

TAXABLE PERSON GUIDE FOR EXCISE TAX
Issue 1 / September 2017



Contents

1. Introduction	4
1.1. Purpose of this guide	4
1.2. Changes to the previous version of the guide	4
1.3. Who should read this guide.....	4
1.4. How to use this document.....	4
1.5. Other important publications	5
2. Getting Additional Help	6
2.1. Chapter summary	6
2.2. FTA support channels.....	6
2.2.1. E-Learning	6
2.2.2. Excise Helpline	6
2.3. Receiving support from external agents	6
3. Explaining excise tax	7
3.1. Chapter summary	7
3.2. What is excise tax?	7
3.3. How does excise tax work?.....	7
3.4. Excise goods and applicable rates.....	8
3.4.1. Tobacco and tobacco products	8
3.4.2. Carbonated drinks	8
3.4.3. Energy drinks.....	9
3.5. Valuation.....	9
3.5.1. Identifying the designated retail sales price.....	10
3.5.2. Calculating the average retail selling price	10
3.5.3. Calculating the designated retail sales price of a concentrate	10
4. Registration	12
4.1. Chapter summary	12
4.2. Who must register?.....	12
4.3. When to register	12
4.3.1. Registration on introduction of the excise tax law.....	12
4.3.2. Exceptions to registration.....	13
4.4. Registration as a warehouse keeper	13
4.5. How to register.....	14
4.6. What happens if I don't notify my requirement to be registered?	15
4.7. Deregistration	15
5. Tax points	16



5.1.	Chapter summary	16
5.2.	Imported excise goods	16
5.3.	Excise goods stockpiled in the UAE	16
5.4.	Excise goods released for consumption in the UAE	17
5.4.1.	Production declaration	17
6.	Procedures on Import	19
6.1.	Chapter summary	19
6.2.	Non registered importers.....	19
6.3.	Registered importers.....	19
7.	Designated zones	21
7.1.	Chapter summary	21
7.2.	Definition of a designated zone	21
7.3.	Effect of using a designated zone	21
7.4.	Warehouse keepers.....	21
7.4.1.	Responsibilities of the warehouse keeper	22
7.5.	Goods entering a designated zone	22
7.6.	Transfer of goods from a designated zone	23
7.6.1.	Procedures to be followed during a transfer from a designated zone	23
7.7.	Removal from a designated zone.....	24
7.8.	Designated zone reporting	25
8.	Refundable Tax.....	27
8.1.	Chapter Summary.....	27
8.2.	What is refundable tax?	27
8.3.	When can I deduct refundable tax?.....	28
8.4.	How can I deduct refundable tax?.....	28
9.	Excise tax returns and payments	30
9.1.	Chapter summary	30
9.2.	Excise tax returns	30
9.3.	Excise tax payments	30
9.4.	Excess refundable tax.....	30
9.5.	Errors in an excise tax return	31
10.	Account management	32
10.1.	Chapter summary.....	32
10.2.	Changing account details	32
10.3.	Change in circumstances	32
11.	FTA compliance checks.....	33
11.1.	Chapter summary.....	33



11.2.	Why is a tax audit necessary?	33
11.2.1.	How often will I be audited?.....	33
11.2.2.	Where and when will the Audit take place?	33
11.2.3.	Will I be informed of the Audit before it takes place?	34
11.3.	What can I expect to happen during a Tax Audit?	34
11.3.1.	What level of conduct is required from the taxable person?.....	34
11.4.	What powers will the FTA have during a Tax Audit?.....	34
11.5.	What rights will a taxable person have during a Tax Audit?	35
11.6.	Result of a Tax Audit	35
12.	FTA decisions	36
12.1.	Chapter summary.....	36
12.2.	Overview of the appeals process.....	36
12.3.	What matters can be challenged?	36
12.3.1.	In the first instance, how can I appeal a decision?	36
12.3.2.	What happens next and can I appeal the reconsideration decision?	37
12.3.3.	Appealing to a tax disputes resolution committee	37
12.3.4.	Appealing a decision of the tax disputes resolution committee	37



1. Introduction

This is the Taxable Person Guide for Excise Tax in the United Arab Emirates (UAE). You might also hear or see it referred to as the Excise Guide 1 or the EG001.

1.1. Purpose of this guide

This guide is the main reference guide to excise tax in the UAE. It provides you with:

- an overview of the main excise tax rules and procedures in the UAE and how to comply with them;
- assistance with the more likely questions businesses might have; and
- references to more specialised publications and where they have been published.

Not everything within this guide will apply to every business and it is not expected that every business will need to read the entire document. The guide and its contents are not legally binding; it is also subject to change.

1.2. Changes to the previous version of the guide

No changes have been made to the guide at this time. Any changes that are made will be identified here and briefly explained.

1.3. Who should read this guide

Anyone who is in business and imports, stockpiles or produces excise goods and is, or thinks that they should be, registered for excise tax in the UAE should read this guide. If you are not involved in selling or purchasing excise goods but are interested in the subject you may also find this guide useful as a summary of the rules in the UAE.

1.4. How to use this document

The guide is split into chapters by topic. This includes an initial chapter in respect of where to seek further assistance should you have questions based on the content of this guide, or areas that are not specifically dealt with here.

Subsequent chapters are organised by subject matter to cover the fundamentals involved in the excise tax compliance process which should be generally applicable to excise tax registered persons, from registering through to submitting returns and making payments.

You will also find what to expect in respect of the Federal Tax Authority (“FTA”) compliance checks as well as dispute resolution procedures, which may be available to you in the event that you disagree with a decision of the FTA.



1.5. Other important publications

Occasionally we will publish other documents intended to help you further, or to promulgate useful information or a change in the way that we are approaching the administration of the affairs of taxpayers. These publications will be in the form of:

Publication type	Series reference	Purpose
Guide	EG[00X]	An explanatory document that provides taxable persons with details of tax subject matter. These may be industry or transaction-type specific. Guides are updated and replaced as necessary.
Business Bulletin	EB[00X]	A brief update on current developments in relation to impending policy changes which may or may not be captured in the latest edition of any particular Guide.
Public Ruling	EP[00X]	A document summarising a detailed tax technical or administrative position which has been determined by the FTA.

In all cases, these publications will be available on the FTA's website. Only the latest, approved version of the relevant publication will be displayed on our website.

It is important that you ensure you keep up to date with any changes, otherwise you may find you are not accounting for excise tax correctly.



2. Getting Additional Help

2.1. Chapter summary

In the event that you need more information about excise tax or need assistance with your tax affairs you can choose to contact the Federal Tax Authority (“FTA”) for guidance or to seek support from an external agent.

