wts dhruva consultants

VAT IMPLICATIONS ON SHIPPING AND LOGISTICS SECTOR

CEO Comments

The United Arab Emirates (UAE) is gifted with a geographical advantage connecting the East and West.

"Accessibility is a key element to transport geography, and to geography in general," said Dr Jean-Paul Rodrigue, **"since it is a direct expression of mobility either in terms of people, freight or information."**

UAE provides accessibility to countries for trade not only through sea-routes but also through airways. Its long coastline, well-connected air and sea routes, and developed infrastructure makes UAE an ideal hub for international trade & tourism and has encouraged logistical development on a nationwide scale.

Economic diversification, significant developments in the transport industry, efficient implementation of the latest technologies, and multi modal logistics has solidified UAE's position in international trade. A key example is Dubai's Jebel Ali Port - the world's largest man-made port, which has ensured Dubai's connectivity with the rest of the world.

The logistics industry will play a pivotal role prior to as well as during Expo 2020 and will lead to job and opportunity creation not only within Dubai but also across the region.

A majority of tax jurisdictions apply exemptions and/or zero-ratings to the inbound and outbound transportation of goods, whereas the transportation of goods locally attracts taxes. In the UAE, inbound and outbound transportation is zero-rated, while the transport of goods locally is subject to VAT at 5%. It is worthwhile to understand and evaluate whether companies can apply a blanket zero-rating for inbound or outbound transportation or are there any exceptions to the rule.

Inevitably, while there will be exceptions,some of the charges typically applied by logistics companies could continue to be taxable at 5%.

The automation of taxes is critical as it will increase efficiency, reduce transaction costs, and reduce the chance of human error. Most logistics companies have developed their own Enterprise Resource Planning (ERP) systems which require to be constantly updated, considering the implementation of VAT, ongoing procedural changes, configuring formats for invoicing, etc.

It is a distinct possibility that some IT systems may not be in a position to upgrade due to inherent system limitations and in such cases, businesses should explore replacing the old system with a new one or to use a tried and tested tax automation tool by now available in the market.

WTS Dhruva Consultants is pleased to present **"VAT implications on the Shipping and Logistics Industry in UAE"**, a comprehensive VAT manual for companies engaged in logistics business. Our team of VAT experts have hands on experience in the logistics sector and have skillfully covered an extensive range of topics in this manual.

We hope you will find this publication helpful and in an ongoing endeavour to better ourselves, as always we are happy to respond to any comments or suggestions.

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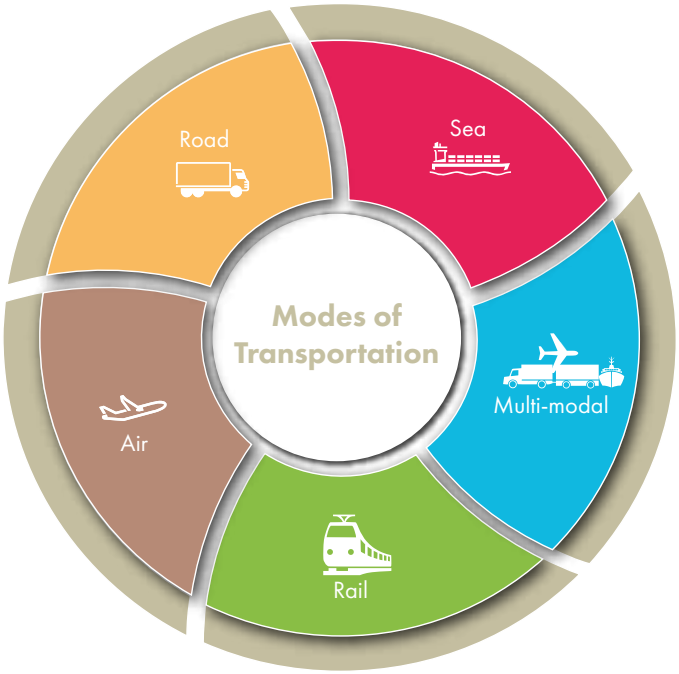
Table of Contents

1. Introduction

Logistics is the management of the flow of goods between the point of origin and the point of consumption in order to meet customer requirements. The logistics company plans, implements, and controls the movement and storage of goods, services, or information within a supply chain. The process strives to find the best solution for manufacturing and distributing goods by considering how the market uses the products.



Logistics eco-system

Logistics eco-system consists of the following:

Shipper

The Shipper is the person or company who is the supplier of the goods.

Consignor

The Consigner is a person or company shown on the Bill of Lading (BL) as the party who begins the shipment of goods. They are usually the seller of the goods.

Consignee

The Consignee is the person receiving the shipment and is the party shown on the BL or on an Air waybill (AWB) as the consignee.

Ports

Ports are integrated logistics centers and multifunctional socio-economic spaces that handle cargo, undertake warehousing, provide space on a rental basis, and handle the means of transport (vessel, airplane, trailer, etc.).

Container Operator

The work of a Container Operator involves managing the movement of cargo containers between cargo ships, trucks, and freight trains, ultimately optimizing the flow of goods.

Transport Operator

A Transport Operator is responsible for the safe operation of transport vehicles, such as trucks and trailers, when moving goods on a predetermined time schedule from one location to another.

Non-Vessel Operating Common Carrier (NVOCC)

A shipment consolidator who does not own any vessel, but functions as a carrier by issuing its own BL.

Freight Forwarder

Person or company who arranges for the carriage of goods and associated formalities on behalf of a shipper/consignee. The duties of a freight forwarder include booking space on a ship, providing all the necessary documentation, arranging customs clearance, etc.

Independent service providers/Third-party logistics (3PL)

Third-party logistics (3PL) is a company's use of third-party businesses to outsource elements of the company's distribution, warehousing, and fulfillment services. It may be a single provider, such as transportation or warehouse storage, or it can be a systemwide bundle of services capable of supply chain management.

Agents

Logistics agents undertake various aspects of the transportation process such as the clearance of goods, handling means of transport, tracking the delivery of goods, etc.

2. VAT in the Region

The Member States of the GCC entered into an agreement (GCC Agreement) to establish a common legal framework for the introduction of a general tax on consumption in the GCC known as VAT, levied on the import and supply of goods and services at each stage of production and distribution.

VAT was first implemented in UAE and The Kingdom of Saudi Arabia (KSA) from 1 January 2018 and then it was implemented in The Kingdom of Bahrain (Bahrain) from 1 January 2019. VAT Laws in UAE provide a detailed definition of the VAT treatment on transportation and the related supply of goods and services.

Relevant provisions and regulations from UAE VAT Law have been reproduced below (current document contains implications from UAE VAT perspective)

Provisions under UAE VAT Law

Definition:
Article (1) of the UAE VAT Law defines transport-related services.

