Grant Thornton

UAE VAT Reporting Rules for Electronic Supplies

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Is your business covered under the special VAT reporting rules for electronic supplies?

The buzz in the UAE market is around Corporate Tax and how it will impact businesses and their profits. There have been a series of Cabinet and Ministerial decisions being issued by the Federal Tax Authority (FTA) along with the publication of the guides to ensure smooth implementation of Corporate Tax in the UAE.

However, in regard to Value Added Tax (VAT), as it's been more than five years of implementation; it would be fair to assume that the VAT position and the teething issues which businesses faced initially would have settled; and this has been possible due to constant publications from the FTA in form of guides, clarifications, awareness sessions, etc. There have been recent amendments to the VAT Laws, VAT Executive Regulations and the Tax Procedures Laws - an important amendment amongst others is the Emirate-wise VAT reporting applicable to businesses engaged in electronic supplies. This amendment is effective from 1 July 2023 and applies to VAT returns to be filed for the period beginning on or after this date.

What is the amendment to the Emirate-wise VAT reporting?

The VAT reporting for standard-rated transactions is required to be shown separately for each Emirate considering the following:

- The location, i.e. a fixed establishment from where the business provides goods or services to the customers; the transactions are required to be shown in the corresponding Emirate or
- If the business do not have a fixed establishment in the UAE, then transaction is to be reported under the Emirate where the supply is received by the customer or based on the place of establishment, i.e. the place of residence of the business

As an exception to the above rule, special reporting rules are framed through the amendments in VAT the Executive Regulations and would apply under the following circumstances:

- If the business is engaged in e-commerce supplies and;
- The supply is made through an electronic commerce medium and;
- The value of e-commerce supplies during calendar year 2022 exceeded AED 100 mn

Based on the special reporting rules, the standard-rated supplies are required to be reported under the Emirate where the supply is received. What constitutes e-commerce and electronic commerce medium is defined in the VAT Executive Regulations and the Cabinet Decision issued by the FTA.

To whom the amendment would apply?

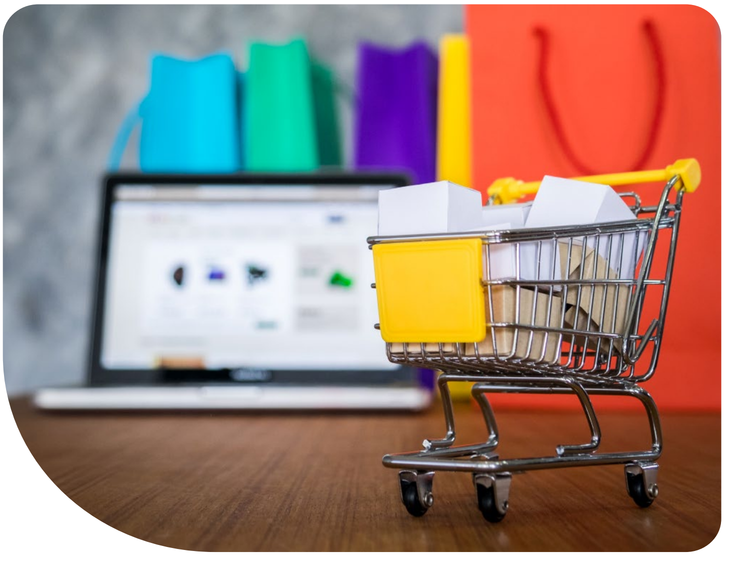
Considering the above criteria, an important assessment which is required to be carried out by the businesses is to ascertain whether their supplies qualify as e-commerce supplies and is it provided through an electronic commerce medium. It is expected that businesses involved in online listing and supplying goods to the customers at their location would be covered.

So, a retailer who has branches across the UAE and also sells goods through electronic mediums such as website, applications, intermediary's applications, etc would be required to identify the sales through e-commerce and from branches separately. This would be required to be done for previous calendar year to see if the threshold of AED 100m is crossed for online sales and if yes, then it would also apply from July 2023.

The accounting systems should be updated to clearly identify the online sales and the Emirate where the goods are delivered to the customer. The system generated VAT reports should be accordingly amended to reflect the delivery location for online sales. The customer's billing location or the IP location of the customer will not be relevant. An exception to the rule could be cases where the goods are sold on ex-works basis, i.e. the customer would pick-up the goods from the supplier's location.

The amendment would also apply to businesses engaged in the hospitality sector and involved in listing the products / services on the portal. An important element to note here is that it is not only the services which are provided electronically would be covered but also the right which grants access to receive any services. It is expected that the services such as providing accommodation, amusement parks, food delivery, maintenance services etc would be covered provided the right to receive the services is provided electronically without any human intervention. The businesses would be required to identify the location where the services are received by the customer. For example, in case of food delivery; it would be the Emirate where the food is delivered and in case of hotels / amusement parks etc it may be the Emirate where property is located. On contrast, the place of residence of the customer may also be considered the place where the services are received despite the actual services being received in the different Emirate.

For example – the place of residence of the customer is Abu Dhabi and the property / amusement park is in Dubai then the VAT would be reported in Abu Dhabi Emirate leading to VAT revenue for the Emirate despite the actual consumption of the services in Dubai. It is still to be seen how the place where services are received would be interpreted. There would be penalties applied in case of incorrect reporting and corrections undertaken through filing of Voluntary disclosures. It should also be noted that the customer billing location or the fixed establishment from where the services are provided should not be considered to determine the Emirate-wise reporting.



It is also expected that the amendment would apply to the Banks and financial institutions for their services which are provided electronically. This may include services such as cash transfers, cheque book issuance, e-banking set-up etc for which explicit fees are charged by the Banks. Also, insurance companies issuing policies to the customers through electronic medium and without human intervention may also be covered.

Once the transactions which qualify as electronic supplies are identified, businesses would be required to monitor the turnover and ascertain if exceeded AED 100m for calendar year 2022. If this is exceeded, then the special reporting needs to be followed for a period of 18 months, i.e. up to December 2024. In addition, business would need to calculate whether the turnover has crossed AED 100m for calendar 2024 and if yes, then the special reporting needs to be continued for another two years. If the threshold of AED 100m is not exceeded for the calendar year 2022 then the business would still be required to calculate the turnover every year. In cases where the threshold is crossed in any calendar year, then the special reporting needs to be followed from the first tax period in the next calendar year. It should be noted that until the time threshold is crossed, the Emirate-wise reporting based on the fixed establishment closely related to the supply should be followed.

Considering the above amendments, it would be crucial for businesses in the UAE to analyse if the special reporting rules applies. For this, a careful exercise should be carried out to identify which supplies are covered, how the accounting system should be configured to ascertain the emirate where services are received, turnover calculations, etc.

Speak to our experts

We have a diverse team with international experience from multiple Tax jurisdictions outside the GCC. Our team will bring fresh challenges and insights as well as extensive cumulative knowledge and experience.

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