2.2. FTA support channels

The FTA is committed to supporting taxpayers in learning about excise tax in an easy, accessible and straightforward manner. In addition to the Guides, Business Bulletins and Public Ruling publications which can be freely accessed online, e-learning modules will also be available on the FTA website.

2.2.1. E-Learning

E-learning modules will be designed to assist taxable persons to learn about the fundamentals of the excise tax system and can be used as a means of training relevant staff within the taxable persons’ business on the business’ compliance obligations in respect of excise tax.

Links to all available e-learning modules will be made available on the FTA website.

2.2.2. Excise Helpline

A dedicated Excise Tax Helpline (available on 600 599 994 or info@tax.gov.ae) staffed by trained staff is available to all taxpayers. The helpline can assist you with general queries to:

- ask for information on or request links to FTA publications; and
- to report any technical issues with accessing the FTA’s e-services.

The Excise Tax Helpline will not be able to give you advice on case specific transactions or specialised topics. These matters will be handled through alternative channels and the Excise Tax Helpline will direct you to them as necessary.

2.3. Receiving support from external agents

You may decide to obtain help or advice about your excise tax obligations from members of the tax accountancy profession. You will also be able to appoint such professionals to act as your agent when dealing with the FTA provided they have been approved by the FTA to do so and you have told us of their appointment.

It is not a requirement of excise tax registration that you must employ an agent. However, if you choose to do so, please remember responsibility for the accuracy of your excise tax affairs remains with you.



3. Explaining excise tax

3.1. Chapter summary

This chapter is intended to explain the basic principles of the excise tax system as it applies within the UAE.

3.2. What is excise tax?

Excise tax is an indirect tax levied on specific excise goods which are either:

- imported into the UAE;
- produced within the UAE; or
- stockpiled in the UAE (where excise tax has not previously been paid on the goods in the UAE and stockpiling is undertaken for business purposes).

It is generally levied on goods which are considered harmful to the health of the general public. The aim of excise tax is therefore to discourage consumption of those specific goods by the general public.

It is payable by any person engaged in the activities listed above, specifically:

- importers of excise goods;
- producers of excise goods;
- stockpilers of excise goods, in certain cases; and
- warehouse keepers, in certain cases.

There may also be a limited number of cases where excise tax becomes the duty of another person involved in any of the above activities, where the person originally liable for the tax fails to pay.

In all other cases, where a business or consumer purchases excise goods within the UAE they can usually expect that excise tax has been accounted for on the goods within the UAE by the supplier (and will be included in the purchase price for the goods). In certain cases, excise goods will be physically labelled to indicate that excise tax has been paid in respect of those goods. Further details on the labelling of excise goods will be released in due course.

3.3. How does excise tax work?

At the point that excise goods are either imported, stockpiled or released for consumption in the UAE, the importer, stockpiler or producer of those goods at the time must register for excise tax, becoming a taxable person for excise tax purposes, and account for the excise tax due to the Federal Tax Authority (“FTA”).

Excise tax is not due at every stage of the transaction like some other indirect taxes such as VAT, once it has been paid on the goods that satisfies the excise tax liability for those goods. As a result, it is expected that a relatively low number of



businesses will be required to register for excise tax and account for the tax to the FTA.

3.4. Excise goods and applicable rates

The goods which will be subject to excise tax in the UAE, and the rates of tax applicable to those goods, are as follows:

- Tobacco and tobacco products – 100%
- Carbonated drinks – 50%
- Energy drinks – 100%

3.4.1. Tobacco and tobacco products

The definition of tobacco and tobacco products for excise tax purposes shall be any products which fall under Schedule 24 of the GCC Common Customs Tariff. Those products include:

- Chewing tobacco
- Cigars
- Cigarettes
- Cigarette rag
- Cigarillo
- Expanded tobacco
- Hand rolling tobacco
- Herbal smoking products
- Oral snuff
- Reconstituted tobacco sheets
- Snuff

3.4.2. Carbonated drinks

The definition of carbonated drinks for excise tax purposes shall include any aerated beverage except for unflavoured aerated water. This will include any concentrates, powder, gel or extracts intended to be made into an aerated beverage.

Carbonated drinks do not include drinks which contain alcohol, even if that product would otherwise be an aerated beverage.

Where, for example, a concentrate which is to be made in to a carbonated drink has already been subject to excise tax in the UAE, the drink which is then made from that concentrate at the point of retail sale is not considered to be an excise good for the purposes of applying the tax. This is where the concentrate has already been taxed, and the concentrate itself is only capable of being made in to a carbonated drink at the point it is mixed with an aerating agent at the point of retail sale.

Therefore, businesses which only purchase concentrate on which excise tax has already been paid and simply turn that concentrate into a carbonated drink at the point of sale, should not ordinarily be required to register and account for excise tax.



Any product which meets the definition of a carbonated drink, but which is also an energy drink, will be taxed at the rate applicable to energy drinks.

3.4.3. Energy drinks

The definition of energy drinks for excise tax purposes shall be any beverages which are marketed, or sold as an energy drink, containing stimulant substances that provide mental and physical stimulation. Such ingredients can include caffeine, taurine, ginseng and guarana, but could also include others.

Energy drinks also include not only the beverage itself, but also any concentrates, powder, gel or extracts intended to be made in to an energy drink.

Similarly to carbonated drinks, where a concentrate which is to be made into an energy drink has already been subject to excise tax in the UAE, the drink which is then made from that concentrate at the point of retail sale is not considered to be an excise good for the purposes of applying the tax.

Energy drinks do not include any products containing alcohol, even if that drink would otherwise be considered an energy drink.

3.5. Valuation

As set out above, excise tax is calculated as a percentage of the the excise price of the goods. The excise price of the goods (i.e. the 'tax base' before excise is calculated) is the higher of:

- The price stated in a list published by the FTA confirming the excise price of excise goods; or
- The designated retail sales price of the goods, less any excise tax already included in that price (after excise tax is introduced).

Excise tax is then calculated as the relevant percentage of the tax base.

The excise price includes any other taxes or duties charged on those goods, except any VAT which may be due after its introduction in the UAE.

As a result, the new selling price of the goods will be the tax base plus the tax due on that value at the applicable rate (50% or 100%). Therefore, if an excise good is subject to a 50% tax rate, the value of excise tax included within the selling price after tax will be 50% of the tax base, but 33.33% of the selling price.



3.5.1. Identifying the designated retail sales price

In the event that a standard price list is not published by the FTA, the excise price of the goods on which tax should be calculated is the designated retail sales price of the goods, less any excise tax included in that price.

The designated retail sales price is the higher of:

- The recommended selling price of the excise good in the course of its retail sale, identified, declared and affixed to the goods by the importer or producer; and
- The average retail selling price of the goods in the market.

For the purposes of the above, the “recommended selling price” of the goods should be the price achieved when the excise good is sold for retail purposes directly to a consumer. This does not include cases where the selling price is increased as a result of the good being sold in an establishment such as a hotel, restaurant or similar for consumption on the premises.