Transport-related Services: Shipment, packaging and securing cargo, preparation of Customs documents, container management, loading, unloading, storing and moving of Goods, or any another closely related services or services that are necessary to conduct the transportation services.

Place of supply
Article (30) of the UAE VAT Law enlists 'place of supply in special cases'

Article (30)(8) - *For the Supply of transportation Services, the place of supply shall be where transportation starts. The Executive Regulation of this Decree-Law shall specify the place of supply for transportation Services if the trip includes more than one stop.*

As per Article (22) of the Executive Regulations (ER) in relation to the place of supply of certain transport services:

1. *The place of the supply of each transportation service is the place where the supply of that transportation service commences, where a trip includes more than one stop and consists of multiple supplies in accordance with Clause (5) of Article (4) of this Decision.*
2. *The place of supply of Transport-Related Services shall be the same as the place of supply of the transportation service to which they relate.*

Zero-rating:
Article (45) of the UAE VAT Law categorises the following transport services as zero rated supplies:

Article (45)(2) - *International transport of passengers and Goods which starts or ends in the State or passes through its territory, including also services related to such transport.*

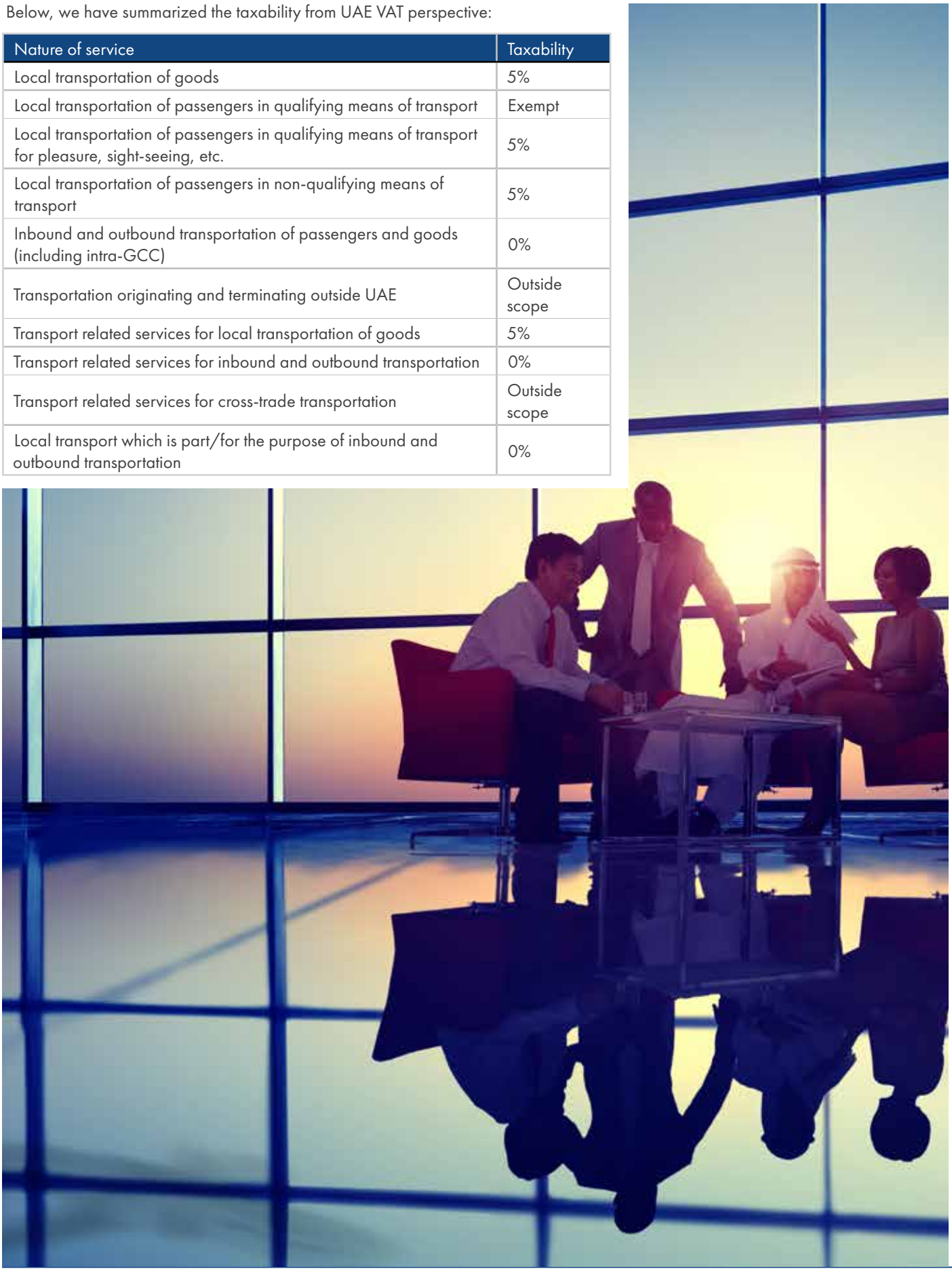
Article (33)(1) and (2) of the ER states that:

1. *The supply of international transportation Services for Passengers and Goods and Transport-related Services shall be subject to the zero rate in the following cases:*
   a. *Transporting passengers or Goods from a place in the State to a place outside the State.*
   b. *Transporting passengers or Goods from a place outside the State to a place in the State.*
   c. *Transporting passengers from a place in the State to another place in the State by sea or air or land as part of a supply of an international transport of those passengers if either or both the first place of departure, or the final place of destination, is outside the State.*
   d. *Transporting Goods from a place in the State to another place in the State if the Services are supplied as part, or for the purpose, of the supply of Services of transporting Goods either from a place in the State to a place outside the State or from a place outside the State to a place in the State.*

