

VAT brief | UAE ERs

28 November 2017 | Manama | Kingdom of Bahrain



Introduction

The UAE's Federal Tax Authority published the final version of the VAT Executive Regulations (ERs) on 28 November 2017.

With 1 January 2018 now just weeks away, businesses operating in the UAE should be actively preparing for VAT go-live. Businesses will need to revisit their initial impact assessments to identify areas where they may need to make further changes or corrections in light of the final rules.

We set out in this brief some of the key areas where the ERs have brought some much-needed clarity.

Key features

Zero-rating exported goods (Article 30)

The ERs indicate that "indirect" exports (where the recipient is the exporter of record) can also be zero-rated, provided this is part of the sale agreement between the supplier and the overseas customer, and other criteria are met (such as the supplier must be provided with a copy of the exportation documentation and the goods cannot be used or altered prior to being exported).

Our perspective

This is a welcome development, as it gives exporters flexibility as to which party is the exporter of record. However, where exporters intend to zero-rate indirect export sales, they will need to make sure they have processes and policies in place to ensure the criteria are all met. This may include:

- Amending agreement templates to ensure that the overseas customer exporting the purchased goods is included in the terms of the sale
- Ensuring export documentation is requested from the overseas customer and retained as part of their VAT records

Implementation time and date (Article 75)

The ERs clarify that VAT comes into effect at the earlier of 7am or when the business opens on 1 January 2018 (rather than at midnight).

Our perspective

This is another welcome development, particularly for retailers and hospitality operators who may have intended to operate beyond midnight as part of the New Year festivities. This should also give retail businesses more time to comply with the requirement to show pricing on a VAT-inclusive basis.

Simplified tax invoices (Article 59)

Simplified tax invoices (which have less comprehensive information requirements) can be issued instead of full tax invoices if at least one of these criteria apply:

- The total consideration is less than AED10,000
- The customer is not VAT registered

Our perspective

It's encouraging to see the FTA taking this pragmatic, business-friendly approach to documentation. A simplified tax invoice should contain enough information for a non-registered customer's needs, so it makes little sense to require comprehensive tax-related information on their invoices.

Businesses (particularly those in the FMCG, hospitality or consumer retail sectors) should consider configuring their systems to issue simplified tax invoices instead of full tax invoices. However, if they do so, they should ensure that full tax invoices can still be issued on request from the customer.

Transitional provision (Article 70(6))

Suppliers who have contract spanning 1 January 2018 will be obliged to account for VAT on supplies made on or after 1 January 2018. Ordinarily, if a contract does not contain a valid VAT clause, the supplier can't increase its price to factor in VAT.

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However, a special provision allows the supplier to deem the contract price as exclusive of VAT, provided the recipient is VAT-registered and the recipient is able to recover the input VAT (either in whole or in part).

The consideration set out in the contract will be deemed exclusive of VAT to the extent the recipient can recover the VAT.

Our perspective

This is a business-friendly concessionary provision which allows businesses who may not have anticipated the introduction of VAT to still charge VAT on top of their contract prices (subject to certain conditions). Because the customer must be VAT-registered in order to qualify, this concession will effectively only be available for B2B supplies.

Businesses with contracts spanning 1 January 2018 should assess whether their contracts include valid VAT clauses. Where there is no VAT clause and the business intends to rely on this provision, it will need to request written confirmation from the recipient.

Exempt financial services which also qualify for zero-rating (Article 42(7))

There may be instances where a margin-based financial service (which is ordinarily VAT-exempt) also meets one or more of the criteria for zero-rating (for example, as an exported service). The ERs confirm that, if this is the case, the zero-rating takes precedence and the financial service product should be zero-rated.

Our perspective

This is good news for financial services providers. While the pricing of financial products does not need to change, the switch from a VAT-exempt supply to a zero-rated supply should improve VAT recovery.

Final comments

The release of the final ERs brings some much-needed clarity, particularly around finer details and rules. There will still be grey areas during the implementation process, and we expect that the FTA will continue to release guidance and other materials which should be helpful to businesses and advisors alike.

Important note

These briefs are based on a translation of the Unified VAT Agreement for the Cooperation Council for the Arab States of the Gulf (the GCC VAT treaty), the UAE federal law, the UAE's executive regulations and general VAT principles and are provided for information purposes only. Saudi Arabia and the UAE continue – as of the date of release of this brief – to work towards an implementation date of 1 January 2018. This brief is not a substitute for professional advice. You should seek appropriate professional advice from a tax advisor before making any decision relating to your particular circumstances.

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