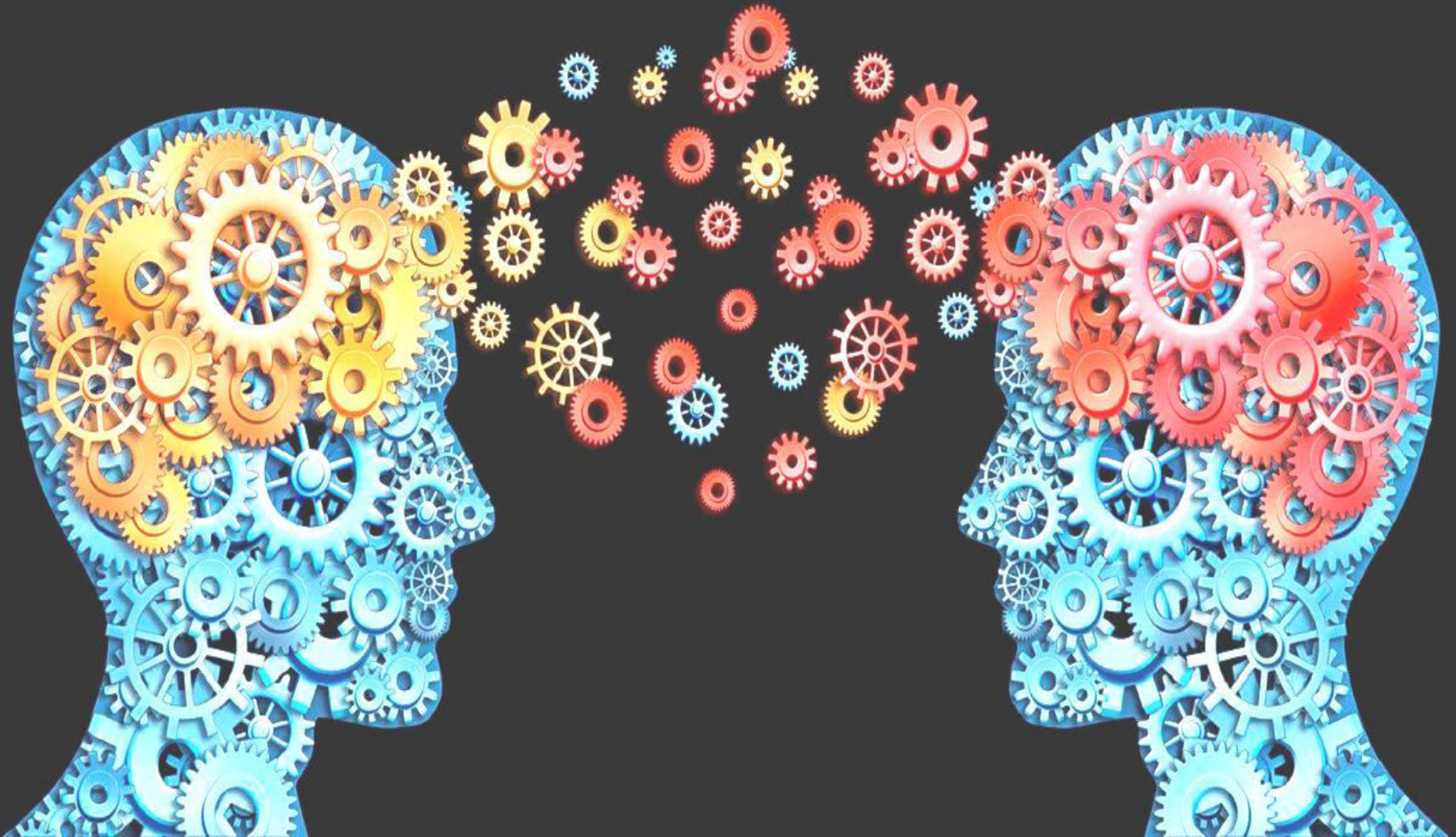


WIRC of ICAI
Important Definitions, Procedures and Penalties
under UAE VAT
by CA Sanket Shah