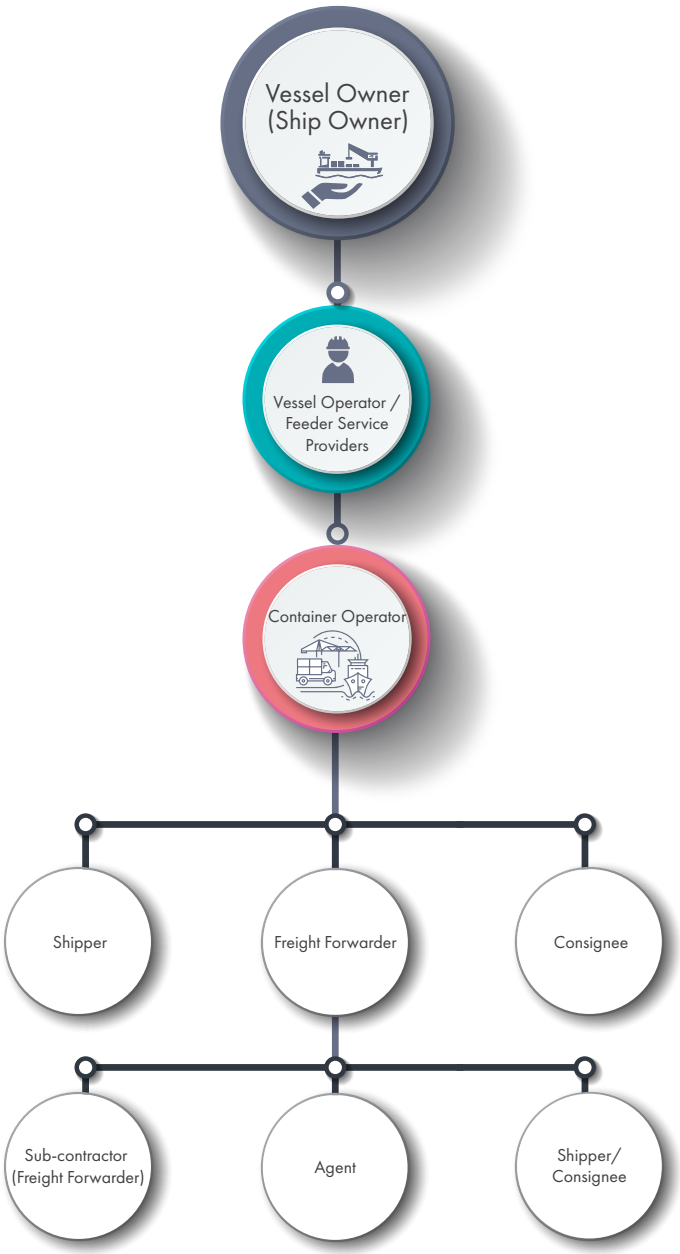
2. *The following Goods and Services shall be zero-rated if they are supplied in respect of the transportation services of passengers or Goods to which either Clause (1) of this Article applies or which are treated as taking place outside the State:*
   a. *The Goods which are supplied for use or consumption or sale by or on an aircraft or a ship.*
   b. *The Services supplied during the supply of transportation services.*
   c. *The Service of insuring, or the arranging of the insurance, or the arranging of the transport of passengers or Goods.*

Below, we have summarized the taxability from UAE VAT perspective:

Nature of service	Taxability
Local transportation of goods	5%
Local transportation of passengers in qualifying means of transport	Exempt
Local transportation of passengers in qualifying means of transport for pleasure, sight-seeing, etc.	5%
Local transportation of passengers in non-qualifying means of transport	5%
Inbound and outbound transportation of passengers and goods (including intra-GCC)	0%
Transportation originating and terminating outside UAE	Outside scope
Transport related services for local transportation of goods	5%
Transport related services for inbound and outbound transportation	0%
Transport related services for cross-trade transportation	Outside scope
Local transport which is part/for the purpose of inbound and outbound transportation	0%



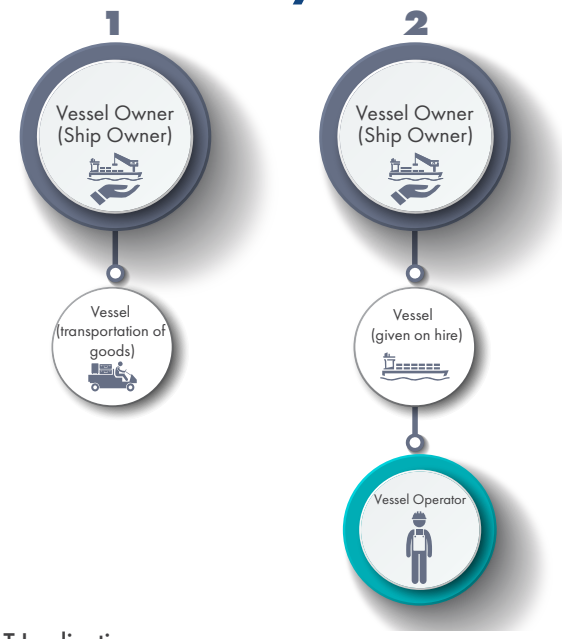
3. Shipping and Logistics Industry



Note: The above process flow is only illustrative in nature. There are number of other parties/service providers such as ports, vessel agents, vessel management companies, bunker suppliers, etc. that are involved in the supply chain.

Vessel owner (ship owner)

The vessel owner is the entity who owns the vessel. Through the vessel, the entity would undertake the transportation of goods on its own or may provide vessels (means of transport) on a lease/ charter basis to the vessel operator at a freight rate (voyage charter) or hire rate (time charter).



VAT Implications

Taxability on transportation of goods - International transport of goods which starts or ends in UAE, or passes through UAE, shall qualify as zero-rated supply. In this instance, if the vessel owner undertakes international transportation of goods then such activity may qualify as zero-rated supply. It should be noted that the place of supply of transportation which begins outside UAE and ends in UAE may be regarded as outside UAE, as the transportation originated outside UAE, and therefore this transaction may be regarded as outside the scope. This leads to an anomaly, as the transaction is also specified as zero-rated as per the zero-rating provisions.

If transportation is undertaken within UAE, then it may be taxable at 5%. It should be noted that if the vessel undertakes local movement in UAE (commonly known as coastal runs) as part of its international movement, then the local movement may also qualify for zero-rating. This would cover scenarios of transshipment where a vessel moves within UAE, but the journey is linked to its international movement. Businesses should keep appropriate documents to substantiate that their local movements are part of their international movements.

