VAT IN THE UAE

OVERVIEW OF VAT

DIRECT AND INDIRECT TAX

Direct Tax

- The person paying the tax to the Government directly bears the incidence of tax
- It is progressive in nature – high rate of taxes for people having higher ability to pay.
- Eg. Income Tax

Indirect Tax

- The person paying the tax to the Government collects the same from the ultimate consumer.
- The incidence of tax is shifted to the other person.
- Regressive in nature – all consumers equally bear the burden, irrespective of their ability to pay.
- Eg. Customs Duty, Excise Tax, Value Added Tax

VALUE ADDED TAX

- Tax on the value added to the commodity at each stage in production and distribution chain.
- It is a system to collect tax on the value at the final or retail point of sale.
- VAT is a **consumption tax** because it is borne ultimately by the final consumer of goods.

VARIANTS OF VAT

- **Consumption Variant**: allows deduction for all business purchases including capital assets.
- Thus gross investment is deductible in calculating the value added.
- It neither distinguishes between capital and revenue expenditures nor specifies the life of assets or depreciation allowance for different assets.

ORIGIN/DESTINATION PRINCIPLE

- **<u>Origin based tax</u>** – levied, collected and retained by the State where the goods are produced.
- "Origin Principle" – value added domestically on all goods whether exported or locally consumed.
- No Tax on value added abroad
- Exports are taxed and Imports are exempt under this Origin Principle

ORIGIN/DESTINATION PRINCIPLE

- **Destination based tax** – taxed in the State where it is consumed – tax on the basis of location of consumption or destination
- VAT on value added of all taxable products that are consumed domestically
- Value added irrespective of place of origin attracts tax
- Destination principle in used in “Consumption Variant”

METHODS OF COMPUTING VAT

- **Invoice Method:** Tax is imposed at every stage of sales on the entire sales value and tax paid at the earlier stage is allowed as set-off. At every stage the differential tax is paid. At every stage, the tax is to be charged separately in the Invoice.