Topics

- **UAE VAT Status update**
- **Important Definitions/ Concepts**
 - **State/ GCC States/ Implementing States**
 - **Taxable Supply, Exempt Supply, Business, Taxable Person**
 - **Scope and responsibility of tax**
 - **Goods**
 - **Services**
 - **Supply of more than one component**
 - **Tax Group**
- **Procedures and Penalties**

UAE VAT Status

GCC VAT Agreement – Nov 2016

Law on Tax Procedures – June 2017

Law on VAT – Aug 2017

Executive Regulations on Tax Procedures –
Sept 2017

Press Release on Administrative Penalties and
Registrations open – Oct 2017

Draft Executive Regulations on VAT Law – Nov
2017

Bird eye view of UAE VAT v/s Indian GST

Rate of Tax

Types of Taxes

Reverse Charge Mechanism

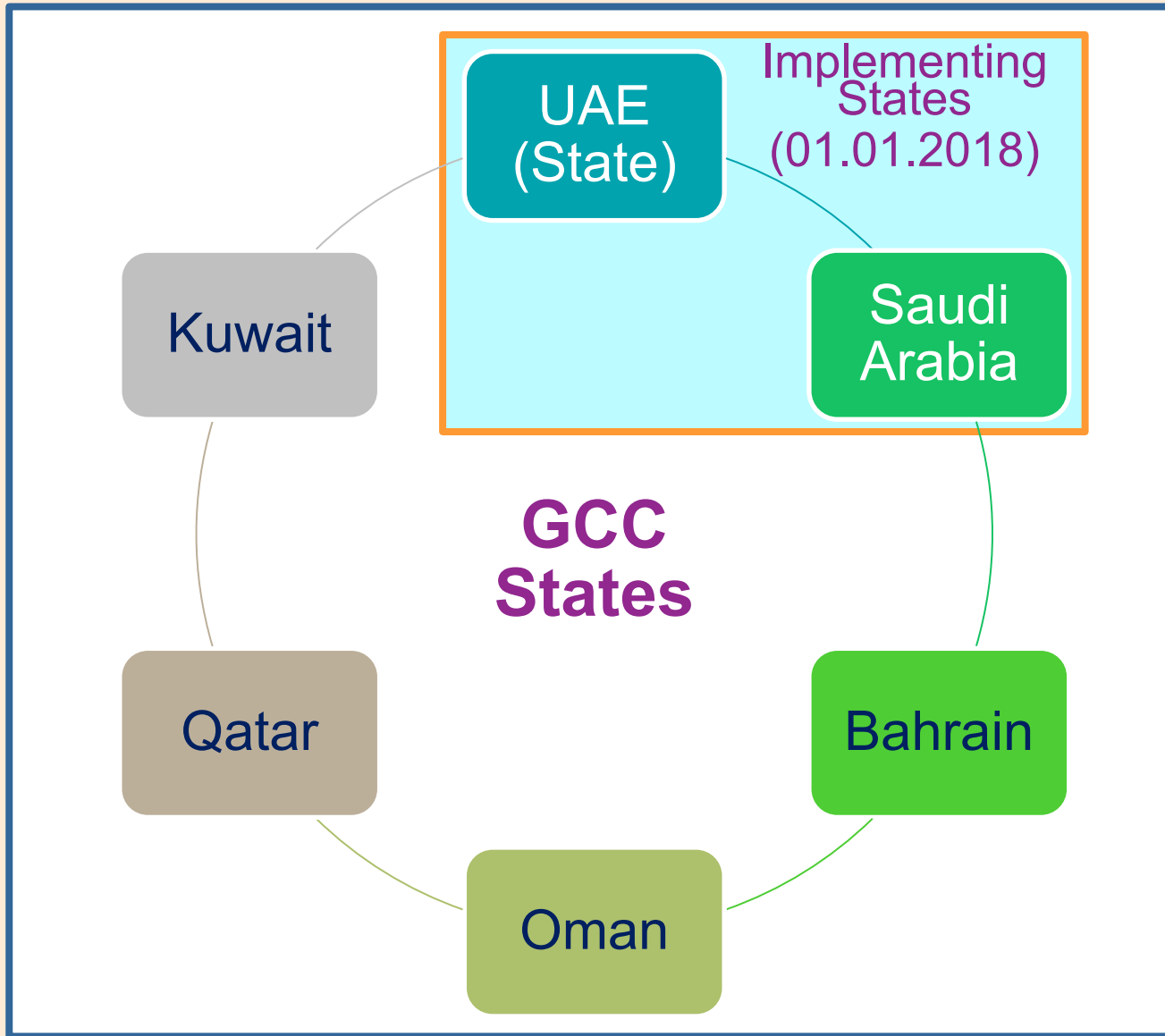
Meaning of turnover for compliances

Geographical differences

History of taxation

Important Definitions and Concepts

GCC Structure



Taxable Supply, Exempt Supply, Business, Taxable Person

Taxable Supply

- A **supply of Goods or Services** for a **Consideration by a person** conducting **business in the State**, and does not include Exempt Supply

Business

- Any activity **conducted regularly**, on an ongoing basis and **independently by any Person**, in any location, such as industrial, commercial, agricultural, professional, service or excavation activities or anything related to the use of tangible or intangible properties

Exempt Supply

- A supply of Goods or Services for Consideration while conducting **Business in the State**, **where no Tax is due** and no Input Tax may be recovered, except according to the provisions of this Decree-Law

Taxable Person

- Any Person registered or **obligated to register** for Tax purposes under this Decree-Law

Scope and Responsibility of Tax



Scope of Tax

- Tax shall be imposed on:
 1. Every **Taxable Supply** and Deemed Supply **made by the Taxable Person**
 2. **Import of Concerned Goods** except as specified in the Regulations

Responsibility for Tax

- The Tax imposed shall be the responsibility of the following:
 - A Taxable Person who makes any supply under 1 above
 - The **Importer** of Concerned Goods
 - The Registrant who acquires specified Goods under local RCM

Reverse Charge

- If the **Taxable Person imports Concerned Goods or Concerned Services** for the purposes of his Business, then **he shall be treated as making a Taxable Supply to himself**, and shall be responsible for all applicable Tax obligations and accounting for Due Tax in respect of these supplies

Import of concerned goods

- A **person not registered** shall pay due tax on **import of concerned goods from outside implementing state** on the date of import