3.5.2. Calculating the average retail selling price

In order to calculate the average retail selling price of the excise goods in the market, the taxable person should use the following method:

1. Identify the different prices the excise goods have been sold for in the market during the last 12 months.
2. If any excise tax was included within those selling prices identified at step 1, deduct the excise tax from the price to arrive at the tax exclusive selling price.
3. For each different selling price in the previous 12 months, identify the total quantity of excise goods sold at that price and multiply the quantity sold by the selling price to calculate a market revenue figure for that price, for the period. Add the results of this calculation together for each price, to arrive at the total market revenue for excise goods over that 12 month period.
4. Divide the total market revenue by the total number of excise goods sold during the period – this will give you the average tax base of the goods.
5. Multiply the figure at step 4 by the appropriate tax rate to calculate the notional excise tax on the price.
6. Add the figures from step 4. And step 5. Together to calculate the average market selling price of the goods.

3.5.3. Calculating the designated retail sales price of a concentrate

In the event that a standard price list is not published by the FTA, the methods specified above to identify the designated retail sales price of an excise good are not



appropriate for identifying the designated retail sales price of a concentrate, powder, gel or extract which is to be used to produce a carbonated drink. This is because the retail price applicable to the product when it is finally sold as a drink is not normally identified by the importer or producer, and it may be difficult for the taxable person to identify what price the retailer would sell the final beverage for.

As a result, where such products are imported, produced or released from a designated zone in the UAE, the calculation of the designated retail sales price shall be announced soon.

Example

The designated retail selling price of a carbonated drink before the introduction of excise tax is 2 AED – there is no tax included in this price to remove, therefore this is the tax base.

Excise tax is due at a rate of 50% of the tax base i.e. $2 \times 50\% = 1$ AED excise tax.

The new selling price of the carbonated drink is therefore $2 \text{ AED} + 1 \text{ AED tax} = 3 \text{ AED}$.

Excise tax is included in the new selling price, calculated as 50% of the tax base, although excise represents a smaller proportion of the selling price i.e. $1 \text{ AED} / 3 \text{ AED} = 33.33\%$.



4. Registration

4.1. Chapter summary

The purpose of this chapter is to summarise the businesses which are required to register for excise tax and the process to follow to become registered for the tax.

4.2. Who must register?

Excise tax is the responsibility of any person engaged in:

- the import of excise goods into the UAE;
- the production of excise goods in the UAE;
- the stockpiling of excise goods in the UAE in certain cases, where excise tax has not previously been paid on the goods in the UAE and stockpiling is undertaken for business purposes.

If you have a responsibility for excise tax, as outlined above, then you must register with the FTA to submit tax returns and pay excise tax. The only exception to this is if you are specifically exempted from registration as explained under section 4.3.2 below.

In summary, you must register for excise tax if you are:

- an importer of excise goods;
- a producer of excise goods;
- a stockpiler of excise goods.

4.3. When to register

There is no registration threshold for excise tax, therefore **any person who has been involved or has the intention to be involved in any of the activities** listed in section 3.2 must register and account for excise tax.

Any person involved or forming the intention to be involved in any of the activities listed in section 4.2 must notify the FTA within 30 days of the end of the month in which they were involved or formed the intention to be involved, that they have a liability to be registered for excise tax. The person will then be registered with effect from the first day of the month in which they were involved or the intention was formed.

4.3.1. Registration on introduction of the excise tax law

Where a person believes they will have a requirement to be registered for excise tax at the date the tax is introduced they will be required to notify the FTA of their requirement to be registered during the period announced by the FTA.

The FTA will register that person for excise tax commencing from the date the excise tax law comes into effect.



4.3.2. Exceptions to registration

The FTA may except a person from registration in the case where they import excise goods into the UAE and the FTA is satisfied that they do not regularly import excise goods.

The FTA considers 'regular' importation of excise goods to occur more frequently than once in a 6 month period or when they import the 4th time in 24 months.

In cases of exception from registration, the person (i.e. the traveller or individual) importing the goods will not be exempt from paying the excise tax due on the goods, but only from the administration of registering and filing excise tax returns. Instead, the person will be required to pay the excise tax due on the import (where it exceeds the duty free limit imposed by the Customs Law, currently 3,000 AED), before or at the point of import in order for the goods to clear Customs.

For further details on the procedure to be followed by a non-registered importer when importing excise goods in to the UAE, please see section 6.

Example

Mr A imports excise goods worth 10,000 AED on 1 March 2018. This is the first time he has imported excise goods and he has no current intention to do so again.

As Mr A has only been involved in one such import in a 6-month period, he does not have to register for excise tax. However, as the value of the excise goods exceeds the duty free limit he must pay the excise tax due on the full value of the goods in order to clear the goods through Customs.

4.4. Registration as a warehouse keeper

Any person who operates or intends to operate a 'designated zone', otherwise known as an excise warehouse, must register as a warehouse keeper. It is not possible to operate a designated zone without an appointed warehouse keeper.

The warehouse keeper must submit a registration application to the FTA providing certain details about themselves and their intended operations. In addition, the warehouse keeper must submit a designated zone application in respect of each and every designated zone which they are requesting permission to supervise.

A warehouse keeper may complete and submit a warehouse keeper registration application to the FTA, however the registration will not be completed and approved by the FTA until the person has also submitted at least one designated zone application form. The FTA will then register that person as a warehouse keeper with authorisation to supervise a specific designated zone or zones from the date the application is approved (or from a future date as may be agreed).

In the course of approving an application to register a designated zone, the warehouse keeper will be required to pay a one-off registration fee in respect of each designated zone which is registered.

The warehouse keeper will receive a registration certificate which will confirm the details of the designated zone(s) over which that person is appointed, including any conditions or requirements which the warehouse keeper is required to fulfil in order to maintain the security and status of the designated zone.

The warehouse keeper will receive a warehouse keeper registration number following registration, which should be used on all official correspondence with the FTA. The warehouse keeper will also receive a designated zone registration number, which will be a suffix attached to the warehouse keeper registration number and will be different for each designated zone which is registered. The designated zone registration number is particularly important for tracking the movement of excise goods between different designated zones.

A warehouse keeper will be liable for the excise tax due on any excise goods leaving his designated zone, where the taxable person has not paid the excise tax due.

The FTA may impose certain conditions on the registration of a warehouse keeper such as:

- specify the quantity of excise goods which can be kept in the designated zone;
- specify the type of excise goods which can be kept in the designated zone;
- require the warehouse keeper to provide a financial security;
- impose additional reporting requirements;
- specify the level of physical security required over the designated zone;
- specify the checks which the warehouse keeper is required to make over the goods entering the designated zone; and
- specify the conditions of entry which may be granted to the designated zone and any access restrictions which the warehouse keeper is required to impose.