INPUT TAX & OUTPUT TAX

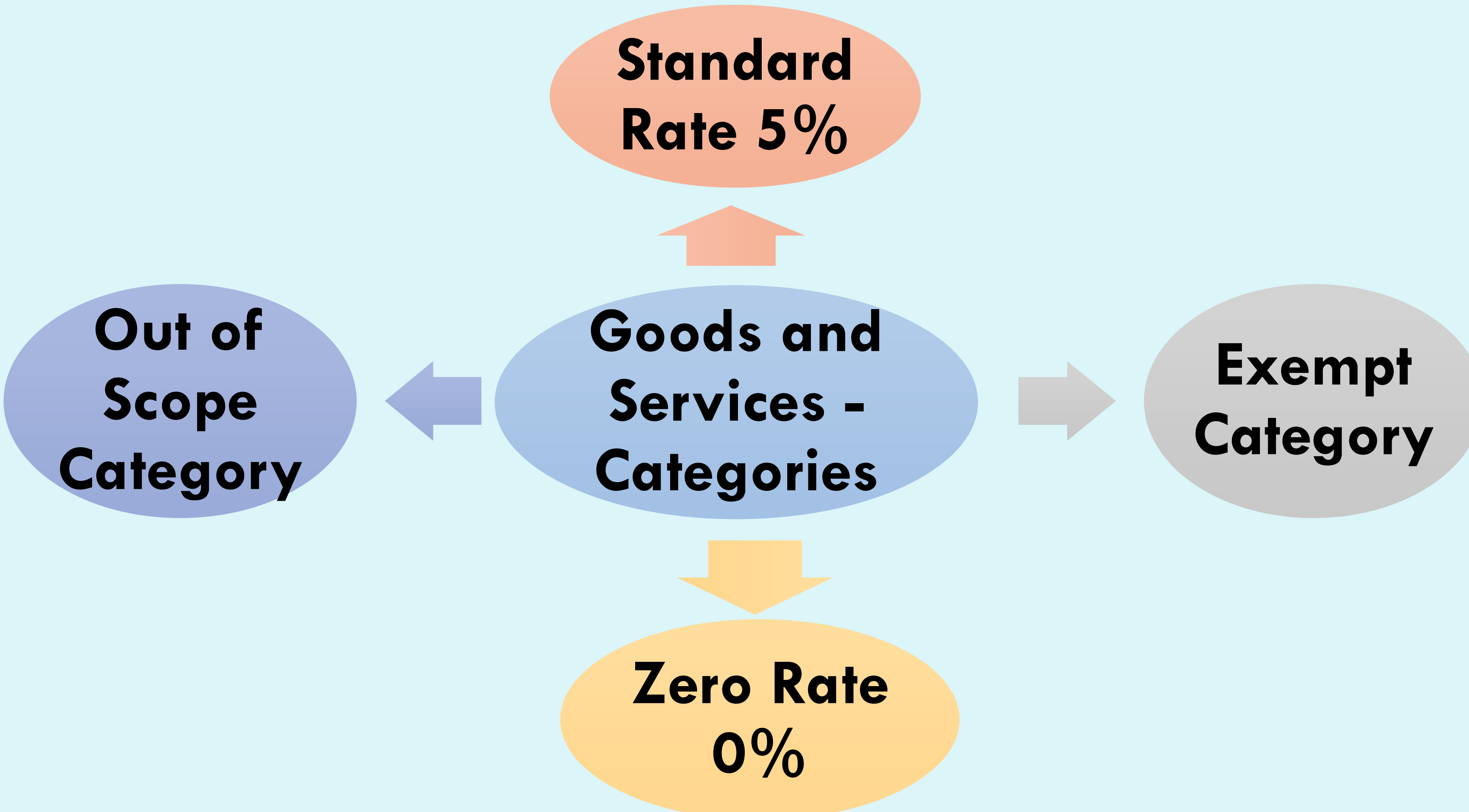
Input Tax

- Tax paid by a person or due from him when Goods or Services are supplied to him, or when conducting an Import

Outpu t Tax

- Tax charged on a Taxable Supply and any supply considered as Taxable Supply

VAT CHARGE CATEGORIES



SUPPLIES UNDER DIFFERENT CATEGORIES

Standard-Rated Supplies

- Standard Rate is 5% as per Article 3
- Standard Rate is imposed on any supply or Import on the value of the supply or Import – most of the goods and services will get covered under the Standard Rate of 5%

Zero-Rated Supplies

- Article 45 gives a list of goods and services which are subject to Zero Rate VAT
- Exports are Zero Rated

SUPPLIES UNDER DIFFERENT CATEGORIES – CONTD..

VAT-Exempt Supplies

The following businesses are often exempt from VAT in order to reduce its impact on the population:

- Financial services, including both banks and life insurance companies;
- Sale or lease of residential property other than Zero Rated;
- Supply of Bare Land
- Supply of local passenger transport

Out-of-Scope Supplies

- Supplies where goods and services are delivered by an overseas supplier to another overseas person are generally included in this category as do private and non-business transactions.

WHY VAT

- New source of revenue for the Government in view of the lower oil prices and depleting oil reserves
- VAT will help the Government to ensure high quality public services
- UAE will continue to be a livable and lovable place

POINT OF TAX

Goods	Services
Earlier of: (a) Date of Payment (b) Date at which goods are made available (c) Date of issue of VAT Invoice	Earlier of: (a) Date of Payment (b) Date at which services are rendered (completed) (c) Date of issue of VAT Invoice

RULES PERTAINING TO SUPPLIES

DATE OF SUPPLY

Date of Supply is the date on which:

- ✓ Recipient of goods accepted the supply or a date no later than 12 months after the date on which goods were transferred or placed under recipient disposal – supply on returnable basis
- ✓ Services were completed
- ✓ Receipt of payment or date on which tax invoice was issued

As per Article 19 of the Executive Regulations, the tax shall be due to the extent of the payment made or stated in the Tax invoice, and the remainder of the Due Tax shall be payable according to the provision of the Law

PLACE OF SUPPLY – GENERAL RULE

<u>Article 27:</u>

- **<u>Goods</u>** – Place of supply is determined by location of goods when the supply takes place – place of supply of goods shall be in the state if supply was made in the state and does not include export from or import into the State
- Place of Supply of installed or assembled goods if exported from or imported into the State shall:
  - In the State if the assembly or installation was done in the state
  - Outside the State if the assembly or installation was done outside the State