Meaning of Goods and Services



Goods

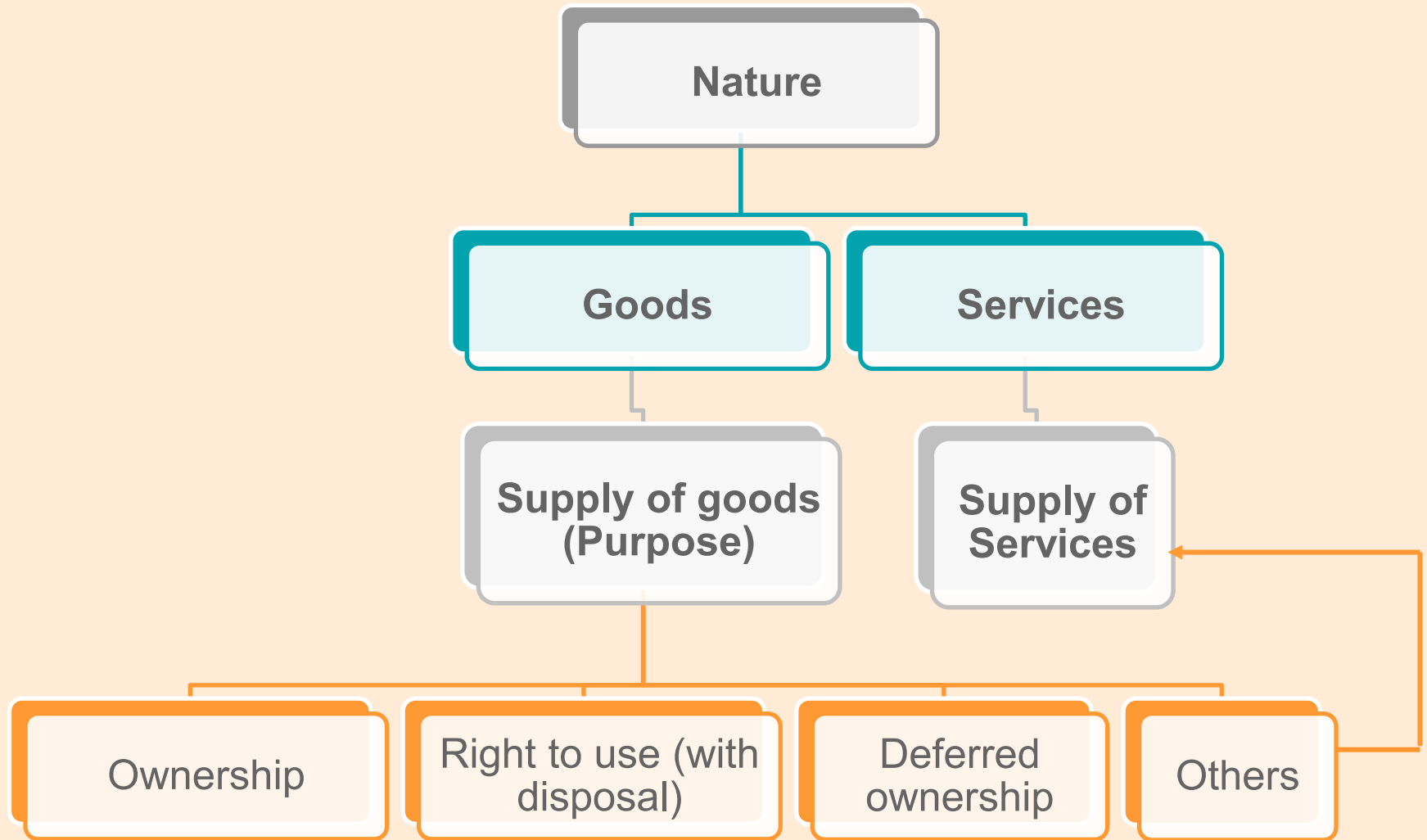
- **Physical Property** that can be supplied
- Includes:
 - Real Estate (including sale/ tenancy)
 - Water
 - Energy



Services

- Anything other than goods
- Includes:
 - Non-physical property
 - Granting of Rights
 - Transfer or licensing of intangible rights
 - Making available a facility or advantage

Supply of Goods or Services



Supply of Goods or Services

Transaction	Purpose	Supply	Goods	Services
Sale of Laptop	Ownership transfer	Yes	✓	
Lease of laptop	Rights transfer	Yes		✓
Right to use Trademark	Rights transfer	Yes		✓
Rental of commercial premises	Rights transfer	Yes		✓
Stock transfer	Movement of goods	No		
Sale on instalment basis	Right and ownership trf	Yes	✓	
Barter of goods	Ownership transfer	Yes	✓	
Services by employee	Not independent	No		

**Single
Composite Supply**



**Multiple Separate
Supplies**



Supply of more than one component

- The Executive Regulation of this Decree-Law shall specify the conditions for treating a **supply made of more than one component** *for one price*, whether such components are Goods or Services or both.
- “single composite supply” has to take into account the contract and the wider circumstance of the supply
- All the components are supplied by the same supplier