The effect of registering a specific designated zone is covered in further detail in section 7 below.

4.5. How to register

An online portal will be available on the FTA's website (www.tax.gov.ae) for the purposes of registering businesses for excise tax.

Businesses will be required to complete the questions on the online portal and may be required to upload supporting documents in order to confirm their business status and activities.

Businesses will then receive notification of the outcome of their registration application from the FTA once the application has been processed.

Further detailed guidance on completion of the appropriate registration forms can be found on the FTA website.

4.6. What happens if I don't notify my requirement to be registered?

If you fail to notify the FTA of a requirement to register for excise tax within the specified timeframe, the FTA may issue a tax assessment to collect any potentially underpaid excise tax. You may also be charged an administrative penalty.

Businesses involved in the import and production of excise goods will not be authorised to conduct such activities without being registered for excise tax. Therefore, if you fail to notify the FTA of your requirement to register for excise tax then you should not conduct that aspect of your business.

4.7. Deregistration

A taxable person may apply to deregister from excise tax when he is no longer engaged in taxable activities i.e. the import, production or stockpiling of excise goods in the UAE.

He must notify the FTA that he is no longer engaged in taxable activities within 30 days from the date his taxable activity ceases. The FTA will deregister the taxable person with effect from the date his taxable activity ceased.

In order to deregister, a taxable person must be up to date with all tax return submissions and payments of tax and penalties.



5. Tax points

5.1. Chapter summary

The purpose of this chapter is to summarise the point at which excise tax is due to be accounted for. This will be different depending on whether the goods are imported into the UAE or whether they are produced within the UAE, and can also be affected by the use of designated zones.

In all cases, the date on which excise tax is due to be accounted determines the excise tax return on which the excise tax should be included.

5.2. Imported excise goods

Where excise goods are imported into the UAE, excise tax is due to be accounted for by the importer at the date of import. The excise tax due should be included on the importer's excise tax return for the tax period covering the date of import.

Where excise goods are imported into the UAE but immediately placed in a designated zone, the goods are not treated as being imported into the territory of the UAE until the point they leave the designated zone and are released into free circulation in the UAE. More details about the effect of entering excise goods into a designated zone (including movements between designated zones) is covered in Section 7.

5.3. Excise goods stockpiled in the UAE

Where excise goods are stockpiled in the UAE i.e. they are:

- held in free circulation in the UAE, intended to be sold in the course of business and excise tax on those goods has not been paid, remitted, relieved or deferred; and
- 'excess' excise goods held in free circulation;

then, they become subject to excise tax on the date they are acquired by the stockpiler or the date the law comes in to effect, whichever is later.

'Excess' excise goods are taken to be excise goods which are:

- owned by a person on the date the law comes in to effect;
- the quantity owned exceeds the average monthly stock level of the business, based on the person's average monthly stock levels of that excise good. This is measured by reference to the previous 12 month period beginning one month prior to the date the law comes in to effect (i.e. from 1 October 2016 to 30 September 2017);
- acquired by the stockpiler prior to the date the law comes in to effect; and
- intended to be sold by the person in the course of business.

In addition to the above, if the person holds more than 2 months' supply of excise goods (i.e. more than 2 months average sales volume), whether or not it is normal for the business to hold such a level of stock, any stock in excess of 2 months' supply shall be considered excess excise goods. This is measured by reference to the person's average monthly sales of excise goods, during the 12-month period prior to the date the law comes in to effect.

As a result of the above, where a Taxable Person has a 'normal' stockpile of excise goods on the date the law comes into effect which do not qualify as excess excise goods, the Taxable Person will not be required to account for excise tax on the excise goods purchased.

If excess excise goods are owned on 1 October 2017 as outlined above, that person is considered to be a stockpiler and will be required to be registered for excise tax.

5.4. Excise goods released for consumption in the UAE

In all cases other than above, excise tax will be due on excise goods on the date they are released for consumption in the UAE.

For these purposes released for consumption means:

- they are produced in free circulation (i.e. outside a designated zone); or
- they leave a designated zone and are released into free circulation.

Excise goods shall be treated as produced at the date:

- they are ready to be held out for retail sale;
- where the goods are not intended for retail sale, where they are fit for consumption or retail sale; or
- ready to be sold to a retailer, if the goods are of the type which are not fit for consumption until they are combined with another product at the point retail sale e.g. concentrate used to produce a carbonated drink.

5.4.1. Production declaration

In order to identify the tax liability at the point of production of excise goods, the producer will be required to file a production declaration at the end of every tax period.

The producer will be required to log on to the FTA website at www.tax.gov.ae and complete the production declaration covering the goods which were transferred from the designated zone. The declaration will request certain information about the goods e.g. the brand, quantity, volume, product code etc.

Using the standard price list published by the FTA, the declaration will automatically calculate the tax liability due on goods which have been produced during that period. In the event that the designated retail sales price is higher than the standard price list of excise goods published by the FTA or an excise good is not available on this list,

the taxable person should self-declare the tax due on the produced goods based on the designated retail sales price of the goods.

The information contained on the production declaration will be retained within the FTA system and will be linked to the taxable person's tax registration number ("TRN"). At the point the taxable person comes to file the return for that tax period, the information regarding the tax liability declared on production of the excise goods will be automatically populated in the return.

Only one production declaration is required to be filed in respect of each tax period.



6. Procedures on Import

6.1. Chapter summary

The purpose of this chapter is to explain the practical procedures which an importer of excise goods will be required to follow when importing excise goods.

6.2. Non registered importers

Where a person is excepted from registration for excise tax (see section 4.3.2), they will be a non-registered importer of excise goods.

The person importing excise goods will be required to log on to the FTA website at www.tax.gov.ae and complete an import declaration covering the goods which are to be imported. The declaration will ask for certain details about the goods e.g. the brand, quantity, volume, product code etc.

Using the standard price list published by the FTA, the declaration will automatically calculate the tax liability due on import of the goods. In the event that an excise good is not available on the standard price list published by the FTA, the importer should self-declare the tax due on the import based on the designated retail sales price of the goods.

The importer will then be required to pay the excise tax due on the import, before the point at which the goods clear Customs. At the point of import, the Customs Department will ask for the transaction ID provided at the point of payment and will verify the import declaration and the payment made. Once the Customs Department has verified that all of the details are correct and the payment has been made, the goods will be cleared and allowed to enter the UAE.

6.3. Registered importers

A taxable person importing excise goods in to the UAE will follow a similar procedure as non-registered importers will follow, except for the fact that the tax liability will not be payable until the point the excise tax return is filed.