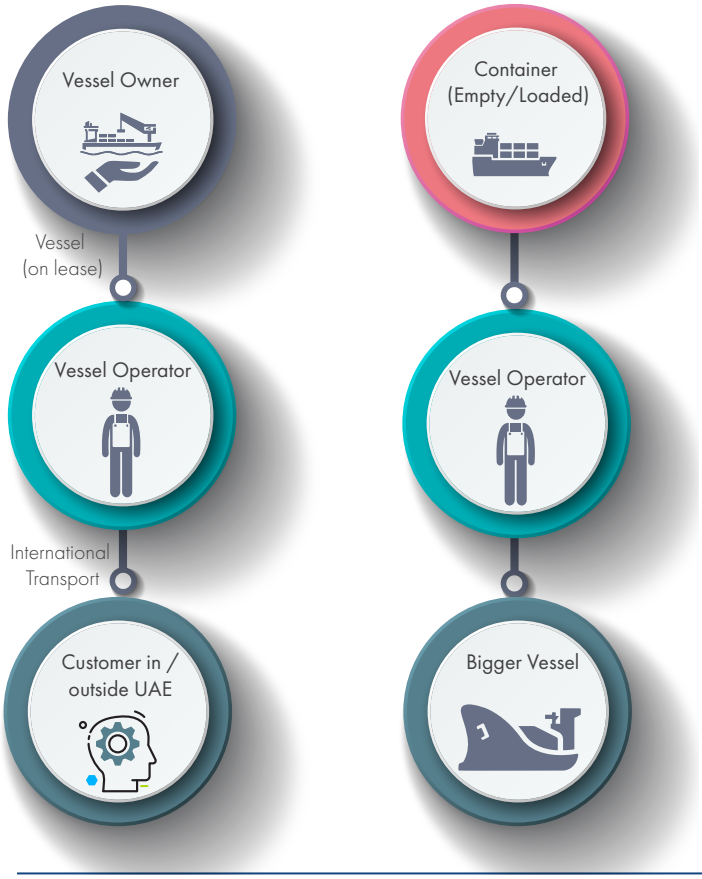
Vessel owners generally charge slot hire fees for undertaking transportation. On top of this, the vessel owner also charges vessel handling fees and reimburses charges incurred at ports. VAT treatment of the said charges would depend on vessel movement/ position adopted for slot hire, as such charges may be considered as transport-related services. It is essential for the business to determine whether the charges, other than slot hire, can be regarded as a transport-related service. If not, then the taxability

should be determined considering the nature of such charge/ reimbursement.

Taxability on vessel (means of transport) given on lease - Zero-rating is provided to specified means of transport which would not be used for the purpose of recreation, pleasure, or sports. While the ER only specifies the supply of means of transport, i.e., the supply of goods, it is not clear whether the leasing/charter of means of transport would be covered under the purview of zero-rating. The place of supply provisions states that the place of supply of means of transport to the lessee would be the place where the means of transport is placed at disposal [provided the recipient is not in UAE and does not have a Tax Registration Number (TRN)]. On-harmonious reading of place of supply and zero-rating provisions, an analogy could be drawn that the supply of means of transport should cover the sale and supply of means of transport on lease. Therefore, charter hire of means of transport could be zero-rated provided conditions specified in ER are fulfilled.

Vessel operator/feeder service providers

Vessel operator/feeder service providers generally acquire vessels on a charter basis from the vessel owner to undertake the transportation of goods or uses their own vessel to undertake transportation.



VAT implications for vessel operators/feeder service providers is similar to the implications mentioned for the vessel owner. To summarize, if the activity of vessel operator is in relation to international transport (including local movement which is part/ for the purpose of international transport) then it may qualify as zero-rated supply. Any local movement which is not linked to international transportation may qualify as taxable supply.

Additionally, feeder operators may enter into an arrangement with other feedering companies to share space on vessels amongst themselves. Under this arrangement, expenses are jointly incurred by the parties, revenue is jointly pooled through slots booked, and net profit/loss is shared amongst the parties. The VAT implications of the following independent transactions need to be analyzed by businesses -

- Sharing of space by vessel operators with other parties; in other words, vessel operators would allow other parties to undertake transportation on their vessel and this may be regarded as supply of transportation service. Taxability would be determined based on the voyage movement.
- Operating costs incurred by parties are shared amongst them; in other words, one party would incur the expense, e.g. port costs, and this is then shared with the other parties. These expenses could be regarded as charges for operating the vessel. If the charges incurred are for the operation, repairs, maintenance of means of transport then it may be zero-rated, otherwise VAT would be leviable.

Container Operator

Transportation in the vessel/aircraft is usually undertaken in the containers. Container operator manages the movement of cargo containers between vessels, transport vehicles, etc.

VAT implications

Taxability on movement of cargo - VAT implications for container operators is similar to the implications specified for vessel owners/operators as the container operator essentially provides transportation services. Accordingly, taxability on ocean freight related charges would be based on container movement. With regard to charges other than ocean freight, it needs to be established whether they can be regarded as transport-related services. If yes, then the taxability would follow the treatment for ocean freight. However, if charges cannot be regarded as transport-related services, then the taxability needs to be determined based on the nature of services/supplies. It may be noted that terminal handling charges and charges incurred at ports (load port or discharge port) could be regarded as transport-related services.

Taxability on washing, repairs, cleaning and maintenance services

Washing, repairs, cleaning, and maintenance services for containers may qualify as services in relation to the goods. Further,

they may not be regarded as transport-related services as such activities are not necessary to undertake transportation. As per UAE VAT Law, the place of supply of services related to goods shall be the place where such services are performed. Therefore, the place of supply for washing, repairs, cleaning, and maintenance services, if performed within UAE, would be UAE. Accordingly, VAT would be leviable and the service may not qualify as zero-rated export since the service is undertaken in UAE. A scenario could arise whereby container repair is undertaken by the port as the vessel cannot move until the container is repaired. In such a scenario, a position could be taken that the repair is undertaken in order to initiate the voyage (necessary for undertaking transportation) and, hence, zero-rated.

Documentation charges - Also, the container operator may charge documentation charges for undertaking the transportation. Such charges may qualify as transport-related services if the documentation is with regard to customs/necessary for undertaking transportation.

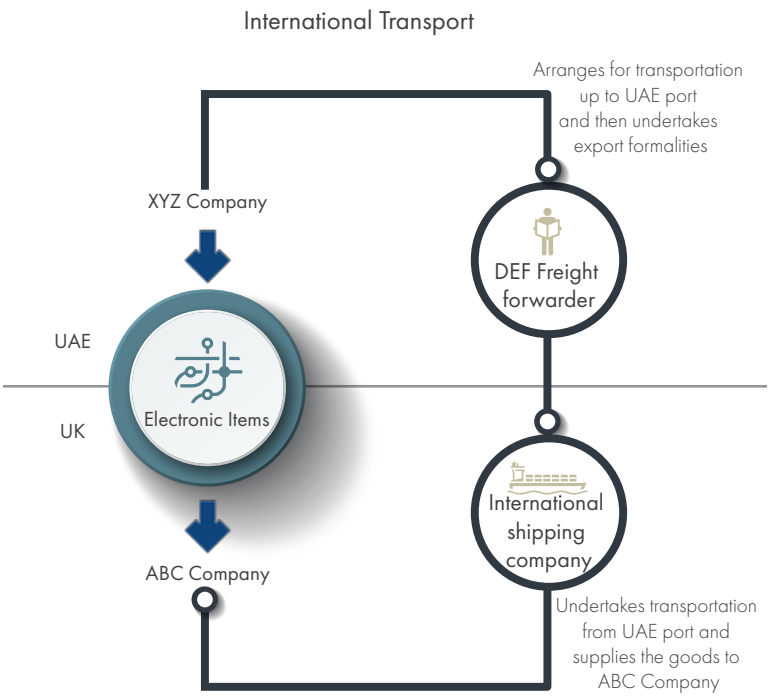
Freight forwarding

The freight forwarder arranges the transportation of goods from one location to another. The freight forwarder generally arranges the entire process of shipment, right from picking up the goods from the shipper's location, storing it, and delivering the goods to their destination.