Cases to fall under Single composite Supply

- Supply of all of the following:
 - A Principal Component
 - Components which essential but are not a significant part of it; or do not constitute an aim in itself, but are instead a means of better enjoying the principal supply
- Where there is a supply which has two or more elements so closely linked as to form a single supply which it would be impossible or artificial to split

Supply of more than one component

- If not a single composite supply, then the supply of the components shall be treated as multiple separate supplies
- Tax Treatment

Nature of Supply	Tax Treatment
Single Composite Supply	As applicable to the Principal Component
Multiple Separate Supplies	As applicable to each individual separate supply

Tax Group

Single Registration for various entities working in a Group

Option available to:

- **Related Parties**
- Having establishment in the State
- One or more persons conducting business in partnership shall control the others
- Related Parties: Two or more Persons who not separated on the economic, financial or regulatory level, where one can control the others either by Law, or through the acquisition of shares or voting rights
- Authorities may access the cases and suo moto register parties as Tax Group based on **economic, financial and regulatory** practices in the business
 - Aggregate the supplies of all entities to determine the registration threshold
 - Transaction between the group will not be subject to VAT
 - Reduction in compliance and cash flow burdens
 - No concept of multiple registrations for a single person



Procedures

Mandatory Registration

- Every person who has a **place of residence in state or implementing state** whose value of taxable supplies **in the state** exceeds or is expected to exceed the mandatory registration threshold
- The threshold for registration is:
 - Mandatory registration threshold: AED 375,000
- Threshold will be calculated as follows:
 - Total value of supplies (turnover) made by a person for the previous 12 months; or
 - Total value of supplies (turnover) is **likely to exceed** in next 30 days
- Apply for registration within 30 days from crossing the threshold

Mandatory Registration



- **A non-resident may be required to register under UAE Vat if his supplies exceed the threshold prescribed**
 - *Non-resident: Any person who does not own a Place of Establishment or Fixed Establishment in the State*
 - *Supplies covered under reverse charge would be excluded from turnover of non-resident*

Exporting State	Importer (Registered/ Unregistered)	The value of total exports by exporting dealer is below/ above the mandatory registration threshold	POS is in UAE or Outside?
UAE	Importer – not registered in his implementing state.	Below mandatory registration threshold in implementing state of importer	In
Another Implementing State	UAE Importer – Not registered in UAE	Above mandatory registration threshold in UAE	In

Voluntary Registration

- Any person whose value of taxable supplies or taxable expenses in the state exceeds or is expected to exceed the voluntary registration threshold can apply for registration
- The threshold for voluntary registration is: AED 187,500
- Threshold will be calculated as follows:
 - Total value of taxable supplies or taxable expenses made by a person for the previous 12 months; or
 - Total value of taxable supplies or taxable expenses is **likely to exceed** in next 30 days

How to calculate turnover?



Standard rated supplies

Zero rated supplies

Import of goods

Import of services

Taxable supplies by related parties

- Monitor moving 12 months turnover
- Likely to cross – **future contracts in hand**
- Dealing **only in zero-rated supplies** – registration not required
- Ministerial Committee may change the threshold limit post 3 years from implementation

Tax Group - Registration

Procedure and Conditions:

- One of the persons to apply for Tax Group
- Applicant to be First member representative of the Group
- FTA to take decision on application within 20 business days

FTA may reject the application in following cases:

- Conditions are not met
- Serious ground to believe that:
 - It will enable tax evasion or
 - Significantly decrease tax paid or
 - Significantly increase administrative burden of authorities
- Person is not a legal person
- One is government entity and other is not
- One is charity entity and other is not

- Transactions of all members would be treated as transactions of the Representative member (clubbing)
- All the members would jointly and personally responsible for tax payable by the representative member

