



Certificate Course VAT UAE

ICAI-DUBAI

EXCISE TAX

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DUBAI



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RELEVANT LAW AND REGULATIONS

Federal Decree-Law No.
(7) of 2017 on Excise Tax-
Law

Cabinet Decisions No.
(39) and (40) for 2017 on
Federal Tax Authority's
Service Fees,
Administrative Fines

Cabinet Decision No. (37)
of 2017 on the Executive
Regulation of The Federal
Decree-Law No (7) of
2017 on Excise Tax

Cabinet Decision No. (38)
of 2017 -on Excise Goods,
Excise Tax Rates and the
Method of Calculating
the Excise Price

levied on activities for **specific excise goods** which are either:

imported into the UAE;

produced within the
UAE; or

stockpiled in the UAE

Release of Excise goods
from **Designated Zones**

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**.

If it is not paid by person as above the person involved in excisable activity will be liable and includes:

- a) A Person in the supply chain in which Tax has not been paid;
- b) An investor or Person with a financial interest in the supply chain where Tax has not been paid;
- c) The owner of the Excise Goods in any other case where this is not the producer, Importer, Warehouse Keeper or Stockpiler;

The Warehouse Keeper shall be liable to pay the Due Tax in case of the release of Excise Goods from a Designated Zone, where the Liable Person fails to pay the Due Tax, in any of the following cases:

- a. Where the Warehouse Keeper has not kept the records specified.
- b. Where the Warehouse Keeper has failed to meet any of the conditions imposed by the Authority
- c. Where the Warehouse Keeper in any manner has benefited from the failure of the Person liable to pay the Due Tax

Cabinet Decision No. (38) of 2017 dated 24th September 2017 prescribes specified Excise Goods, Excise Tax Rates and the Method of Calculating the Excise Price

EXCISE GOODS	RATES
Tobacco and tobacco products	100%
Carbonated drinks	50%
Energy drinks	100%

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

Carbonated drinks:

- **Aerated beverage except for unflavored aerated water.**
- **Including** concentrates, powder, gel or extracts intended to be made into an aerated beverage.
- Carbonated, even if that product would otherwise be an aerated beverage. **drinks do not include drinks which contain alcohol**

Carbonated drinks:

A concentrate which is to be made into 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 into 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.

Energy drinks

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.

Excise tax is calculated as a percentage of 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

The designated **retail sales
price of the goods**, less any
excise tax already included
in that price (after excise
tax is introduced).

The advertised prices of Excise Goods shall be inclusive of the Tax Subject to Some Exception.

Advertise Price-Article 11 of the Law and Article 13 of Regulation

However The advertised price of Excise Goods shall not be inclusive of Excise Tax and will be in addition to the price advertised as per next slide.

where there is an **agreement** for the purchase of goods made and the goods have not been supplied prior to the date the Decree-Law comes into force, in the following cases:

Intended to be incorporated
in Another Excise Goods
upon which tax will become
due

Intended for Exports

purchaser is a foreign
government, international
organization, diplomatic
body or mission which is
entitled to a refund of Tax
paid

Intended for Exports to GCC
and can claim Refund

For onward supply of Excise
Goods

Calculation of Base Price-Cabinet Decision No. (38) of 2017)-Article 7(2)

In order to deduct the value of Tax included within the designated retail sales price, the following calculations should be used:

- For Excise Goods taxable at a rate of (50%) of the Excise Price, the Excise Price shall be equivalent to two thirds of its designated retail sales price.
- For Excise Goods taxable at a rate of (100%) of the Excise Price, the Excise Price shall be equivalent to half of its designated retail sales price.

Advertised Designated Sale Price	Excise Rate	Formula to Calculate Designated Sale Price for Excise	Designated Sale Price to Calculate Excise
150	100%	$\text{Advertised Price} \times 100/150 = 1/2 \text{ of Advertised Price}$	75
150	50%	$\text{Advertised Price} \times 50/150 = 2/3 \text{ of Advertised Price}$	100

Identifying the designated retail sales price(Cabinet Decision No. (38) of 2017- Article 8)

If standard price list is not published by the FTA, the excise price of the goods = 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.

Calculating the average retail selling price (Cabinet Decision No. (38) of 2017-Article 8)

Method to calculate the average retail selling price of the excise goods:

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.

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.

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.

Tax Calculation Date: Article (10) of Law and Article 12 of Regulation

The date of Import of Excise Goods

The date on which the Excise Goods were acquired by the Stockpiler, and if such acquisition has happened before the effective date of this Decree-Law, the date of calculating tax shall be the effective date of this Decree-Law.