The freight forwarder, apart from undertaking door to door transportation, may also undertake the following, including the issuance of BL or AWB:

- Door to port, port to door, and port to port transportation
- Customs documentation
- Clearance and delivery
- Insurance
- Warehousing
- Packaging, etc.

Illustration - XYZ Company in UAE wants to transport certain electronic items to ABC Company based in UK. XYZ Company appoints DEF freight forwarder to transport the goods. DEF freight forwarder picks up the electronic items from the location of XYZ Company in UAE, delivers them to the port and undertakes other customs formalities in respect of export. DEF freight forwarder then appoints international shipping company to ship electronic items to UK.



VAT implications

As there are multiple-legs involved in the transportation of goods, it is essential to determine whether all legs are zero-rated. While ocean freight (international transportation) would be zero-rated, it needs to be established whether other charges can be regarded as transport-related services. Terminal handling charges and customs charges can be regarded as essential for undertaking transportation and are therefore zero-rated. However, if any service charges are levied, then it may not be regarded as transport-related services, since it may not be necessary to undertake transportation, and taxability would be determined based on the general rule.

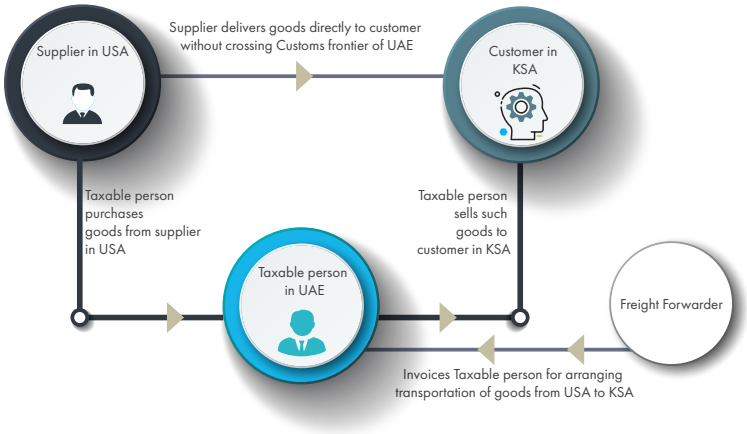
Also, in certain situations, the shipping line/NVOCC may issue an invoice for certain charges directly to the customer (shipper/consignee), however, payment of this charge is made by the freight forwarder. The freight forwarder should treat the recovery of the charges paid to the shipping line/NVOCC's on behalf of the customer as disbursement provided the recovery is on an actual basis. Furthermore, if VAT is charged by the shipping line/NVOCC's then the input tax should be claimed by the customer (provided conditions to be claim input tax are met) and not the freight forwarder.

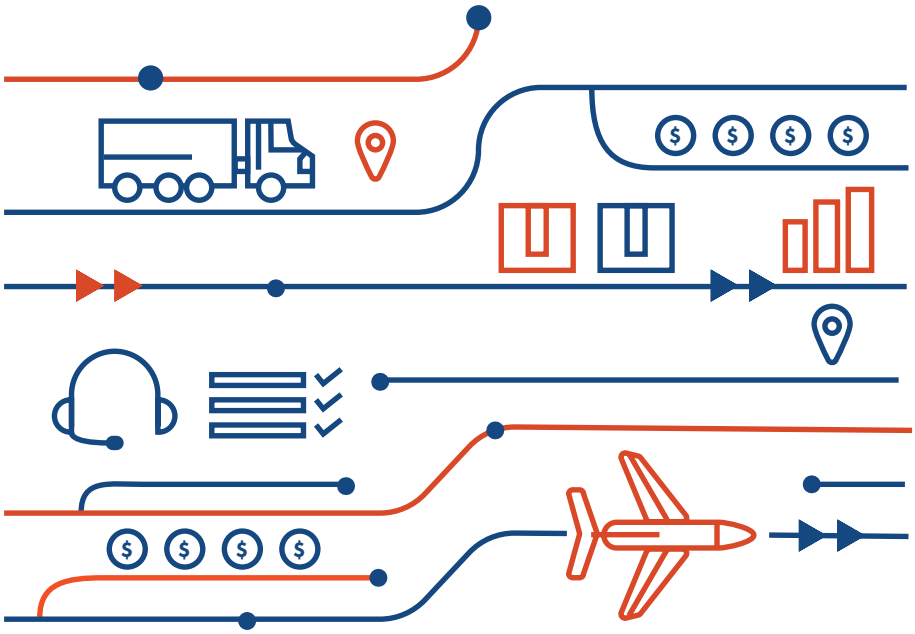
Additionally, the freight forwarder may undertake independent clearance and delivery jobs, i.e., transportation is undertaken by another freight forwarder. Clearance services would be regarded as transport-related services and it may be zero-rated if the cargo movement is international. It is imperative to note that such independent transactions are closely monitored to determine the tax treatment, for example, local transportation from port to warehouse in UAE may be regarded as zero-rated if the cargo has arrived from outside UAE. However, if transportation is undertaken from one warehouse in UAE to another warehouse then it may be taxable and not zero-rated.

Cross-border trade (High Sea Sales)

Under cross-border trade, transportation is undertaken outside UAE, i.e., a UAE port is not involved; for example, goods are exported from USA to be delivered to KSA. Vessel operators/container operators/freight forwarders undertake this transportation activity and invoices the customer based in UAE/outside UAE.

As per UAE VAT Law, the place of supply of the transportation service is the place where transportation originates. In the given scenario, as transportation would originate outside UAE, the place of supply would be regarded as outside UAE and hence may be regarded as out of scope.





4. Means of Transport

Modes of transportation include air, ocean, rail, and road transportation. Choosing the mode will depend on several factors including volume of cargo or how urgently the cargo needs to be delivered. As stated above, international transportation is the backbone of booming trade and tourism in UAE and therefore, relaxations are provided in respect of means of certain transportation under UAE VAT Law.

As per UAE VAT Law, supply of the following means of transport (land, air, or sea) shall be subject to zero-rate taxability:

1. A supply of an aircraft that is designed or adapted to be used for commercial transportation of passengers or goods and which is not designed or adapted for recreation, pleasure, or sports.
2. A supply of ship, boat, or floating structure that is designed or adapted for use for commercial purposes and which is not designed or adapted for recreation, pleasure, or sports.
3. A supply of bus or train that is designed or adapted to be used for public transportation of (10) or more passengers. .