Registration Due Dates

Turnover Crossing	Due Date
AED 150 million	31 st October 2017
AED 10 million	30 th November 2017
All other Business	4 th December 2017

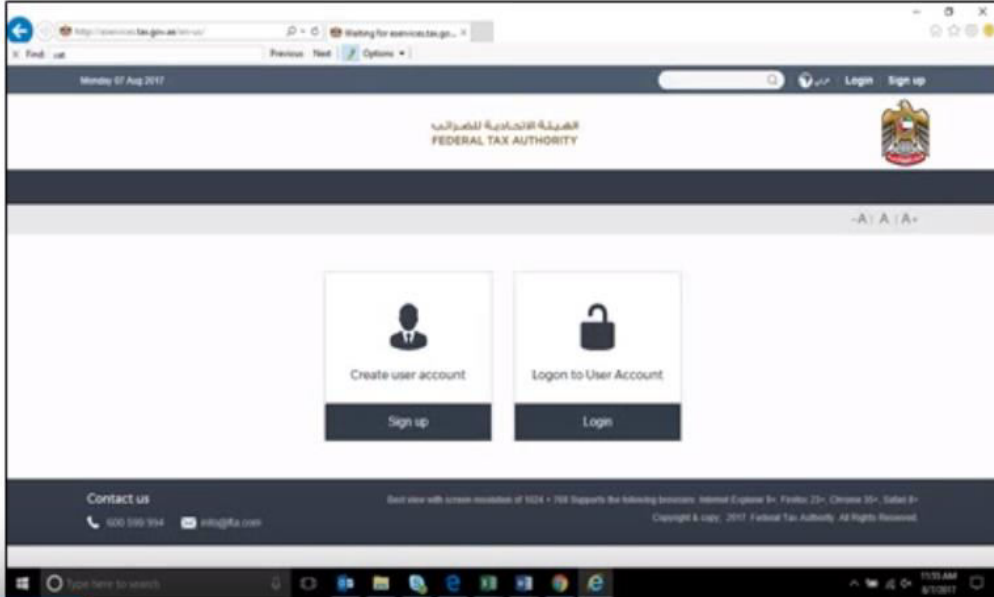
- Supporting documents required for registration:
 - Trade License
 - Partnership Agreement/ COI/AOI
 - Passport/ Emirates ID of individual or signatories
 - Bank Details/ Financial statements, etc
- FTA will need 20 days to verify registrations

Registration Procedure UAE

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

The FTA registration portal

The first time you access the portal you will be required to register your details



The screenshot shows a web browser window displaying the FTA registration portal. The page features the FTA logo and name in Arabic and English. Below the header, there are two main buttons: 'Create user account' with a person icon and 'Login to User Account' with a padlock icon. The 'Create user account' button has a 'Sign up' label below it, and the 'Login to User Account' button has a 'Login' label below it. The browser's address bar shows the URL 'http://www.tax.gov.ae/portal'. The page also includes a search bar, a date 'Monday 07 Aug 2017', and a footer with contact information and copyright details.

De - registration

- Voluntary registration taken – De-registration available only after 12 months
- Apply for de-registration if:
 - Stops making taxable supplies and
 - Does not intend to make such supplies over next 12 months period
- Apply for de-registration if:
 - Value of supplies or taxable expenses in last 12 months is below voluntary registration threshold and
 - is not likely to exceed the above limit in next 30 days
- Authority may suo moto de-register if above conditions are met
- No de-registration till payment of all taxes, penalties and filing of returns
- Authority shall inform about de-registration within 10 business days from making the decision

Returns and Payment of Tax

Periodicity:

- Standard periodicity of returns is three monthly
- To be filed by 28th of next month from the end of the tax period
- Tax due is also to be paid on or before filing of the return
- Different period may be assigned if it is found necessary or beneficial by FTA
- Taxable Person may request for ending of a tax period in a particular month and the authority may allow the same
- If, last day is a public holiday, the deadline to be extended to the first business day thereafter
- Supplies made in each emirate needs to be conveyed
- Incomplete return shall be treated as not having been accepted
- Correction of errors made in previous period can be carried out.

