



BETA CONSULTANTS

**FREQUENTLY ASKED QUESTIONS
ON
VAT - DESIGNATED ZONES**

August 2018

VAT - DESIGNATED ZONES – FAQ's

1. Do all the Free Zones in UAE qualify for special VAT treatment?

No, not all Free Zones in UAE qualify for special VAT treatment. Only those Free Zones listed in a Cabinet Decision No. (59) of 2017 qualify for special VAT treatment. These nominated Free Zones are known as Designated Zones for VAT purpose.

Designated Zones are subject to strict control criteria, require having security procedure in place to control the movement of goods and people to and from the Designated Zone, required to have Customs procedures to control the movement of goods into and out of the Designated Zone and treated as being outside the territory of the UAE for VAT purposes for certain supplies of goods

Strict qualifying criteria are applied to limit the use of the Designated Zones measure to those businesses for which it is designed, i.e. it is a measure to facilitate international trade on a VAT neutral basis and is not one designed to enable tax avoidance at any level

2. Which Free Zones are treated as Designated Zone for VAT Purpose?

As per Cabinet Decision No. (59) of 2017 following free zones will be treated as Designated Zone for VAT purpose:

List of Designated Zones **Annex to the Cabinet Decision No. (59) of 2017**

No.	Designated Zone (Abu Dhabi)
1	Free Trade Zone of Khalifa Port
2	Abu Dhabi Airport Free Zone
3	Khalifa Industrial Zone
No.	Designated Zone (Dubai)
1	Jebel Ali Free Zone (North-South)
2	Dubai Cars and Automotive Zone (DUCAMZ)
3	Dubai Textile City
4	Free Zone Area in Al Quoz
5	Free Zone Area in Al Qusais
6	Dubai Aviation City
7	Dubai Airport Free Zone
No.	Designated Zone (Sharjah)
1	Hamriyah Free Zone
2	Sharjah Airport International Free Zone
No.	Designated Zone (Ajman)
1	Ajman Free Zone
No.	Designated Zone (Umm Al Quwain)
1	Umm Al Quwain Free Trade Zone in Ahmed Bin Rashid Port
2	Umm Al Quwain Free Trade Zone on Sheikh Monhammed Bin Zayed Road
No.	Designated Zone (Ras Al Khaimah)
1	RAK Free Trade Zone
2	RAK Maritime City Free Zone
3	RAK Airport Free Zone
No.	Designated Zone (Fujairah)
1	Fujairah Free Zone
2	FOIZ (Fujairah Oil Industry Zone)

3. What is the effect of operating business in Designated Zones?

The effect for businesses operating in Designated Zones will be that many supplies of goods will be outside the scope of UAE VAT, subject to strict criteria and detailed record keeping. However, supply of service is subject to the normal UAE VAT rules.

4. How are the entities within in a Designated Zone treated for VAT purpose?

Those businesses which are established, registered or which have a place of residence within the Designated Zone are deemed to have a place of residence in the UAE for VAT purposes.

The effect of this is that where a business is operating in a Designated Zone, it itself will be onshore for VAT purposes, even though some of its supplies of goods may be outside the scope of UAE VAT.

5. Do entities in Designated Zone need to register for VAT?

Any person carrying on a business activity in the UAE and making taxable supplies in excess of the mandatory VAT registration threshold (i.e. a taxable person) must apply to be registered for VAT purposes.

Any other person that is making taxable supplies or incurring expenses (which are subject to VAT), in excess of the voluntary VAT registration threshold may apply to register for VAT purposes.

6. Are entities in Designated Zone entity permitted to join a Tax Group?

Designated Zone businesses are considered to be established 'onshore' in the UAE for VAT purposes. This means that they have the same obligations as non-Designated Zone businesses and have to register, report and account for VAT under the normal rules. It also means they can join a tax group (VAT group) provided they meet the required conditions.

7. How are supplies of Services treated in relation to designated zone?

The place of supply of services is considered to be within the UAE if, under the normal rules, the place of supply would be the Designated Zone.

This override to the normal place of supply of services rules means that, in all circumstances, the place of supply of services supplied in Designated Zones reverts to being in the UAE. Such supplies are then taxed in accordance with the general VAT rules for supplies of such services.