In respect of the above, it is the responsibility of the supplier to identify whether the aircraft, ship, boat, etc. supplied is not used for pleasure or sports. The supplier may ascertain the customer's intended use of the means of transport by obtaining a written declaration which specifically states that the means of transport will only be used for designated commercial purposes.

Furthermore, the supply of goods and services which are related to the supply of the means of transport, and which are designed for the operation, repair, maintenance or conversion of these means of transport shall be zero-rated. Hence, repair and maintenance services in relation to means of transport shall be zero-rated, subject to certain conditions.

5. Warehousing Services

The supply chain umbrella of the logistics industry includes procurement, inventory management, and distribution. Inventory management includes the warehousing and storage of goods until they are delivered to customers.

Warehouses use specific elements such as inventory control software, equipment that can move goods, shipping supplies, etc. to assist companies in monitoring and safely storing their inventory. Warehouses also provide packing and grading services in respect of stored goods, as per customer requirements.

The major benefits of warehousing for companies in UAE is that it provides a central location for storing goods and ensures price stabilization in the marketplace. In UAE, most of the warehouses are based in Designated Zones (DZ) to avail benefits given to entities established in DZ.

VAT Implications

DZs are treated as outside UAE for the purpose of VAT. VAT treatment for transactions in respect of the supply of goods is different in DZ as compared to UAE mainland. However, for transactions regarding the supply of services, DZ is treated at par with UAE mainland, i.e., taxability of services will remain the same irrespective of whether it is provided from UAE mainland or DZ.

As per UAE VAT Law, the place of supply of services shall be the place of residence of the supplier. Place of residence is defined as *where a person has a place of establishment or a fixed establishment*. The place of supply, with regard to warehousing services, shall be treated as within UAE. Thus, warehousing services provided to customers within UAE shall be taxable.

Moreover, warehousing services provided to customers based outside UAE may be treated as zero-rated export. However, it could be contended that since the service relates to goods, i.e., movable personal assets, located in UAE, the service may not be regarded as zero-rated. It should be noted that movable personal asset is not defined in UAE VAT Law and therefore, it is not clear whether tangible goods are covered within the purview.

Temporary storage - It should be noted that if warehousing services (temporary storage) are provided for the purpose of undertaking transportation, then they may be regarded as transport-related services. Furthermore, if the goods are meant for international transportation, then the warehousing services may be regarded as zero-rated. Appropriate documents, such as customs declarations, commercial invoice, bill of lading, certificate of origin, etc., should be maintained to substantiate the zero-rating.

Value-added services - Apart from storing goods, warehousing also involves certain value-added services such as packing, re-packing, labelling, etc. Such activities may be regarded as taxable if the customer is located in UAE. However, if the customer is located outside UAE, then there is a possibility for zero-rating. The contention discussed above regarding movable personal assets may apply and, in such a scenario, the service may not be regarded as zero-rated.

Consolidation of cargo (collection of cargo from two or three locations and loading the same under single container) - In certain situations, warehousing may involve the consolidation of cargo for the purpose of undertaking transportation. Such an activity may be regarded as a transport-related service and could be zero-rated (subject to documentary evidence) as the goods are meant for international transportation.

6. Courier Agencies

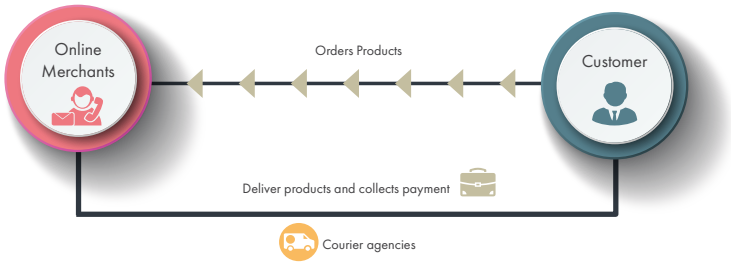
Courier agencies undertake delivery of packages/goods internationally and locally. Services of courier agencies are generally faster than ordinary mail services. Major activities undertaken by courier agencies are the following:

- Freight forwarding (as discussed above)
- International courier services
- Domestic courier services
- Warehousing services (as discussed above)
- Cash on delivery ('COD') services, etc.

International courier services handle all Business to Business (B2B) or Business to Customer (B2C) cross-border transactions which involve movement of parcels, documents, goods, etc. While undertaking international delivery, courier agencies clear goods from the Customs authority. Courier agencies may charge the consignor or consignee for their services according to the arrangement.

In the case of domestic courier services, courier agencies offer door-to-door delivery within a set period. Courier agencies may charge the consignor or consignee for their services.

In case of COD services, courier agencies have an arrangement with online suppliers. In accordance with the arrangement, courier agencies deliver goods to the buyers. Collection of the supplies is undertaken by the courier agency for a nominal fee.



VAT Implications

Taxability of the transportation services depends on the movement of goods irrespective of whom the amount is charged to, i.e., whether the customer is based within the UAE or outside the UAE.

Taxability of international courier services - According to UAE VAT Law, international transport of passengers and goods which starts or ends in the State or passes through its territory, including services related to such transport shall qualify as zero-rated supply. In the present case, if the courier service is delivered from outside the UAE to within the UAE or vice versa, then the service of delivering such goods may qualify as zero-rated supply. However, if the courier agency charges a service fee apart from freight then the taxability of the service fee would be determined on the basis of the general rule.

On import of goods into the UAE, the courier agency may import under their name and is thereby required to pay Customs duty and VAT. Subsequent reimbursement of Customs duty and VAT on an actual basis may not lead to any VAT implications. It may be noted that if the courier agency specifies that the importer on record is the buyer of the goods then the liability to pay Customs duty and VAT would shift to the buyer.

With regard to the exports through the courier, the courier agency typically files a combined Customs declaration (i.e. multiple shipments are exported under one declaration) and the said document (along with the Customs Exit certificate) should be obtained by the supplier to substantiate zero-rating.

Taxability of domestic courier services - As the goods are originated and delivered within the UAE, such service of delivering goods locally may qualify as taxable supply of service.