Import of goods/ services:

- If registered, pay vat on import along with tax return (*for goods and services both*)
- If unregistered, get the vat paid by the agent along with his tax return (*import of goods only*)
- If unregistered and no agent services availed, to be paid by self at the time of import (*import of goods only*)

Basic contents of a tax return

Name, Address, TRN

Tax period to which tax return relates

Date of submission

Value of taxable supplies (including subject to zero rate),
exempt supplies

Value of RCM supplies received, taxable expenses and
tax thereon claimed as credit

Value of due tax, recoverable tax, payable tax

Record Keeping

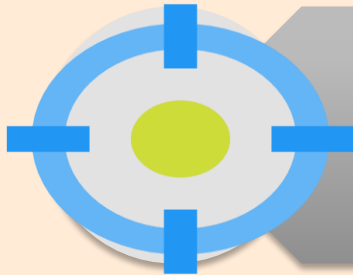
Specifications



Maintained for a specific time period



Kept on paper / electronically



Accurate, complete and readable

Record Keeping

Copies of invoices, debit/ credit notes, import/ export documents

Record of exempt/ zero rated supplies, taxable and exempt expenses

Record of Due tax, recoverable tax, ineligible input tax

Record of supplies to each Emirate

All record in Arabic, in case of other language, translation to be provided as required

Accounting Record and commercial books

Accounting Records and Commercial Books

Accounting Records and Commercial Books shall include the following:

- Records of payments and receipts
- Purchases and sales
- Revenues and expenditures and
- Any matters as required under any Tax Law or any other applicable law, including:
 - Balance sheet and profit and loss accounts.
 - Records of wages and salaries
 - Records of fixed assets
 - Inventory records and statements (including quantities and values) at the end of any relevant Tax Period and all records of stock-counts related to Inventory statements

Documentation for supplies between implementing states

Documents to capture the following:

- Supplier to provide a document similar to tax invoice
- Document should not be labelled as “Tax Invoice”
- Should not include tax charged
- Should contain TRN of the recipient as allotted to him by the implementing state
- Statement to identify supply is between state and implementing state
- Taxable person to retain official or commercial evidence of export of goods

Record Keeping - Timeframe

RECORDS RELATED TO	TIME FRAME
Documentation and accounting record of Taxable Person	5 years from the end the tax period to which it relates
Documentation and accounting record of Non-Taxable Person	5 years from the end the calendar year in which the document was created
Records related to Real Estate	15 years from the end of the tax period to which it relates
Capital Assets	At least for 10 years

Time lines for Voluntary Disclosure

TYPE OF DISCLOSURE	TIME FRAME
Additional tax liability of AED 10000 or less	a) Disclose in the tax return for the relevant period or b) Disclose within 20 business days from becoming aware of the error (if option (a) not available)
Additional tax liability of more than AED 10000	Disclose within 20 business days from becoming aware of the error
Reduction in refund due	Disclose within 20 business days from becoming aware of the error

Limitation period

Tax Evasion:

- **Use of illegal means** in reducing the Due Tax, non-payment of the Due Tax or a refund of Tax that he does not have the right to have refunded
- Burden to prove tax evasion is on the authority

NATURE	PERIOD
In case of Tax Evasion	Within 15 years from the end of the tax period to which the evasion relates
In case of non-registration	Within 15 years from the date when registration should have taken
In case where tax evasion or non-registration is not proved	Within 5 years from the end of the tax period to which the transaction relates