A taxable person will also be required to log on to the FTA website at www.tax.gov.ae and complete an import declaration covering the goods which are to be imported. The declaration will request the same information about the goods e.g. the brand, quantity, volume, product code etc.

Using the standard price list published by the FTA, the declaration will automatically calculate the tax liability due on import of the goods. In the event that an excise good is not on the standard price list of excise goods published by the FTA or the designated retail sales price is higher, the importer should self-declare the tax due on the import based on the designated retail sales price of the goods.

Taxable persons will then be able to submit the import declaration without making payment of the excise tax liability at this point. A transaction ID will be provided to the taxable person at the point the declaration is submitted. At the point of import, the Customs Department will ask for the transaction ID and will verify the details of the import declaration i.e. the quantity and type of goods declared. Once the Customs Department has verified that all of the details are correct, the goods will be cleared and allowed to enter the UAE.

The information contained on the import declaration will be retained within the FTA system and will be linked to the taxable person's tax registration number ("TRN"). At the point the taxable person comes to file the return, the information regarding the tax liability declared on import of the excise goods will be automatically populated in the return.

There is no limit to the number of import declarations which an importer is able to submit in any given tax period. The tax liability stated on all import declarations will be automatically consolidated on the return at the point the tax return is prepared for submission. The tax liability due in respect of the imports is included with the tax liability for the tax return as a whole, and the taxable person can make one payment at the end of each tax period representing their entire tax liability for the tax period



7. Designated zones

7.1. Chapter summary

The purpose of this chapter is to set out the rules which apply to the use of designated zones, also known as excise warehouses, and their effect on accounting for excise tax within the UAE.

7.2. Definition of a designated zone

A designated zone is defined as either:

- Designated Zone Type A - being the territory of a free zone, fenced to restrict access to and from the site, under the control of the Customs Department and supervised by an appointed warehouse keeper; or
- Designated Zone Type B - any other area approved by the FTA as a designated zone, and could be part of the territory of a free zone where the whole is not registered as a Designated Zone, which has security measures in place to restrict entry and exit. In practice, areas will be approved by the FTA in the course of registering the appointed warehouse keeper.

7.3. Effect of using a designated zone

Designated zone is the name given within the excise tax law to an area which is treated as being outside the territory of the UAE for the purposes of excise tax. In excise tax jurisdictions, such areas can often be known as excise warehouses. This means that goods entering the UAE which are immediately removed to a designated zone are not treated as imported into the UAE at that time. Instead, a tax point is triggered only when goods are released from a designated zone for consumption in the UAE.

7.4. Warehouse keepers

Every designated zone in the UAE will have an appointed warehouse keeper who is responsible for overseeing the operation of the designated zone and ensuring the conditions and security imposed over the designated zone are maintained.

A warehouse keeper must apply to the Federal Tax Authority ("FTA") to be authorised to oversee a designated zone. Further details regarding the registration process for warehouse keepers is covered in section 4.4 above.

A producer or importer may also apply to be a warehouse keeper if they wish.



7.4.1. Responsibilities of the warehouse keeper

The warehouse keeper responsible for the designated zone is required to control and supervise the designated zone, as well as goods which are transferred from the designated zone under tax suspension. In order to fulfil this requirement, the warehouse keeper will be required to keep certain records in order to demonstrate to the FTA the stock levels of the designated zone in terms of the excise goods stored within it which have not had excise tax paid on them. These records will include:

- The stock levels of excise goods within the designated zone at any given point in time;
- The value and quantity of excise goods entered in to the designated zone;
- The value and quantity of excise goods leaving the designated zone and released for consumption;
- The value and quantity of excise goods transferred to another designated zone, including the details of the designated zone to which they are transferred;
- The value and quantity of excise goods transferred from the designated zone for export;
- The value and quantity of excise goods produced within the designated zone.

The warehouse keeper will also be required to issue a movement document which will accompany excise goods which are transferred from the designated zone to another designated zone, or for export. The document must contain the following information:

- The type of excise goods transferred;
- The quantity and excise price of the goods transferred;
- The value of excise tax due in the event the excise goods are released for consumption during the transfer;
- The designated zone registration number to which the excise goods will be transferred and the name of the warehouse keeper responsible for that other designated zone.

7.5. Goods entering a designated zone

Prior to operating a designated zone, the warehouse keeper will be required by the FTA to submit a financial guarantee against excise tax that may accrue to the excise goods deposited in the designated zone. The financial guarantee may be liquidated by the FTA in the event that excise goods are released for consumption without payment of the tax due, by the person responsible for releasing the goods.

Where excise goods enter a designated zone, the responsible warehouse keeper is required to document the entry of the goods in to the zone.

The taxable person entering goods into a designated zone must also declare the type, product details and quantity of excise goods entering the designated zone on a designated zone declaration, which is to be filed by the taxable person at the end of

every month. Further details regarding the designated zone declaration are covered in section 7.8.

7.6. Transfer of goods from a designated zone

It is possible to transfer excise goods between designated zones, or from a designated zone for export, without the goods being considered released into free circulation in the UAE, provided certain conditions are met. This is normally referred to as 'tax suspension'.

Where goods are transferred in tax suspension, they must not be released for consumption during the transfer, or be in any way used or altered during the transfer.

Goods will be considered released for consumption during a transfer between designated zones or for export where they are:

- consumed during the transfer;
- they are found to be deficient or missing during the transfer; or
- there is an irregularity in the course of the transfer i.e. the rules set out governing the transfer of excise goods are not followed.

As an exception to the above, excise goods will not be considered released for consumption (and therefore chargeable to excise tax) where they are found to be deficient or missing during the transfer if:

- the responsible warehouse keeper notifies the FTA within 30 days of discovering that the excise goods are deficient or missing; and
- the FTA is satisfied that the loss of the goods or the deficiency is due to a legitimate cause.

The FTA will have the discretion to decide what it considers to be an acceptable legitimate cause.

The warehouse keeper can then destroy the goods after a period of 30 days following the notification of the deficient goods to the FTA. If during that 30-day period, the FTA gives notice to the warehouse keeper to inspect the goods then the warehouse keeper must keep the goods until the FTA has completed its inspection and given permission for the goods to be destroyed. The warehouse keeper can destroy the goods prior to the end of the 30-day period following notification to the FTA if the FTA confirms that the goods may be destroyed.

7.6.1. Procedures to be followed during a transfer from a designated zone

The warehouse keeper of the original designated zone remains responsible for ensuring the goods are not released for consumption during the designated zone transfer, until they are received by the warehouse keeper of the receiving designated zone.

In practice, this means that the financial guarantee lodged by the warehouse keeper in respect of the designated zone shall cover the excise goods during the transfer to the receiving designated zone.