Taxability of COD service

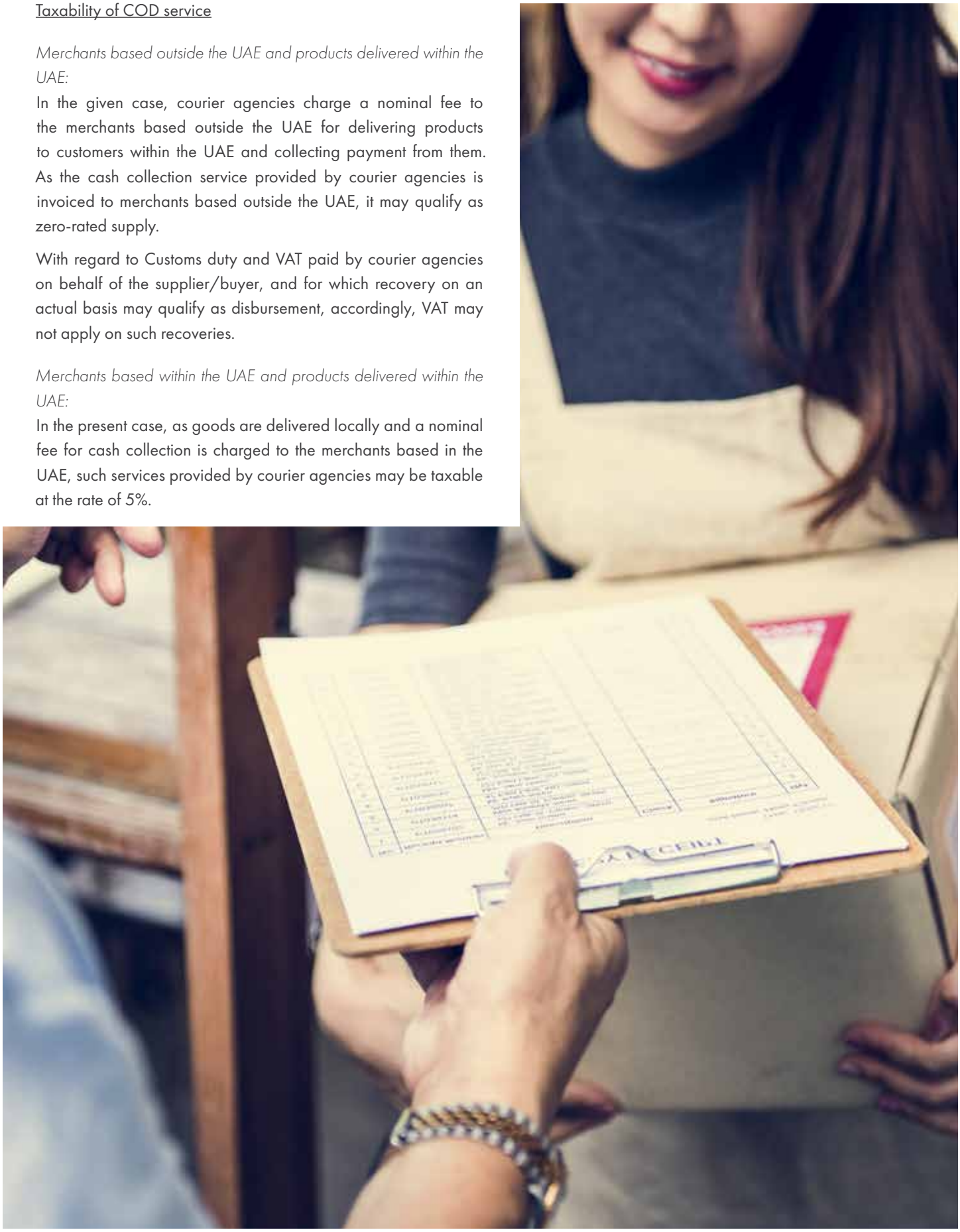
Merchants based outside the UAE and products delivered within the UAE:

In the given case, courier agencies charge a nominal fee to the merchants based outside the UAE for delivering products to customers within the UAE and collecting payment from them. As the cash collection service provided by courier agencies is invoiced to merchants based outside the UAE, it may qualify as zero-rated supply.

With regard to Customs duty and VAT paid by courier agencies on behalf of the supplier/buyer, and for which recovery on an actual basis may qualify as disbursement, accordingly, VAT may not apply on such recoveries.

Merchants based within the UAE and products delivered within the UAE:

In the present case, as goods are delivered locally and a nominal fee for cash collection is charged to the merchants based in the UAE, such services provided by courier agencies may be taxable at the rate of 5%.



6. VAT Compliances

<table>
<tr><th>S. No.</th><th>Category</th><th>Description</th></tr>
<tr><td>1</td><td>Registration</td><td>A person residing in the UAE or a VAT implementing State is required to obtain registration if the total value of all supplies exceeds the mandatory registration threshold, i.e., AED 375,000, over the previous 12-month period. The application for registration should be filed within 30 days of being required to register.

A person can apply for registration voluntarily if the total value of supplies or expenses subject to tax exceeds the voluntary registration threshold of AED 187,500 over the previous 12-month period.</td></tr>
<tr><td>2</td><td>Date of Supply</td><td>Date of Supply is the date when the obligation to pay tax arises.

As per Article (25) of UAE VAT Law:
The Date of Supply of goods shall be the earliest of any of the following:
<table>
<tr><td>a.</td><td>Date on which goods were transferred</td><td>If transfer was under supervision of supplier</td></tr>
<tr><td>b.</td><td>Date on which recipient took possession of goods</td><td>If transfer was not under supervision of supplier</td></tr>
<tr><td>c.</td><td>Date of completion of assembly or installation of goods</td><td>Where goods are supplied with assembly or installation</td></tr>
<tr><td>d.</td><td>Date on which recipient of goods accepted the supply; or

Date no later than 12 months after the date when goods were transferred or placed at the recipient of goods disposal.</td><td>If the supply was made on a returnable basis</td></tr>
<tr><td>e.</td><td colspan="2">Date on which goods were imported under Customs legislation</td></tr>
<tr><td>f.</td><td colspan="2">Date of receipt of payment</td></tr>
<tr><td>g.</td><td colspan="2">Date on which the tax invoice was issued</td></tr>
</table>
Date of Supply of services shall be the earliest of any of the following:
<table>
<tr><td>a.</td><td>Date on which provision of service was completed</td></tr>
<tr><td>b.</td><td>Date of receipt of payment</td></tr>
<tr><td>c.</td><td>Date on which tax invoice was issued</td></tr>
</table>
As per Article (26) of UAE VAT Law:

In case of periodic payment or consecutive invoices, Date of Supply shall be the earliest of any of the following provided it does not exceed one year from the date of provision of goods and services:
<table>
<tr><td>a.</td><td>Date of issuance of any tax invoice</td></tr>
<tr><td>b.</td><td>Date payment is due as shown on tax invoice</td></tr>
<tr><td>c.</td><td>Date of receipt of payment</td></tr>
</table></td></tr>
</table>