PLACE OF SUPPLY OF SERVICES

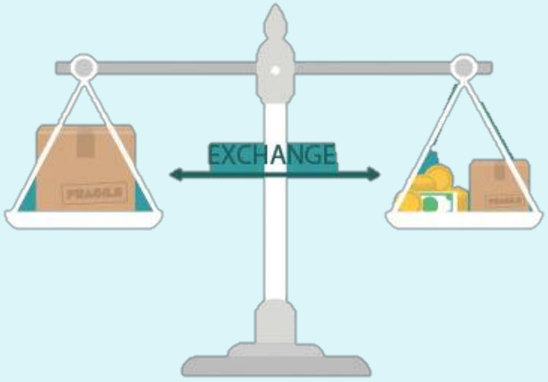
Article 29 of the VAT Law:

- Place of supply of services shall be the Place of Residence of the Supplier

VALUE OF SUPPLY

Article 34 of the VAT Law:

- If entire consideration is monetary, the value of supply shall be Consideration less tax
- If non-monetary part is included in consideration, the value of supply will be monetary part plus the market value of the non-monetary part of the consideration, not including the Tax

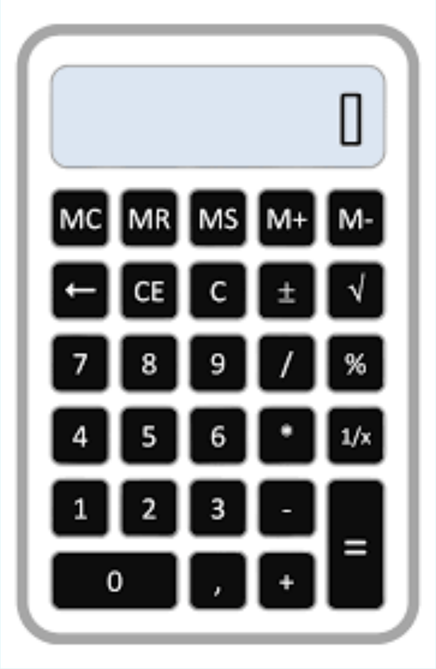


SUPPLY OF GOODS & SERVICES AT ZERO RATE

Clause 13 of Article 45 of the VAT Law:

Supply of Educational Services and related goods and services for nurseries, preschool, elementary education and higher educational institutions owned or funded by Federal or Local Government as specified in Executive Regulation

CALCULATION OF DUE TAX



VAT LIABILITY – DUE TAX FOR A TAX PERIOD

- **Article 53 of the VAT Law:**
- The payable tax for any tax period shall be calculated as being equal to the total Output Tax payable less the total Recoverable Tax over the same period.

Net Tax payable = **Output Tax** − **Recoverable Input Tax**

*If the Net Tax is negative refund is collected from the Government or is adjusted in the subsequent tax period against the output tax of that period (Input Tax paid is more than Output Tax collected)

RECOVERABLE INPUT TAX – ARTICLE 54 OF VAT LAW

- Clause 1 – Input Tax recoverable for any tax period is the total of the input tax paid for goods and services which are used or intended to be used for making any of the following:
  a. Taxable supplies
  b. Supplies that are made outside the state which would have been taxable supplies had they been made in the state
  c. Supplies specified in the Executive Regulations that are made outside the state, which have been treated as exempt had they been made inside the state – as per Clause 1 of Article 52 of the Executive Regulations this exempt supply refers to "supply of financial services"

NON-RECOVERABLE INPUT TAX

<u>Article 53 of Executive Regulations:</u>

- Where the person is not a Government Entity in accordance with Article 10 and 57 of VAT Law, and there is provision of "<u>entertainment services</u>" to anyone not employed by the Person including customers, potential customers, officials or shareholder or other owners or investors
- "Entertainment Services" shall mean hospitality of any kind including provision of accommodation, food and drinks which are not provided in the normal course of a meeting, access to shows or events or trips for pleasure or entertainment