Where goods are transferred between designated zones, the following procedures must be followed:

- The warehouse keeper of the originating designated zone must issue a movement document in respect of the excise goods;
- The movement document must accompany the goods during the transfer; and
- The warehouse keeper of the receiving designated zone must confirm receipt of the excise goods. For example, this could be by stamping the movement document when the excise goods arrive.

The movement document must include the particulars mentioned in section 7.4.1 above.

A copy of the movement document must be kept by both the warehouse keeper and the taxable person. The movement document does not need to be submitted to the FTA at the point of the transfer, however a copy should be provided to the FTA if it requests one.

Only a warehouse keeper or a taxable person may transfer excise goods in tax suspension. In the event the person who is responsible for transferring the excise goods is a taxable person, he must obtain prior consent from the warehouse keeper of the designated zone from which the goods originate in order to transfer the goods. The warehouse keeper must retain copies of all approvals granted to taxable persons to transport excise goods, and any approval is at the discretion of the warehouse keeper. The warehouse keeper is entitled to refuse to grant consent.

7.7. Removal from a designated zone

As mentioned above, a tax point will be triggered when excise goods are removed from a designated zone and enter free circulation in the UAE. The point at which excise goods are taken to be removed from a designated zone will be the earlier of:

- they physically leave a designated zone;
- they are consumed; or
- they are found to be deficient or missing from a designated zone.

Where excise goods are found to be deficient or missing from a designated zone they will not become chargeable to excise tax where the responsible warehouse keeper notifies the FTA within 30 days and the FTA is satisfied that the loss or deficiency is due to a legitimate cause. As explained above, the warehouse keeper should then destroy the goods after 30 days of making the notification of the deficient goods to the FTA. If during that 30-day period, the FTA gives notice to the warehouse keeper to inspect the goods then the warehouse keeper must keep the goods until the FTA has completed its inspection and given permission for the goods to be destroyed. The warehouse keeper can destroy the goods prior to the end of the

30-day period following notification to the FTA if the FTA confirms that the goods may be destroyed.

A tax point will not be triggered for excise tax purposes where goods physically leave a designated zone and are immediately exported to a place outside the UAE i.e. they are never released to free circulation in the State.

Where excise goods enter a designated zone, the responsible warehouse keeper should follow the procedures determined by the FTA which are to apply within that warehouse. Further detail of the procedures to be followed when transferring goods between designated zones will be published shortly.

Where excise goods are removed from a designated zone and released for consumption in the UAE the tax due in respect of the excise goods should be accounted for by the taxable person in the tax return covering the period in which the goods were removed.

7.8. Designated zone reporting

Any taxable person which owns goods within a designated zone must prepare and submit a designated zone declaration at the end of each tax period. The designated zone declaration will ask the taxable person to declare the excise goods which are transported from the designated zone, and either:

- Transferred to another designated zone;
- Exported from the UAE; or
- Released for consumption in the UAE.

In addition, the designated zone declaration will also request details of the excise goods entering a designated zone.

The taxable person will be required to log on to the FTA website at www.tax.gov.ae and complete the designated zone declaration covering the goods which are to be transferred from the designated zone. The declaration will request certain information about the goods e.g. the brand, quantity, volume, product code etc.

Using the standard price list published by the FTA, the declaration will automatically calculate the tax liability due on goods released for consumption. In the event that the FTA has not published a standard price list of excise goods or the designated retail sales price is higher, the taxable person should self-declare the tax due on the release based on the designated retail sales price of the goods.

The information contained on the designated zone declaration will be retained within the FTA system and will be linked to the taxable person's tax registration number ("TRN"). At the point the taxable person comes to file the return for that tax period, the information regarding the tax liability declared on release of the excise goods from the designated zone will be automatically populated in the return. No tax liability will be triggered where excise goods are transferred to another designated zone, or transferred for export from the UAE, provided the procedures relating to transfers from a designated zone are followed.

Only one designated zone declaration is required to be filed in respect of each tax period.



8. Refundable Tax

8.1. Chapter Summary

The purpose of this chapter is to explain the circumstances which will give rise to a refund of excise tax.

8.2. What is refundable tax?

Refundable tax is excise tax which has previously been paid on excise goods, which is subsequently refundable by the Federal Tax Authority (“FTA”) in certain cases. As a result, the Taxable Person is able to deduct the value of such tax from the total excise tax payable to the FTA on his excise tax return.

Refundable tax may arise where:

1. Excise tax has been paid on excise goods which have subsequently been exported to a place outside the UAE – this is because excise tax is intended to tax consumption of the excise goods within the UAE, therefore where excise goods are consumed outside the UAE then it is not appropriate for the goods to be taxed within the UAE;
2. Excise tax has been paid on excise goods which have subsequently been incorporated to produce a new excise good – in this case the value of excise tax paid on the original excise good will become refundable tax, however excise tax shall become due on the new excise good when it is produced;
3. Amounts paid in error. The FTA will require reasonable evidence that this is the case.

Example

ABC Co. imports raw tobacco and pays excise tax on the tobacco of 1,000 AED.

ABC Co. then uses the tobacco to produce cigarettes for sale to the public at 3,000 AED.

The cigarettes are a new excise good and are subject to excise tax at the point they are produced i.e. the point they are ready to be held out for retail sale. Excise tax will be due based on their designated retail selling price. ABC Co. must pay excise tax of 3,000 AED on the cigarettes.

As ABC Co. has used the tobacco to produce a new excise good which is subject to excise tax, it may deduct the 1,000 AED excise tax previously paid on the tobacco on its excise tax return.

When completing its excise tax return ABC Co, will declare 3,000 AED of excise tax and will be entitled to deduct 1,000 AED of excise tax previously paid on the tobacco. Its net excise tax liability due to the FTA is therefore 2,000 AED.



8.3. When can I deduct refundable tax?

Refundable tax can be included on the excise tax return for the period in which the event which gave rise to the refundable tax occurred.

Where the refundable tax is not included on that excise tax return, it may be included on the Taxable Person's excise tax return at the earliest opportunity.

The FTA may request the Taxable Person to provide reasonable evidence to support the event which gave rise to the refundable tax.

In the event that the value of refundable tax exceeds the excise tax payable on the Taxable Person's excise tax return, the Taxable Person will be required to follow the procedure set out in Section 8.4 in relation to obtaining refunds of excise tax paid.

8.4. How can I deduct refundable tax?

Where a taxable person is entitled to refundable tax, they will be required to complete a deductible tax declaration at the end of the tax period in which the right to the credit arose, and prior to the submission of the excise tax return. The deductible tax declaration will ask for details of the excise goods in respect of which the person is entitled to credit, and the reason why that credit has arisen. In certain cases, the taxable person will also be required to upload evidence of entitlement to the credit e.g. evidence that goods have left the UAE in the case of export.