Date on which Excise Goods were released for consumption

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.

Producer:

to file a production declaration at the end of every tax period.

Designated Zone:

a declaration by taxable person owning goods in designated zone, containing:

- Transferred to another designated zone;
- Exported from the UAE; or
- Released for consumption in the UAE.
- details of the excise goods entering a designated zone

The declaration will automatically calculate the tax liability due on goods for the period on the basis of published price and any adjustment in that will be required to be done by taxable person.

Importer:

A declaration of goods to be imported.

Tax Returns- Article 17 and 18 -Regulation

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

Return to be filled for a Tax period.

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.

Declaration filed are auto populated for further action

Error < 10,000 AED, Self
Correction in next
Return

Error > 10,000 AED,
notify FTA within 20
business days through
online Voluntary
disclosure form

For end of each tax period - 15th of next month

In case import payment to be made at the time of import if unregistered

Excise is not a transaction based tax so no relief will be available for suppliers that have sold excise goods to a customer and have not received payment from that customer. Excise tax is due based on the date the goods are released for consumption (i.e. enter free circulation) in the UAE, regardless of whether they are subject to an onward sale.

Samples of excise goods that are given away for free will also be subject to excise tax. Excise tax is not a transaction based tax so tax is due on the goods when they are released for consumption (i.e. enter free circulation) in the UAE, regardless of whether or not they are intended for sale.

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.

The Deductible Tax consists of the following:

- a. The Tax paid on Excise Goods which have **been exported**;
- b. The Tax **paid on Excise Goods** which have become a component of another Excise Good which is, or will become, subject to tax;
- c. Amounts **paid to the Authority in error**.

Taxable Person shall keep the following records

- a. Records of all produced, imported or stockpiled Excise Goods;
- b. Records of exported Excise Goods and evidence of such Export;
- c. Records of stock levels, including details of lost or destroyed items;
- d. A Tax Record that includes the following information:
 - Due Tax on imported Excise Goods.
 - Due Tax on produced Excise Goods
 - Due Tax on Excise Goods that have been stockpiled
 - Deductible Tax according to the provisions of Article (16) of this Decree-Law.

Quantum of penalties for offences has been given approved by Cabinet Decisions No. (39) and (40) for 2017 on Federal Tax Authority's Service Fees, Administrative Fines

Offences for Administrative penalties - Article 22-Law

Failure to display Inclusive Price

Failure to comply with the conditions and procedures related to the transfer of Excise Goods from a Designated Zone to another and the mechanism of preserving, storing and processing such Excise Goods.

Failure by the Taxable Person to provide the Authority with the price lists of Excise Goods produced, imported or sold thereby, as specified in the Executive Regulation to this Decree-Law.

Offences for Administrative penalties

Description of Violation	Administrative Penalty (AED)
Failure by the Taxable Person to display prices inclusive of Tax.	15000
Failure to comply with the conditions and procedures related to transfer the Excise Goods from a Designated Zone to another Designated Zone, and the mechanism of processing and storing of such Excise Goods.	The penalty shall be the higher of AED (50,000) or (50%) of the tax, if any, chargeable in respect of the goods as the result of the violation
Failure by the Taxable Person to provide the Authority with price lists for the Excise Goods produced, imported or sold thereby.	50,000 first time, 20,000 for repetition

- Bringing or attempting to bring Excise Goods to the State, or removing or attempting to remove the Excise Goods from the State

- without paying the Due Tax in full or part, or
- In a way violating the provisions of Law.

- Production, transformation, acquisition, storage, transfer or receipt of Excise Goods for which the Due Tax has not been paid

- with the intent to avoid the payment of Due Tax or
- In a way violating the provisions of this Law.

Putting false tax payment labels on the Excise Goods

with the intent to avoid the payment of Due Tax or

to receive refunds unrightfully.

Submission of incorrect, false or fraudulent documents, records or Tax Returns or to place false labels

with the intent to avoid the payment of Due Tax or

to receive refunds unrightfully

Risk Based Approach

At premises of business

5 days notice

10 days after completion report

Exception for 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 :

1. When imported more than once in a 6 month period
2. when they import the 4th time in 24 months.

In cases of exception from registration, the person (i.e. the traveler 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.

- Risk Based Approach
- At premises of business
- 5 days notice
- 10 days after completion report

Evasion = 5 times tax evaded + prison – Initially mens rea may not be necessary

Disclaimer

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