



*Dear Friends and Clients,*

*We're almost done. Only some more hours to go.  
No reason to become sentimental. If it was a good year it's passed as well as if it was a bad one.  
Don't live in the past, cause you can't change it. Don't live in the future cause you don't know it. It's  
the here and now to live in.*

*Who is afraid of VAT?*

*Have you done your homework?*

*Have you register your business with the MOF for VAT? Have you added the 5% to your recent  
invoices if the service or delivery will take place 2018?*

*Have you chartered an accountant for your bookkeeping?*

*Where does the fear come from? Why are some foreigners closing their local company? Because  
of VAT? In Europe we are used to handle these issues since decades. And we are not frightened  
to handle it properly. For Europeans nothing easier than making your quarterly returns. And to be  
on the safe side, hire an accountant or let us know. We provide such accountants and we can  
assist you to do the quarterly returns. You won't pay taxes because in most cases you won't be the  
end-user.*

*Nothing to worry. The local IRS will struggle in the beginning like the European tax authorities did.  
And employ consultants who are experienced in VAT matters, meaning from countries where this  
tax has been implemented since long time.*

*Whenever you need advice, want to change the structure of your business or need help in  
corporate or tax matters don't hesitate to call us.*

*We also offer legal (!!) solutions how to avoid the CRS to your home country and keep your income  
abroad untouched.*

*We are here for you 24/7.*

*Enjoy the calm festival season and have a happy new prosperous New Year!*

*Sincerely,  
Theodor Strohal*

## **The Executive Regulations on the VAT – a short overview:**

The long-awaited Executive Regulation on VAT (Cabinet Decision No. 52 of 2017, ER) has been issued a short time ago by the Federal Tax Authority (FTA). The Regulation is structured in 18 chapters and provides more detailed regulations on certain topics e.g. zero rated export of Goods and Services, designated zones.

### **Designated Zones:**

In Article 51 ER are designated Zones defined as “fenced geographical areas with security measures and customs controls in place to monitor the entry and exit of individuals and goods to and from the area”. If an area fits these criteria, it shall be treated as outside the UAE. But you have to understand, that there is no automatic mechanism whereby any UAE free zone will be considered as a Designated Zone. Only free zones that fulfill the above mentioned criteria can be listed as a Designated Zone. However, in order for a free zone to become a Designated Zone, it has to be included into a list of Designated Zones issued by another decision of the UAE cabinet, which is yet to be published. Please be aware that, according to Article 51 para. 5 and 6, companies having their place of business in a Designated Zone will be considered as having their place of residence in the UAE. This means that any supply of goods and/or services by a company registered in a Designated Zone to a person within the Designated Zone will be considered as a supply made in the UAE and therefore will be subject to VAT. So far the only exemption from VAT will be where goods are transferred from one Designated Zone to another in case a deposit is paid.

We expect The Jebel Ali Free Zone, Dubai Airport Free Zone, Dubai South Free Zone, Hamriyah Free Zone and Ras Al Khaimah Economic Zone to be qualified as Designated Zones.

### **Zero Rated Export of Goods and Services:**

Exports of goods and services to a third country will be subject to tax rate of 0% if certain conditions are fulfilled. However, in case of export of goods, the goods have to “physically” exported to a third country, which shall be evidenced e.g. by airway bill, bill of lading, consignment note and by certificate of shipment. Please note, that a movement or supply of goods into a designated Zone shall not be considered as an export (Article 30 para 3 ER).

In case of export of services (Article 31 ER), the services have to be performed to a recipient with a place outside the UAE and who is located outside the UAE at the time the services are performed in order to be 0% rated.

Therefore exporters should be aware of the increased record keeping requirements and implement certain documentation procedures in order to take advantages of the 0% rated export of goods and services.