The taxable person will be required to log on to the FTA website at www.tax.gov.ae and complete the credit declaration. The declaration will request certain information about the goods e.g. the brand, quantity, volume, product code etc.

Using the standard price list published by the FTA, the declaration will automatically calculate the refundable tax due to the taxable person. In the event that the FTA has not published a standard price list of excise goods, the taxable person should self-declare the refundable tax due.

The information contained on the credit declaration will be retained within the FTA system and will be linked to the taxable person's tax registration number ("TRN"). At the point the taxable person comes to file the return for that tax period, the information regarding the refundable tax due will be automatically populated in the return.

Only one credit declaration should be filed in respect of each tax period, and is only required to be filed where credit is due.





9. Excise tax returns and payments

9.1. Chapter summary

The purpose of this chapter is to provide an overview of the excise tax return filing requirements and payment deadlines, as well as to summarise the refund process where a Taxable Person has excess refundable tax.

9.2. Excise tax returns

Every Taxable Person is required to file an excise tax return summarising the excise tax due to the Federal Tax Authority (“FTA”) for the tax period.

The standard tax period is one calendar month, however a longer tax period may be agreed directly with the FTA in certain circumstances.

The due date for filing the excise tax return is no later than the 15th day of the calendar month following the end of the tax period. The excise tax return is required to be submitted online to the FTA.

The declarations which the taxable person was required to file during the course of the tax period (in respect of imports, produced goods, goods transferred from a designated zone and deductible tax due) will automatically populate the expected tax liability on the excise tax return. The taxable person should then verify that the values in each box are correct.

Where the taxable person believes a value in the excise tax return which has been automatically populated is incorrect, they should first check whether they have already filed all of the required declarations which combine to produce the tax liability. If they have correctly completed all declarations and still believe there to be an error in the way the tax liability has been calculated, the taxable person should contact the FTA.

9.3. Excise tax payments

The Taxable Person is responsible for accounting for and paying the excise tax due to the FTA.

The payment due to the FTA will be due on the 15th day of the month following the end of a calendar month. In the unusual case where a tax period exceeds one calendar month, this means that payments of excise tax will nevertheless be due on a monthly basis.

Payment will be required to be made to the FTA in the manner specified by the FTA.

9.4. Excess refundable tax

Where the value of a Taxable Person’s deductible tax exceeds the value of excise tax payable to the FTA, he will have excess refundable tax.

In the first return in which excess refundable tax arises, no payment is due to the FTA by the Taxable Person.

The Taxable Person is required to carry forward the excess refundable tax and offset it against his excise tax liability payable to the FTA in future tax periods until the excess refundable tax has been fully utilised.

If, after the tax has been carried forward for two tax periods, the Taxable Person has excess refundable tax remaining he may apply to the FTA for a refund of the excess refundable tax.

Where the Taxable Person makes a claim for a refund of excess refundable tax, the FTA will repay the money to the Taxable Person by the later of:

- 2 calendar months following submission of the claim for a refund; or
- Where the FTA undertakes a tax audit to verify the validity of the claim, within 21 calendar days of completion of the audit.

The FTA has the discretion to refund the excess refundable tax after a period less than two tax periods in the following cases:

- the Taxable Person's excise tax registration is cancelled; or
- the FTA is satisfied that the Taxable Person will undertake taxable activities in the future, but is likely to have excess refundable tax for a period of at least 12 months.

9.5. Errors in an excise tax return

Where a Taxable Person makes an error in an excise tax return, he is required to notify the FTA of the error.

Where the value of the error is less than 10,000 AED, the taxable person may correct the error via his next excise tax return.

Where the value of the error is more than 10,000 AED, the taxable person should notify the FTA of the error by completing the Voluntary Disclosure form available on the FTA website within 20 business days of discovering the error. After submission of the form, the taxable person should wait to be contacted by the FTA to discuss the manner in which the error should be corrected. This will either be by correcting the error via the excise tax return, by tax assessment (and potentially penalties) issued by the FTA, or by refund by the FTA.

For the purposes of valuing the error, the value shall be the total excise tax under-declared less the total excise tax over-declared.



10. Account management

10.1. Chapter summary

The purpose of this chapter is to provide information in relation to what you should do in the event you experience a change of circumstances which may affect your excise tax registration.

10.2. Changing account details

You must notify the FTA in writing in the event that any of your account details change such that an amendment to your excise tax registration would be required.

Examples of changes which should be notified to the FTA include:

- the name or trading name of the business;
- the composition of a partnership;
- the address of the principal place of business;
- your primary business activity; or
- the bank account details of the business.

Further information regarding the manner in which these changes should be notified to the FTA will be issued in due course.

10.3. Change in circumstances

Your excise tax registration is based entirely on the information you provide to the FTA. It is your responsibility to ensure that the information on which your entitlement to be registered for excise tax is based is accurate and up to date.

In the event that your business circumstances materially change in a manner which could affect your excise tax registration you must notify the FTA in writing immediately.

Certain changes which occur may result in an amendment or a cancellation of your excise tax registration, or a requirement to register for excise tax where a requirement did not previously exist.

In the event that a change in circumstances is not notified to the FTA, you could be subject to a penalty.

Examples of material changes which should be notified to the FTA include:

- the business ceases to be eligible for an exception from registration;
- the business ceases trading;
- the business is sold; or
- taxable activities cease for any reason.

Further information regarding the manner in which these changes should be notified to the FTA will be issued in due course.



11. FTA compliance checks

11.1. Chapter summary

The FTA has the right to establish or verify a person's excise tax liability by way of a Tax Audit. Under the Tax Audit process, the FTA will be entitled to examine the records required to be preserved by a taxable person under the law and to generally inspect the circumstances of their business. A tax audit may be carried out at the taxable person's business premises (i.e. a "field tax audit") or in the offices of the FTA. Generally, prior notification of a tax audit will be given.

In the process of carrying out a tax audit, the FTA may make copies of, take extracts from, or sample any information or goods as it may deem necessary.

11.2. Why is a tax audit necessary?

Excise tax is a self-assessment tax, meaning that taxable persons themselves declare to the FTA on their excise tax returns the amount of excise tax payable or repayable. The Tax Audit provides the FTA with a mechanism for checking whether such a declaration is correct.

If as a result of the Audit an underpayment of excise tax is discovered, the FTA can issue an assessment to require payment of the relevant excise tax, together with issuing penalties.

11.2.1. How often will I be audited?

Not all taxable persons will be audited with the same frequency. The FTA will determine which persons should be audited and with what regularity - based on the risk to the public revenue. Examples of factors that are likely to be taken into consideration include:

- how large or complex the business is; and
- past compliance history (for example, whether any returns have been submitted late, or have been incorrect).

For example, a large business selling a large volume of excise goods, and a poor compliance record, is more likely to be subject to a Tax Audit than a small business with a strong compliance record as the risk to the public revenue is greater.