NON-RECOVERABLE INPUT TAX

- Where the goods or services were purchased to be used by employees for no charge to them and for their personal benefit except the following cases:
  - Where it is a legal obligation to provide those services or goods
  - It is a contractual obligation or documented policy to provide those services or goods to those employees to perform their role and is normal business practice
  - Where it is a deemed supply as per VAT Law

NON-RECOVERABLE INPUT TAX

- Provision of catering and accommodation services shall not be treated as entertainment services where it is provided by a transportation service operator, such as an airline, to passengers who have been delayed

NON-RECOVERABLE INPUT TAX

- Where a <u>motor vehicle</u> was purchased, rented or leased for use in the business and is <u>available for personal use by any person</u>
- Motor Vehicle shall mean a road vehicle which is designed or adapted for the conveyance of no more than 10 people including the driver.
- Motor Vehicle shall exclude a truck, forklift, hoist, or other similar vehicle
- A motor vehicle shall not be treated as being available for private use if it is within any of the following categories:
  - A taxi licensed by the competent authority within the state
  - A motor vehicle registered as and used for purposes of an emergency vehicle, including by police, fire, ambulance, or similar emergency services
  - A vehicle used in vehicle rental business where it is rented to a customer

INPUT TAX PAID BEFORE TAX REGISTRATION

Article 56 of the VAT Law:

- A registrant may recover Recoverable Tax incurred before Tax Registration on the Tax Return submitted for the first Tax Period following the Tax Registration, which has been paid for any of the following:
  - Supply of Goods and Services made to him prior to the date of Tax Registration
  - Import of Goods by him prior to the date of Tax Registration

APPORTIONMENT OF INPUT TAX

Article 55 of Executive Regulations:

- The Taxable Person shall apportion the Input Tax as follows:
  - Input Tax on supplies that wholly relates to supplies as specified in Clause 1 of Article 54 of the VAT Law shall be recoverable in full
  - Input Tax that does not relate to supplies specified in Clause 1 of Article 54 shall not be recoverable unless the provision allows otherwise
  - Input Tax that partly related to supplies specified in Clause 1 of Article 54 shall be recovered partly after being apportioned as detailed below:
    - Percentage of Recoverable Tax and Non-Recoverable Tax for the Tax Period
    - Percentage to be rounded off to the nearest whole number
    - Percentage multiplied by the Input Tax to establish the recoverable portion of Input Tax

APPORTIONMENT OF INPUT TAX

- The apportionment for the whole year should be calculated to check with the actual recovery made in each tax period and an adjustment to recoverable tax, if any shall be made in the first Tax Period of the subsequent Tax year
- If the difference is more than AED 250,000 then it shall be adjusted in the first tax period of the subsequent tax year
- If the difference is any other amount then the tax authority may accept an alternate mechanism for apportionment of input tax

CAPITAL ASSETS SCHEME

Article 60 of the VAT Law:

- If a capital asset is supplied or imported by a Taxable Person, the latter shall assess the period of use of such asset and make the necessary adjustments to the Input Tax paid pursuant to the Capital Assets Scheme
- The taxable person shall maintain records related to Capital Assets for 10 years

ASSETS CONSIDERED CAPITAL ASSETS

Article 57 of Executive Regulations:

- A capital asset is a single item of expenditure of the business amounting to AED 5,000,000 or more excluding Tax, on which Tax is payable and which has estimated useful life equal or longer than:
  - 10 years in the case of building or a part thereof
  - 5 years for all capital assets other than buildings or part thereof
- Item of stock, which are for resale, shall not be treated as Capital Assets

