

# VAT in the UAE

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## VAT in the UAE: Series Three

This series will explore the fundamentals of value-added tax ("VAT") in the United Arab Emirates ("UAE") and consider the legal impact of the regime, as well as the effect on businesses and residents.

### Introduction:

In February 2016 the Ministry of Finance announced the introduction of VAT in the UAE. The tax-free status of the UAE has previously been a major appeal to foreign investors and individuals. However, the well-known benefits afforded by this largely tax-free status are soon to change with the introduction of a VAT regime.

At present, it is uncertain exactly which VAT model will be implemented in the UAE. However, there is little time for businesses to consider the implications of VAT being introduced into the UAE and to make the necessary changes to their commercial contracts and current terms and conditions of sale in order to comply with the new regime.

### Potential to Mitigate VAT and Legal considerations:

Since VAT has not previously been an issue in the UAE, those supplying goods and services may be supplying on contractual terms that do not include provisions and mechanisms in relation to price adjustment where VAT is chargeable, or account for the possible change in law. As a result commercial arrangements and terms and conditions of sale are issued regularly without contractual VAT protections. Although no VAT is payable at present, it is likely many contracts will cross over implementation dates. Legal advice should be considered by those party to existing supply contracts, as well as those due to undertake the supply of goods or services in the UAE.

Drafting points that should be considered include the following:

- Contracts should state whether the price is inclusive or exclusive of any applicable sales or VAT;
- Contracts should state whether VAT will be charged to customers, in addition to the base price;
- Where long term customers resist changes to long standing contractual terms businesses should consider absorbing the cost through internal adjustments i.e. to pricing policies for the goods;
- Contractual provisions should allow for a valid tax invoice to be issued against payments if required by applicable law;
- Incorporation of indemnification against loss or penalties;
- Potentially inter-party co-operation in dealing with relevant parties; and
- Where VAT and cost/responsibilities are not addressed within current terms in business leases due for renewal, a written variation may be appropriate.

The supplier is generally responsible for VAT. Contracts that remain silent in relation to VAT could expose businesses to penalties and potentially heavy costs in attempt to mitigate such consequences. Further, they may be required to account to the relevant authority or unable to recover the VAT from its customer.

The Government is still considering the details of the UAE's VAT structure. Whilst liability to pay VAT cannot be avoided, businesses can mitigate their liability by, for example, passing the cost of VAT either up or down the supply chain. In any event, the impact of VAT should remain in the minds of those undertaking business in the UAE.

### Who we are and how we can help:

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The Gateley Dubai Corporate team is one of the leading corporate teams in the MENA. We can assist our clients with a range of tax structuring issues. We understand local laws and customs and can help our clients overcome any issues they might experience undertaking business in the UAE, as well as internationally.

Once implemented, VAT will likely affect all functions within a business. There is little time for companies to consider the implications of VAT being introduced into the UAE and to make the necessary changes to their commercial arrangements, current terms and conditions of sale and internal procedures and processes to ensure compliance with the new regime. It is essential to consider the impact now and for businesses to determine their ability to accommodate the introduction of VAT.

For further information please get in touch with Jonathan Burton at [JBurton@gateleyae.com](mailto:JBurton@gateleyae.com) or Tania Diab at [TDiab@gateleyae.com](mailto:TDiab@gateleyae.com).