11.2.2. Where and when will the Audit take place?

The FTA will normally perform the Tax Audit at its own offices or the place of business of the person subject to the Tax Audit. This can include any place where the person stores excise goods or keeps records.

Where the Audit takes place at the person's place of business, it will usually be during the FTA's normal business hours.

11.2.3. Will I be informed of the Audit before it takes place?

The FTA will usually inform the taxable persons of the audit 5 business days in advance, however no notice will be given in cases of suspected tax evasion, or if to do otherwise would hinder the conduct of the audit.

11.3. What can I expect to happen during a Tax Audit?

The relevant FTA officer(s) will inspect the taxable person's documents, assets and/or premises with a view to confirming the taxable person's excise tax position.

The Tax Auditor may want to talk to persons from various parts of a business, for example this could be members of the finance team to confirm how the excise tax return is calculated, or a person in logistics to confirm the process for importing goods into a warehouse etc. The Tax Auditor may also remove documents, items, or samples for further review.

The amount of time required for the Audit will depend on the size of the business and the complexity of its tax affairs. The results of the Audit shall be notified to the taxable person within 10 business days of the end of the Audit.

11.3.1. What level of conduct is required from the taxable person?

Any person subject to a Tax Audit (including his Tax Agent, or Legal Representative), must offer full facilities and assistance to the Tax Auditor in order for him to carry out the Audit.

For example, upon receiving notice of a scheduled Audit, the taxable person should ensure:

- the relevant premises are accessible;
- excise tax records are accessible; and
- relevant staff are present (for example the person responsible for compiling the excise tax return).

If the taxable person fails to provide adequate facilities and assistance he may be subject to penalties.

11.4. What powers will the FTA have during a Tax Audit?

In order to confirm the taxable person's excise tax position, the Tax Auditor may, subject to certain rules and restrictions:

- request original records or copies of documents (or request records or information from third parties in respect of checking the person's tax position); and
- take samples.

For example, the Tax Auditor could require copies of invoices, or calculations underlying the excise tax return.

It may be that the request is made through a written notice to provide records (for example, where the Audit is undertaken at FTA offices). Where such a notice is received the taxable person is required to provide the requested information or records within a reasonable period (subject to any specified date), and produce them for inspection to the FTA.

11.5. What rights will a taxable person have during a Tax Audit?

Where records, items, or samples are removed in the course of an Audit they will be returned as soon as reasonably possible, in the same condition (subject to the item being perishable etc.) In addition, a receipt can be provided for any item removed.

Taxable persons will also be allowed supervised access to records removed by the FTA.

11.6. Result of a Tax Audit

The FTA will communicate the results of the Audit to the taxable person following its conclusion. Should the audit result in a tax or administrative penalty assessment, the normal appeals' procedures will apply.



12. FTA decisions

12.1. Chapter summary

In the course of undertaking its duties in administering excise tax in the UAE, the FTA may issue a formal decision in respect of your tax affairs which you disagree with. A reconsideration and appeals process will therefore be available to taxable persons in-line with international best practice.

12.2. Overview of the appeals process

The appeals structure will be tiered, with decisions at each stage appealable to a higher authority until the dispute reaches the Courts. There will be three main tiers, in order of lowest to highest seniority:

- Request to the FTA for a reconsideration;
- Appeal to a tax disputes resolution committee; and
- Appeal to a court of law.

Each appeal body will make its decision based on application of the relevant law to the factual basis. Outcomes from the reconsideration and appeals process can be that the decision is upheld, revised, or withdrawn. The result of an appeal will usually only apply in respect of the appellant's own tax affairs – unless otherwise expressly stated by the relevant body/FTA in the appeal decision.

Taxable persons will be responsible for covering any costs they may incur (for example, court fees, consultancy fees, or legal advice) in respect of the process.

12.3. What matters can be challenged?

Only decisions by the FTA in respect of your own excise tax affairs can be challenged through either a request for a reconsideration or an appeal. Not every comment by the FTA will be a decision. A decision is usually a statement of the FTA's final position on a matter, as based on a full consideration of the facts, and the relevant excise tax law. It may be the case that a taxable person disagrees with only part of an FTA decision. In this case the taxable person may limit a reconsideration request to only that part of the decision. A written FTA decision is likely to include a statement in respect of the taxable person's right to apply to appeal.

12.3.1. In the first instance, how can I appeal a decision?

The FTA reconsideration process is the gateway to the appeals process. The taxable person must apply in writing to the FTA, for the FTA to review its own decision. It is not possible to skip straight to applying to appeal to a higher body (e.g. the tax disputes resolution committee) without first requesting an FTA reconsideration.

The application for a reconsideration will need to include the taxable person's grounds for making the request, identifying why they disagree with the relevant

decision, and providing a justification for a reconsideration being required. If a justification is not provided, or is inadequate then the FTA can reject the application.

12.3.2. What happens next and can I appeal the reconsideration decision?

The FTA will consider the relevant decision and communicate its response within 20 business days.

It may be that the FTA seeks further communication with the taxable person before finalizing its reconsideration in order to confirm certain points. The reconsideration decision will bind the taxable person unless it is appealed further to a tax disputes resolution committee. Not all reconsideration decisions will be appealable – it must be considered whether the cost of proceedings is proportionate to the amount of tax and penalties at stake, with disputes below a certain value non-appealable.

12.3.3. Appealing to a tax disputes resolution committee

Appeals in respect of FTA reconsideration decisions, and applications for reconsideration which the FTA did not rule on will, be heard by the tax disputes resolution committee.

An appeal to the dispute resolution committee must be submitted within 20 business days from the date of notification of the FTA's decision. An appeal will not be accepted by the committee where a reconsideration request has not previously been submitted to the FTA.

In addition to aforementioned requirements, in line with international best practice it will be required that any outstanding liabilities (e.g. taxes and penalties) must have been paid by the taxable person in order to appeal to the committee. Unlike a reconsideration request which is considered by FTA officers, the committee will be made up of members of judicial authority and appointed tax experts.

12.3.4. Appealing a decision of the tax disputes resolution committee

If the decision of the committee is not appealed then it will bind the taxable person and the FTA. Disputes with a value of less than 100,000 AED will not be appealable.

Decisions of the tax dispute resolution committee may be appealed to the judicial courts by either the taxable person or the FTA within 20 business days from the notification of the committee's decision. Appeals can be made subject to the aforementioned conditions being met, if either party disagrees with all or part of the committee's decision, or if the committee has erred in procedure. The Court will make its decision in applying tax law and any other relevant law to the relevant facts of the dispute. Once the dispute has entered the formal Court system, the rules and regulations of those courts will apply in respect of procedure and will determine whether the Court's decision can be further appealed.