Penalties

Penalties

NATURE OF VIOLATION	PENALTY (in AED)
Record Maintenance	a) 10000 – 1 st time b) 50000 – repetition
Non-submission of record to authority in Arabic language	20000
Failure to submit registration application	20000
Failure to submit de-registration application	10000
Failure to inform amendments in tax record available with authority	a) 5000 – 1 st time b) 15000 – repetition
Failure to inform about oneself being appointed as Legal Representative	20000
Failure as Legal Representative to file a tax return	a) 1000 – 1 st time b) 2000 – repetition (within 24 months)
Failure to submit tax return	a) 1000 – 1 st time b) 2000 – repetition (within 24 months)

Penalties

NATURE OF VIOLATION	PENALTY (in AED)
Failure to pay tax: <ul style="list-style-type: none">• Stated in tax return or• Intimated in Assessment notified	Percentage of tax unpaid: <ul style="list-style-type: none">a) 2% (day 1 to 6)b) 4% (day 7 to end of the next calendar month)c) post above, 1% daily (max upto 300%)
Not accounting for tax due on import of goods	50% of the unpaid or undeclared tax
Failure to facilitate the work of tax auditor	20000
Failure to disclose prices inclusive of tax	15000
Failure to inform availment of margin scheme	2500
Failure to issue tax invoice/ credit note or an alternate document	5000 for each invoice/ credit note or document

Penalties

NATURE OF VIOLATION	PENALTY (in AED)
Submission of an incorrect tax return	<p>Penalty (1):</p> <ul style="list-style-type: none">a) 3000 – 1st timeb) 5000 – repetition <p>Penalty (2) Percentage of tax unpaid:</p> <ul style="list-style-type: none">a) 50% if no voluntary disclosure made or if the same is made after being informed of tax audit and tax audit process started, information sought for audit, whichever happen earlierb) 30 % if voluntary disclosure made after being informed of tax audit but before audit startsc) 5% if voluntary disclosure made before being informed about tax audit

VAT Simplified

VAT Simplified		Buy From		Sell To	
		Goods	Services	Goods	Services
Local (Supplier Customer)		5%	5%	5%	5%
GCC VAT Registered (Supplier Customer)		RCM	RCM	No UAE VAT	No UAE VAT
GCC VAT Non- registered (Customer)	Below Threshold – AED 375000			5%	5%
	Exceeding Threshold – AED 357000			No local VAT	5%
Out of GCC (Supplier Customer)		RCM	RCM	0%	0%

- *Business is registered in UAE and it's a taxable supply (other than zero rated)*

VAT Simplified – with reference to VAT Law

VAT Simplified		Buy From		Sell To	
		Goods	Services	Goods	Services
Local (Supplier Customer)		5% (2-1)	5% (2-1)	5% (2-1,3) (27-1)	5% (2-1,3)
GCC VAT Registered (Supplier Customer)		RCM (48-1)	RCM (48-1)	No UAE VAT (27-3-B-1) (66)	No UAE VAT (30-1) (66)
GCC VAT Non- registered (Customer)	Below Threshold – AED 375000			5% (27-3-A-2)	5% (2-1)
	Exceeding Threshold – AED 357000			No local VAT (27-3-B-2)	5% (2-1)
Out of GCC (Supplier Customer)		RCM (2-2) (48-1)	RCM (30-2) (48-1)	0% (27-3-A-1) (45-1)	0% (29) (45-1)

- *Business is registered in UAE and it's a taxable supply (other than zero rated)*
- *Reference to VAT Law (Law Article Number-clause number, paragraph number)*

Thank you

CA Sanket Shah

**"OPPORTUNITY IS MISSED
BY MOST PEOPLE BECAUSE
IT IS DRESSED IN
OVERALLS, AND LOOKS
LIKE WORK."
- THOMAS EDISON**

Disclaimer:

- My comments are based on UAE VAT Law and various updates (available in public domain)
- This publication contains information in summary form and is therefore intended for general guidance only. It is not intended to be a substitute for detailed research or the exercise of professional judgment. On any specific matter, reference should be made to the appropriate advisor.
- This presentation is prepared and circulated for WIRC of ICAI only