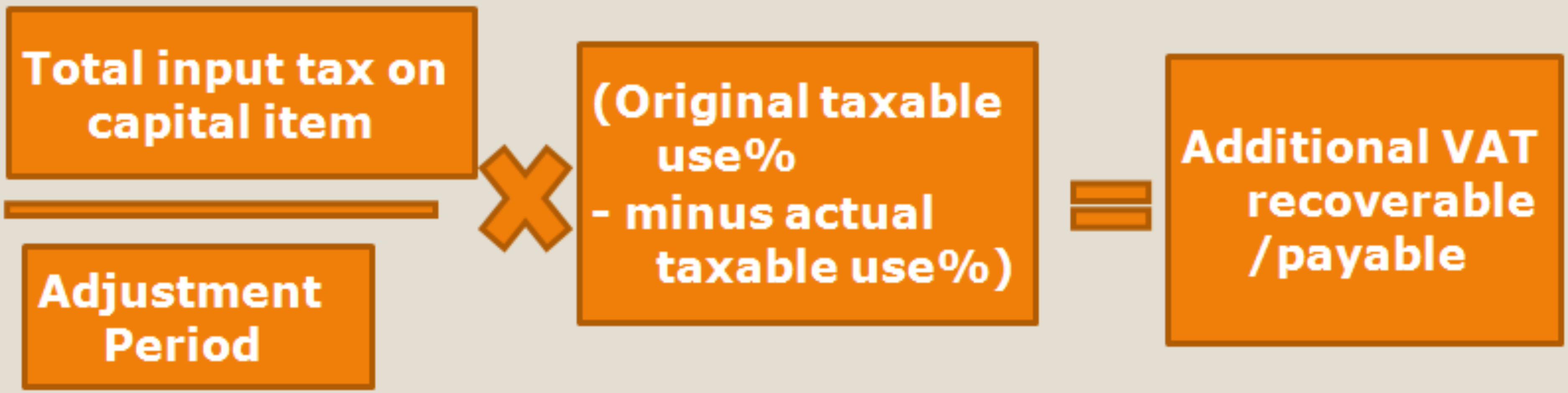
ASSETS CONSIDERED CAPITAL ASSETS

Article 57 of Executive Regulations:

- Expenditure of smaller sums collectively amounting to AED 5,000,000 or more shall be treated as a single item where the sums are staged payments for the following:
  a. For purchase of a building
  b. For the construction of a building
  c. In relation to extension, refurbishment, renewal, fitting out, or other work undertaken to a building except where distinct break shall be taken to be separate items of expenditure
  d. For purchase, construction, assembly or installation of any goods or immovable property where components are supplied separately for assembly

CAPITAL ASSET SCHEME – ARTICLE 58 OF EXECUTIVE REGULATION

- Adjustment Calculation



ADJUSTMENTS UNDER THE CAPITAL ASSETS SCHEME

- If the Capital Asset is disposed of by the Taxable Person in any year other than the final year or if the Tax Payer deregisters from Tax and is required to account for the tax on the asset as a Deemed Supply, the use to which the Capital Asset is deemed to have been put in any remaining years will be:
  - For making taxable supplies, where it is disposed by way of supply or deemed supply that is subject to tax or would be subject to Tax were it to be made in the State
  - For making Exempt Supplies, where it is disposed of by way of a supply that is exempt or would be exempt were it to be made in the State
  - Not in the course of conducting business, where it is disposed of by way of a transactions that is not deemed as supply in the course of business unless it is deemed as supply under Clause 2 of Article 7 of VAT Law

ADJUSTMENTS UNDER THE CAPITAL ASSETS SCHEME

- Where a Taxable Person transfers capital asset as part of transfer of his business according to Clause 2 of Article 7 of VAT Law or becomes a member of a Tax Group or to leave a Tax Group and immediately become a Taxable Person on a stand-alone basis, then the Tax year then applying shall end on the day the Taxable Person transfers the Business or part of the business or becomes or ceases to be part of a Tax Group. On the next day the Next year shall commence with the owner of the Capital Asset.
- If the person who registers for Tax has already owned a Capital Asset for the purpose of his business before registration for Tax, Year 1 shall be deemed to have commenced on the date of the first use by that person.