This means that most services will be liable to VAT at the standard rate, as would be the case were they performed within the UAE. Equally, where services are exported (i.e. made to a person who is resident and located outside the GCC Implementing States), then the services may be zero-rated.

8. How are supply of Goods treated in relation to Designated Zone?

Since the place of supply for goods generally follows the location of the goods, a supply of goods within a Designated Zone is treated as made outside the UAE. This means that the default position is that such supplies are not subject to UAE VAT.

This default position is overridden where a supply of goods is made within a Designated Zone to a person to be consumed by him or another person – in these situations, the place of supply will be treated in the UAE and VAT will be applicable under the normal rules.

9. Under which circumstances Goods consumed in a Designated Zone are treated to be out of scope?

The Goods consumed in a Designated Zone can be treated as being outside the scope of VAT, when the purchased goods are:

- incorporated into, attached to or otherwise form part of another good located in the same Designated Zone and that other good is not consumed; or
- used in the production of another good located in the same Designated Zone and that other good is not consumed.

10. Are goods purchased for resale within the Designated Zone out of scope of VAT?

YES, As the resale of goods is not treated as consumption of the goods in the context of Article 51(5) of VAT executive regulation, trading Stock purchased by a business for resale within the Designated Zone are out of scope of UAE VAT.

11. Are goods purchased within the Designated Zone used in production of goods to be sold by the manufacturer considered out of scope of VAT?

YES, goods purchased within the Designated Zone and used in the production of goods which will be sold by the manufacturer are out of scope of VAT.

Although purchased goods will be “consumed” by the manufacturer, however such consumed goods will form part of the manufactured product which itself will not be consumed by the manufacturer. Consequently, the exception to the default place of supply rules Article 51(5) of VAT Executive Regulation will not apply.

12. Does purchase of tools within the Designated Zone, which are used in manufacturing of goods for further sale considered out of scope of VAT?

YES, the purchase of work tools within the Designated Zone, which are used in manufacturing of goods and such goods are then sold by the manufacturer, then such purchase is out of scope of VAT.

Although purchased tools will be “consumed” by the manufacturer, these tools will be applied directly in the process of manufacturing other goods which are not consumed by the manufacturer. Consequently, the exception to the default pace of supply rules in Article 51(5) of the VAT Executive Regulation will not apply.

13. Will purchase of goods like office computer, food, stationary, a company car, fuel for company car, office furniture, and similar goods within the Designated Zone, to be used in the general running of company be considered out of scope of VAT?

NO, the purchase of goods like office computer, food, stationary, a company car, fuel for company car, office furniture, and similar goods within the Designated Zone, to be used in the general running of company will fall within the scope of UAE VAT.

The purchased goods will be consumed by the business, and will not be incorporated into, attached to or otherwise form part of or are used in the production of another good. Therefore, Art 51(5) of the VAT Executive Regulations brings the sale into the scope of UAE VAT.

14. Will a computer purchased within the Designated Zone, for creating designs for goods to be manufactured by the manufacturer considered to be out of scope of VAT?

NO, the computer purchased within the Designated Zone, for create designs for goods to be manufactured by the manufacturer will fall within the scope of UAE VAT.

Although the computer is used in wider manufacturing process, it is not used directly in the process of producing the goods – i.e. the creation of designs is one step removed from the process of actually producing the goods themselves. Therefore, Article 51(5) of VAT Executive Regulation brings the sale into scope of UAE VAT.

15. Are goods purchased within the Designated Zone by an individual to be used for private purpose considered out of scope of VAT?

NO, the goods purchased within the Designated Zone by an individual to be used for private purpose will be within the scope of UAE VAT.

Since the goods will be used for non-business purpose, they will be treated as consumed by the individual. Therefore, Article 51(5) of VAT Executive Regulation brings the sale into scope of UAE VAT.

16. Who is responsible for identifying the intended use of goods?

The onus is on the supplier to ensure that it treats a supply correctly for VAT purposes. Therefore, generally, suppliers should not treat supplies of goods as being outside the scope of UAE VAT unless they are satisfied that there is no risk that the goods may be used by the purchaser for non-qualifying purposes.

The Authority expects that in most arm-length situations, a written statement from the recipient that the goods will not be consumed should be enough for these purposes.

