sole Establishments, which will be considered collectively in order to determine whether the person has outstanding tax obligations.

Please refer to the VAT Public Clarification "VATP026" for further details on the VAT registration of Sole Establishments.

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3. VAT Guide “VATGRH1” on VAT refund for UAE Nationals Building New Residences

This guide provides the following updates and amendments on the earlier issued guide on the special VAT refund scheme for UAE Nationals building new residences.

Updates and amendments

- Revised Section 2.2 to define ‘residence’.
 - **“Residence”** refers to any building (including townhouses and villas) used predominantly as a private home of a natural person, including fixtures and fittings belonging thereto and enjoyed therewith, which comprise at least of cooking and washroom/bathroom facilities in addition to sleeping quarters.
- Revised Section 3 on deadlines for application.
 - The Refund Request must be sent to the FTA within 12 months from the date of completion of the newly built residence which is the earlier of the date:
 - the residence becomes occupied; or,
 - when it is certified as completed by a competent authority in the UAE (the Building Completion Certificate).
- Revised Section 4.6 on documents required to be submitted to the Verification Body.
 - Copies of the construction contract (including addendums);
 - Copies of the consultancy agreement (including addendums);
 - Copies of variation orders;
 - Copies of invoices that include returned items; and
 - Copies of credit notes.
 - Lump-sum tax invoices and proof of payments provided by the contractor and the consultant to the owner; and
 - Relevant tax invoices and proof of payments (for example, receipts).
- Deleted former Section 5 and incorporated within Section 4.
- Revised Appendices.

Please refer to the VAT guide “VATGRH1” for further details on the updates and amendments regarding the special VAT refund scheme for UAE Nationals building new residences.

4. VAT guide on VAT payment for Commercial Property Buyers

This user guide provides guidance for persons who are buying or selling a commercial property which is subject to VAT at 5% in the UAE to complete their VAT payment on the FTA's eServices portal.

The steps required to complete VAT payment include creating an e-service account and completing the VAT payment.

Please refer to the VAT guide “VAT Payment User Guide for Commercial Property Buyers” for further details on the steps to be taken for VAT payment of commercial property.

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Excise Tax

Decision No. (1) of 2021 on the mechanism for calculating the average retail selling price of Excise goods in the UAE market

The FTA recently published Decision No. (1) of 2021 - with immediate effect - on the mechanism for calculating the average retail selling price of Excise goods in the UAE market.

The decision covers two main aspects: 1) the calculation of the average retail selling price of the Excise goods intended for retail sale in the UAE and 2) the value determination of Excise goods not intended for retail sale in the UAE.

Excise Taxable Persons are encouraged to review their pricing policy in line with the new Decision to ensure Excise Tax compliance and drive efficiency in the supply chain.

Further details can be found in the following link:

<https://www.pwc.com/m1/en/services/tax/me-tax-legal-news/2021/uae-new-mechanisms-calculate-average-retail-selling-price-excise-goods.html>

The Kingdom of Saudi Arabia (KSA)

Value Added Tax

General update: Merger of the General Authority of Zakat and Tax with the General Authority of Customs

The Saudi Council of Ministers in May 2021 approved the merger of the General Authority of Zakat and Tax (GAZT) and the General Authority of Customs to form the Zakat, Tax and Customs Authority (ZATCA).

The Council of Ministers' decision was published in the official gazette along with the regulations of the new ZATCA. The regulations address the scope of work of the new merged authority. The effective date of the regulations is 14 May 2021.

Please access [this link](#) for more information on this merger.

Legislative update: Final guidelines of the controls, requirements, technical specifications and procedural rules for implementing the provisions of the E-Invoicing Regulation

On 28 May 2021, the ZATCA has published the e-invoicing resolution setting out the controls, requirements, technical specifications and procedural rules covering the generation and integration phases which includes VAT invoices, debit and credit notes. A detailed set of requirements and guidelines were also published.

The generation phase will be mandated from 4th of December 2021 and the integration will be implemented in phases starting from 1st of January 2023.

Please access the PwC news alert [here](#) for more information.

The Kingdom of Saudi Arabia (KSA)

Value Added Tax (Cont's)

Technical update: VAT refund for non-resident eligible persons

Subject to certain conditions, non-resident persons that are not registered for VAT purposes in the GCC VAT Implementing States (currently KSA, UAE, Bahrain and Oman) and not engaged in any economic activities therein, may file a claim for VAT refund.

Foreign businesses who meet the following conditions are eligible to apply for a VAT refund in the KSA:

- The person is established in a country with a transaction tax system similar to VAT and that person is registered for that tax;
- The country of non-resident person allows a similar mechanism to provide refunds of tax to residents of the KSA who are charged tax in that country.

The deadline for submitting VAT refund applications for KSA is within 6 months from the end of the calendar year in which the VAT was paid (i.e. for the calendar year ended 31 December 2020, the deadline is 30 June 2021).

While the Saudi tax authorities has not yet provided detailed guidance on the refund mechanism, businesses should take steps to preserve their entitlement for a refund of VAT incurred during the year by way of filing a formal application within the set timeline.

Please access the PwC news alert [here](#) for more information.

End of the Transitional Period for VAT rate increase

Further to VAT rate increase from 5% to 15% announcement effective the 1st of July 2020, the Zakat, Tax and Customs Authority ("ZATCA") in Saudi Arabia has announced transitional rules governing supplies that are made during the transitional period for the VAT rate increase i.e. from 11 May 2020 to 30 June 2021. The transitional rules would not be applicable starting from the 1st of July 2021 onward and the VAT rate to be applied going forward should be 15% applicable to all supplies made (except where it is zero-rated or exempt by law).

Please access the PwC news alert [here](#) for more information.

The Kingdom of Bahrain (Bahrain)

Value Added Tax

NBR has published the VAT Transportation Guide in Arabic

The National Bureau for Revenue (NBR) has now released the VAT Transportation Guide in Arabic. This guide had previously been published in English.

The VAT Transportation Guide in Arabic can be accessed through the link below:

https://www.nbr.gov.bh/guidelines_and_publications

Excise Tax

NBR has published the Excise Tax prices on the Excise Goods

The NBR has released a list of the Excise Goods subject to Excise Tax with their corresponding Excise Price (the tax base on which Excise Tax will be imposed).

The Excise Tax price list can be found through the link below:

https://www.nbr.gov.bh/publications/view/excise_goods_list

www.pwc.com/me

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