TAX INVOICE
TAX RETURN AND RECORDS

CONDITIONS AND REQUIREMENTS FOR ISSUING TAX INVOICES

Article 65 of VAT Law:

- The process of charging VAT on supplies of goods and services requires businesses to issue VAT invoices.
- A VAT Invoice is a document that must be produced and issued by VAT registered businesses to provide documentary evidence of the sale of goods and services in compliance with the VAT law.
- A VAT Invoice is also required by the business as documentary evidence to support VAT credit claims, i.e. VAT incurred on the acquisition of goods and services for the purposes of the business can only be claimed if the business holds a valid VAT Invoice from the vendor.
- **Article 67**: The registrant shall issue Tax Invoice within 14 days as of the date of supply
- **Article 69**: If the supply is in a currency other than UAE dirhams, then for the purpose of tax invoice, the amount stated in the Tax Invoice shall be converted into UAE Dirhams according to the exchange rate approved by Central Bank at the date of supply

TAX INVOICE - ARTICLE 59 OF EXECUTIVE REGULATIONS

The Tax Invoice shall contain all the following particulars (13 essential attributes):

- The words "Tax Invoice" clearly displayed on the invoice
- The name, address and tax registration number of the registrant making the supply
- The name, address and Tax Registration Number of the Recipient where he is a registrant
- A sequential Tax Invoice Number or a unique number which enables identification of the tax invoice and the order of the tax invoice in any sequence of invoices
- The date of issuing the Tax Invoice
- The date of supply if different from the date the Tax Invoice was issued
- A description of the goods or services supplied

TAX INVOICE - ARTICLE 59 OF EXECUTIVE REGULATIONS

- For each good or service, the unit price, the quantity or volume supplied, the rate of tax and the amount payable expressed in AED
- The amount of any discount offered
- The gross amount payable expressed in AED
- The registrant shall issue Tax Invoice within 14 days as of the date of supply
- The tax amount payable expressed in AED together with the rate of exchange applied where the currency is converted from a currency other than the UAE dirham
- Where the invoice related to a supply under which the recipient of goods or recipient of services is required to account for Tax, a statement that the recipient is required to account for tax, and a reference to the relevant provision of the Decree law

SIMPLIFIED TAX INVOICE

- The words “Tax Invoice” clearly displayed on the invoice
- The name, address and tax registration number of the registrant making the supply
- The date of issuing the Tax Invoice
- A description of the goods or services supplied
- The total consideration and the tax amount charged

CONDITIONS & REQUIREMENTS FOR ISSUING TAX CREDIT NOTE

- **Article 70 of VAT Law:** Original Tax Credit Note when a reduction of Output Tax occurs in relation to any supply
- When making a Deemed Supply the registrant shall issue an original Tax Credit Note when a reduction occurs to the Output Tax in relation to such supply
- Executive Regulation will specify:
  - Basic Data that should be included in Tax Credit Note
  - The conditions and procedures required for the issuance of an electronic Tax Credit Note
  - Instances where Registrant is not required to issue and deliver Tax Credit Note to the recipient of goods or services
  - Instances where other documents may be issued in place of Tax Credit Note
  - Instances where another person may issue a Tax Credit Note

TAX CREDIT NOTE

Article 60 of Executive Regulations:

- The words "Tax Credit Note" clearly displayed on the invoice
- The name, address and tax registration number of the registrant making the supply
- The name, address and Tax Registration Number of the Recipient where he is a registrant
- The date of issuing the Tax Credit Note
- The value of supply shown on the Tax Invoice, the correct amount of the value of the supply, the difference between those two amounts and the Tax charged that related to that difference in AED
- A brief explanation of the circumstances giving rise to the issuing of the Tax Credit Note
- Information sufficient to identify the supply to which the Tax Credit Note relates

DURATION OF TAX PERIOD

<u>Article 71 of the VAT Law read with Article 62 of the Executive Regulations:</u>

- The standard tax period applicbleA Tax Return must be received by the Authority no later than the 28^{th} day following the end of the Tax period concerned or by such other date as directed by the Authority
- A person whose registration has been cancelled must provide a final Tax Return for the last tax period for which he was registered
- A Taxable Person shall settle Payable Tax in relation to a Tax Return using the means specified by the Authority so that it is received by the Authority no later than the date specified in Clause 1
- Where Recoverable Tax for Tax Period exceeds due tax for the tax period, the excess recoverable tax may be repaid to the Taxable Person in accordance with the relevant provisions of the Decree Law and the Federal Law No.7 of 2017 on Tax Procedures

TAX RETURN AND PAYMENT

Article 64 of Executive Regulations:

- A Tax Return must be received by the Authority no later than the 28th day following the end of the Tax period concerned or by such other date as directed by the Authority
- A person whose registration has been cancelled must provide a final Tax Return for the last tax period for which he was registered
- A Taxable Person shall settle Payable Tax in relation to a Tax Return using the means specified by the Authority so that it is received by the Authority no later than the date specified in Clause 1
- Where Recoverable Tax for Tax Period exceeds due tax for the tax period, the excess recoverable tax may be repaid to the Taxable Person in accordance with the relevant provisions of the Decree Law and the Federal Law No.7 of 2017 on Tax Procedures

TAX RETURN AND PAYMENT

- A Tax Return must contain at the minimum the following information:
  - The name, address and TRN of the Registrant
  - The Tax Period to which the Tax Return relates
  - The date of submission
  - The value of Taxable Supplies made by the person in the Tax Period and the Output Tax charged
  - The value of Taxable Supplies subject to the Zero Rate made by the person in the Tax Period
  - The value of Exempt Supplies made by the person in the Tax Period
  - The value of any Supplies subject to Clause 1 and 3 of Article 48 of the Decree Law
  - The value of expenses incurred in respect of which the Person seeks to recover Input Tax and the amount of the Recoverable Tax
  - The total value of Due Tax and Recoverable Tax for the Tax Period
  - The Payable Tax for the Tax Period
  - Output Tax by emirate

EXCESS RECOVERABLE TAX

Article 74 of the VAT Law:

- The Taxable Person shall carry forward any excess of Recoverable Tax to subsequent Tax Periods and offset such excess against Payable Tax or any Administrative Penalties imposed under the Decree Law or Federal Law No.7 on Tax Procedures
- If there remains any excess for any Tax Period after being carried forward for a period of time, the Taxable Person may apply to the Authority to reclaim the remaining excess.

ADMINISTRATIVE PENALTIES

Article 76 of VAT Law:

- The authority shall issue an Administrative Penalty Assessment to the person and notify the person of the same within five working days in any of the following cases:
  1. Failure by the Taxable Person to display prices inclusive of tax according to Article 38 of the Law
  2. Failure of the Taxable Person to notify the authority of applying tax based on margin according to Article 43 of the Law
  3. Failure to comply with the conditions and procedures relating to keeping the goods in Designated Zone or moving them to another Designated Zone
  4. Failure of Taxable Person to issue a Tax Invoice or an alternative document when making any supply
  5. Failure of Taxable Person to issue a Tax Credit Note or an alternative document
  6. Failure of Taxable Person to comply with the conditions and procedures regarding the issuance of electronic Tax Invoice and electronic Tax Credit Note

ADMINISTRATIVE PENALTIES

- **Cabinet Decision 40 of 2017 on Administrative Penalties for violations of Tax Laws:**

DESCRIPTION OF VIOLATION	ADMINISTRATIVE PENALTY IN AED
Failure to keep required records and other information	First time 10,000; Repetition 50,000
Failure to submit data, records and documents in Arabic	20,000
Failure to submit registration application within the timeframe	20,000
Failure to submit deregistration application within the timeframe	10,000
Failure to inform Authority of any amendment required in information pertaining to tax record	First time 5,000; Repetition 15,000
Failure to submit Tax Return within timeframe	First time 1,000; Repetition within 24 months 2,000
Failure to settle Payable Tax within the timeframe	Late Payment penalty of 2% of unpaid tax and 4% of the unpaid tax from 7th day and 1% per day for delay beyond one calendar month with upper ceiling of 300%

RECORD MAINTENANCE

Article 78 of the VAT Law:

- It is **mandatory for every taxable person to maintain books** of accounts under UAE VAT law.
- In addition to that the authority can ask for additional documents such as, annual accounts, general ledger, purchase day book, invoices issued, invoices received, credit notes, debit notes, VAT Ledger etc.
- Under Article 3 of Executive Regulation on Tax Procedures the books of accounts and records are to be maintained by Taxable Person for **five years.**
- As per Article 71 of the Executive Regulations the records related to real estate shall be kept for a period of 15 years after the end of the tax period to which they relate