It should be noted that in many situations, the reasons behind the purchase should be clear from the context. For example, food sold by a grocery store within a Designated Zone are unlikely to be used for anything other than consumption by the purchaser or a third party.

17. How will the supply of goods from outside UAE to Designated Zone be treated under UAE VAT?

Since Designated Zones are treated as outside the UAE for VAT purposes, a movement or supply of goods into a Designated Zone from outside the UAE would be treated as taking place outside the UAE. Therefore, no UAE VAT would be charged on such movement or supply.

18. How will the supply of goods from mainland UAE to Designated Zone be treated under UAE VAT?

A movement of own goods, or a supply, from mainland UAE to a Designated Zone is not considered to be an export of goods from the UAE. Therefore, such movements and supplies are treated as local movements / supplies.

19. How will the supply of goods from one Designated Zone to another Designated Zone treated under UAE VAT?

A transfer of goods (that is, either a sale or movement of own goods) between two Designated Zones will be treated as outside the scope of VAT subject to the following two conditions being met:

1. the goods, either in part or in their entirety are not released into circulation, nor used or altered in any way during the transfer between the Designated Zones; and
2. the transfer for the goods is undertaken in accordance with the rules for Customs suspension per the GCC Common Customs Law.

Note: Where goods are moved between Designated Zones, the FTA may require the owner of the goods to provide a financial guarantee for the payment of VAT, which the owner may become liable for, if the conditions for movement of the goods are not met.

20. How will the movement of Goods from Designated Zone to Mainland be treated under UAE VAT?

Movement of goods from a Designated Zone into the mainland UAE will be treated as an import of goods into the UAE and VAT will be imposed on such import of the goods and can be reported under reverse charge mechanism.

21. What will be the VAT impact if goods located in Designated Zone are subsequently consumed or lost?

In all cases, goods which are located in a Designated Zone on which the owner has not paid VAT will be treated as imported into the UAE where:

- the goods are consumed by the owner, unless the goods are incorporated into, attached to or otherwise form part of or are used in the production of another good located in a Designated Zone and that other good is not itself consumed; or
- the goods are unaccounted for.

These provisions apply to the owner of the goods.

Note: Where VAT has not been paid on the acquisition of goods, owners must monitor the status of the goods to ensure that VAT is paid if the conditions for importation are triggered.

22. What is the VAT impact on real estate supply in Designated Zone?

Supplies of real estate, which include the sale and lease of real estate under a sale or lease agreement, are treated as supplies of goods. The place of supply of such supplies is where the real estate is located.

It should be noted that real estate is not treated as consumed when sold or leased within a Designated Zone and therefore such supplies of real estate are not brought into the scope of UAE VAT by Article 51(5) of the Executive Regulations. As such, supplies of real estate made within Designated Zones are outside the scope of VAT except in certain circumstances as explained in Q23.

In light of the above, raw materials purchased within a Designated Zone for the purpose of constructing real estate in the Designated Zone are also outside the scope of VAT. This is because the raw materials will be used in the production of another good (the real estate) located in the same Designated Zone which itself is not consumed.

23. Under what circumstances will a supply of real estate be taxable in Designated Zone?

Where real estate is not supplied by way of sale or a lease under a sale or lease agreement, it is a supply of services related to real estate. This includes but is not limited to granting a personal right to use real estate, licences to occupy real estate, the provision of contractual rights exercisable over or in relation to real estate, including the right to use accommodation in a hotel or similar establishment, and similar.

The place of supply of all services is considered to be within the UAE if, under the normal rules, the place of supply would be within a Designated Zone. As a result, supplies of services related to real estate will be taxable even if supplied within a Designated Zone.

24. Can a business established in a Designated Zone form a tax group with any other company in UAE?

For tax grouping purposes, a business established within a Designated Zone (which is still treated as a UAE business) is able to form a tax group with an onshore company (or companies) or another Designated Zone company (or companies), subject to meeting the normal control criteria.

The usual consequences of tax grouping follow, such as supplies between members being disregarded for VAT purposes, and there being joint and several liability of the members of the tax group.

It should be noted, however, that where a supply of goods between the tax group members results in the goods being moved from a Designated Zone into the UAE mainland, this importation of the goods would trigger Import VAT and same could be reported under reverse charge mechanism.



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