### **Import of Goods:**

Generally, every taxable person importing goods in the UAE is liable for tax reporting and tax payment. Only if the receiving party is not a taxable person in the UAE (e.g. individual), the responsibility for tax reporting and payment falls back to the foreign exporter. Article 47 ER specifies which supplies are not considered as imports and for which the Reverse Charge Mechanism (where the importer can “claim” the paid VAT back as input VAT) will therefore not be applicable e.g.:

- Where the goods are under customs duty suspension agreements in accordance with the GCC Common Customs Law (cases where a financial guarantee has to be provided)
- Import into a Designated Zone
- Personal effects and gifts imported by travelers
- Returned goods (warranty cases)

Please note, that the goods will not be released by customs authorities unless the due tax has been paid, Article 50 para. 2 ER. In cases, where non-registered persons are involved, they will need an agent for the import of goods (e.g. logistic companies, customs broker), which means that this agent will be liable to pay the VAT on behalf of the non-registered person as if the agent had imported the goods himself.

**VAT Invoices:**

In Article 59 ER is written, what the tax invoices shall contain, e.g.:

- the word "tax invoices"
- name, address and tax registration number of both parties (supplier and recipient)
- sequential tax invoice number
- date
- date of supply
- description of service and goods
- unit price, quantity, tax rate, amount payable in AED
- discount (if any)
- gross amount payable expressed in AED
- tax amount payable expressed in AED

**Summary:**

An important clarification in the ER is that upon start of VAT on 1st January 2018 the free zones and their companies are fully liable for VAT in case of local supplies. Many free zone companies have waited with the registration for VAT since it was not clear whether or not they will be excluded from VAT. The ER now clarifies this issue, with the result, for free zone companies to register for VAT.

**VAT: Register your company otherwise you may face penalties**

Companies that have not completed their VAT registration before December 31 will have to pay a 20,000 AED fine. Most of the businesses in the UAE are in last-minute preparations to adapt to the reform. A circular of the FTA had cautioned businesses, whose taxable supplies and imports of goods and services exceed 375,000 AED over the past 12 month to expedite the registration process for VAT to meet the 1<sup>st</sup> January 2018 deadline.

Companies that have not completed their VAT registration before December 31 will have to pay a fine worth 20,000 AED, warn experts. Furthermore they will be prevented from operating until they get the tax registration number or tax registration certificate. Businesses across the UAE will be responsible for carefully documenting their business income, costs and associated VAT charges under the tax regime.

Businesses that meet the minimum annual turnover requirement (as evidenced by their financial records) will be required to register for VAT. Businesses whose management does not think they should be VAT registered should maintain their financial records in any event, in case the ministry will hold it to be registered. Penalties for non-compliance range from 3,000 AED to 50,000 AED, depending on the nature of non-compliance.

If a person fails to keep required records and other information specified in the laws, he will be fined 10,000 AED in the first instance and AED 50,000 in case of repetition. For failure to display prices, inclusive of excise tax, there will be a fine of 15,000 AED. Failure to comply with conditions and procedures related to keeping the taxable goods in a designated zone or moving them to another designated zone will incur a penalty of 50,000 AED or 50% of tax, whichever is higher, paid on the goods that resulted in the violation.

If you have further questions to VAT, please do not hesitate to contact us.

**Contact:****UAE Head Office:**

**STROHAL LEGAL CONSULTANTS**  
Villa 2, 20b Street, Community 153  
P.O.Box 31484, Ras Al Khaimah, UAE  
Tel: (971) 7 2364530 ,  
Fax: (971) 7 2364531  
Mobile: (971) 503765847

**SINGAPORE Office:**

**STROHAL LEGAL GROUP PTE. LTD**  
20 Upper Circular Road #02-10  
The Riverwalk, Singapore, 058416  
Fax: +65 65330313,  
Tel: +65 65330212

**MYANMAR Office:**

**STROHAL LEGAL GROUP COMPANY LTD.**  
7 B189-195 Pansodan Tower  
Pansodan Street  
Yangon, Myanmar  
Tel: +959971992340

**AUSTRIA Office:**

**MARSCHALL & HEINZ**  
Goldschmiedgasse 8, A 1010  
Vienna – Austria  
Tel: +431 5335256  
Fax: +431 513191124

**Email:** office@slg-strohallegalgroup.com

**Web:** www.slg-strohallegalgroup.com

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