

United Arab Emirates

Amendment of the VAT Executive Regulations

November 2022





In brief

On 21 October 2022, the United Arab Emirates (UAE) Cabinet issued Cabinet Decision No. 99 of 2022 amending the provisions of articles 3 and 72 of the UAE VAT Executive Regulations. The amendments are effective from 01 January 2023.

The amendment under Article 3 stipulates that the functions of a member of a board of directors are no longer considered a supply of services. Whereas Article 72 requires taxable persons making taxable supplies through electronic commerce to keep records of the transaction to prove the Emirate in which the supply is received.

In detail

Article 3 - Supply of Services

VAT treatment of functions performed by members of a board of directors:

Article 3 of the VAT Executive Regulations introduced a new clause (No.2) stipulating that the functions of a member of a board of directors, performed by a natural person appointed as such, for any government entity or private sector establishment, are no longer considered a supply of services for VAT purposes.

This change in the VAT treatment of functions of a member of a board of directors is effective from 01 January 2023.

The FTA issued Public Clarification VATP031 clarifying certain aspects of the amendment in more detail.

The Public Clarification clarified that for the provision of directors' services not to be considered as a supply of services for VAT purposes according to the amended Executive Regulations, the following conditions must be met:

- The services are provided by a natural person - This amendment does not extend to a legal person, whether private or public, who may delegate in its own name a natural person to act as Director.
- The person is appointed as a director on a Board of any government entity or private sector establishment - Other services provided by the member are considered to be supplies of services for VAT purposes and may be taxable.

The Public Clarification lists transitional rules for the change in the VAT treatment of functions performed by members of a board of directors for the period both prior to and from 01 January 2023.



The new record keeping requirements for supplies made through e-commerce stipulate taxable persons to keep records to prove the Emirate in which the supply is received. No changes were introduced for record keeping for non-e-commerce supplies.

Whereas, the amendment to the VAT treatment of functions performed by member of a board of directors may require the latter to deregister from VAT. ”



Introduction of new record keeping requirements for taxable supplies made through electronic commerce

Article 72 - Record Keeping of the Supplies Made

Introduction of new record keeping requirements for taxable supplies made through electronic commerce

The new Cabinet Decision amended the provisions of Article 72 of the VAT Executive Regulations to introduce specific record keeping requirements for taxable supplies made through electronic commerce.

The amendment to Article 72 introduced:

- a definition for electronic commerce,
- a threshold of which taxpayers would be required to apply the record keeping mechanism, and
- a specific time period to comply with the amendments.

Electronic commerce definition

- As per clause 5 of Article 72, electronic commerce refers to the process of selling goods or services through electronic means, an electronic platform, a store in social media, or electronic applications in accordance with criteria and conditions determined by the Minister.

Threshold

- Taxable persons making taxable supplies through electronic commerce are required to keep records of the transaction to prove the Emirate in which the supply is received.
- The new record keeping requirements applies to taxable persons making taxable supplies through electronic commerce exceeding AED 100 million per calendar year.

Effective start date

The new record keeping requirements shall apply:

- Starting from the first tax period beginning on or after 01 July 2023 and for a period of eighteen (18) months for the taxable person whose taxable supplies made through electronic commerce exceed the AED 100 million threshold during the calendar year ending on 31 December 2022.
- For a period of two (2) years starting from the first tax period of the calendar year that begins after the date of which taxable electronic commerce supplies exceed the AED 100 million threshold.

The takeaway

Taxable persons are required to review amendments made to the VAT Executive Regulations and ensure implementation readiness by the effective date of 01 January 2023.

In particular, taxable persons making taxable supplies through electronic commerce - and subject to meeting the threshold of AED 100 million - are now required to assess the changes related to record keeping to prove the Emirate in which the supply is received and to report the same in the VAT return.

Natural persons performing the function(s) of a member on a Board of Directors must review their tax obligations for the period both prior to and from 01 January 2023, as these functions are no longer considered a supply of services for VAT purposes.

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Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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