S. No.	Category	Description
3.	Invoicing and Credit Notes	Tax Invoice: This is a written or an electronic document which records the occurrence of taxable supply with details. A registrant making a taxable supply shall issue an original tax invoice and deliver this to the Recipient of Goods or Recipient of Services. To issue a tax invoice, there are particulars which are required to be mentioned on the invoice specified in Article (59) of ER. Tax Credit Notes: A registrant shall issue an original tax credit note when there is a reduction of output tax in relation to any supply made and deliver this to the Recipient of Goods or Recipient of Services also. There are particulars which are required to be mentioned on tax credit notes as per Article (60) of ER.
4.	VAT Returns	Every taxable person is required to file a VAT return on the FTA portal and make payment of VAT on or before the 28 day of the month following the tax period concerned. If the due date occurs on a weekend/public holiday, then the due date shall be deemed to be the next working day. The VAT return shall be submitted online through the VAT tab after logging into the FTA e-services portal. The standard tax period for a taxable person is three calendar months, and the FTA may at its discretion assign a different tax period to a certain taxable persons. For example, in some cases, monthly VAT returns are required to be filed by a taxable person
5.	Filing Voluntary Disclosure (VD)	VD is a form provided by the FTA in which a taxable person or a taxpayer notifies the FTA of an error or an omission in a tax return, tax assessment or tax refund application. If there is an error which resulted in the amount of tax payable calculated being less than required by more than AED 10,000, than the taxable person shall file VD within 20 business days of the date when the person became aware of the error. If there is an error resulting in the amount of tax payable calculated being less than required by AED 10,000 or less, the taxable person has two options: a. Obligated to submit a Tax Return – the person shall correct the error in the tax return of the tax period in which the error was discovered before the due date for submission of said tax return; b. Not obligated to submit a Tax Return – the person shall file VD to the FTA within 20 business days of the date when the person became aware of the error.

S. No.	Category	Description
6.	Input tax recoverability	VAT incurred on expenses is eligible to be recovered for the following supplies: 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. Specific exempt supplies provided outside the State. Input tax can be claimed in the first tax period when the following conditions of recovery are met: a. The taxable person receives and keeps the tax invoice as per the provisions of this Decree-Law, provided that the tax invoice includes the details of the supply related to said input tax, or keeps any other document pursuant to Clause (3) of Article (65) of this Decree-Law in relation to the supply or import of goods on which the input tax was paid. b. The taxable person pays the consideration for the supply or any part thereof, as specified in the Executive Regulations of this Decree-Law. If input tax is not claimed in the first tax period, then it can be claimed in the subsequent tax period.
7.	Penalties	Cabinet Resolution No. (40) of 2017 on Administrative Penalties for Violations of Tax Laws in the UAE specifies the list of penalties that are applicable on every instance of non-compliance with UAE VAT Law.
8.	DZ	A DZ is a specific fenced geographic area and has security measures and customs clearance in place for the entry and exit of individuals and the movement of goods to and from the area. DZs are considered as outside the State for the purpose of VAT unless otherwise specifically mentioned.

7. Use of Information Technology In Managing Vat Compliance

When logistics companies update their IT/ERP systems with the relevant VAT codes, it is critical to ensure compliance with the VAT law. The tax codes are based on multiple parameters including, but not limited to, the movement of transport, job type, charge codes, customer location, etc. It should be noted that the defined tax codes are continuously monitored and updated, taking the Clarifications/User guides issued by FTA into consideration.

The IT systems in the logistics industry are complex. Different entities use different kinds of system, including those used by vessel operators, container operators, agents, freight forwarders, etc. Also, the majority of entities use different systems for undertaking operational transactions and for financial reporting, and in such scenarios, integration between the two is a challenge. Another challenge is from which system tax invoices and tax credit notes are raised and are there sufficient checks and controls in place to lower the chance of errors.

While transitioning to VAT, there were issues in updating legacy/operating systems with FTA requirements, such as defining tax codes for each charge, auto selection of tax codes basis nature of charge, affixing mandatory fields in the format of tax invoices and tax credit notes, etc. In such scenarios, upgrading to the new, tax compliant system is the only option.

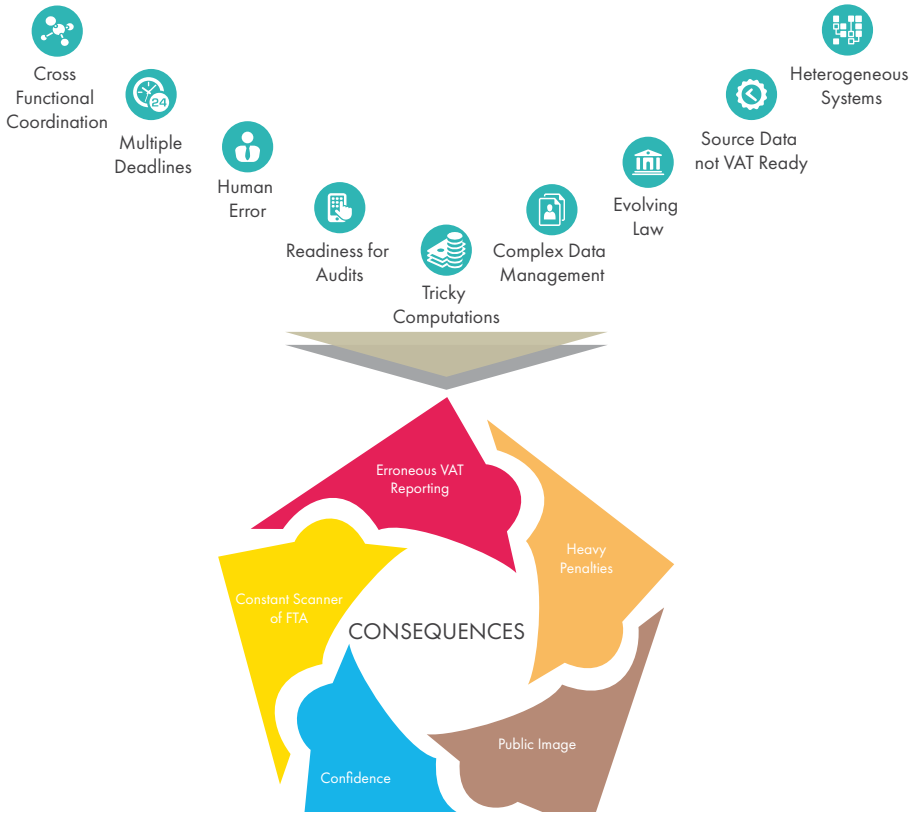
With regard to VAT reporting, it is mandatory to have the required fields (as specified in the FTA Tax Accounting Software document) apart from the other fields in the sales and purchase report as they would not support the tax codes applied on the particular transaction. In the case of multiple systems being used, extracting reports from the financial system would be beneficial since it would be exhaustive, and the chances of transactions being missed out are remote. Here, an aspect to be checked is whether the fields relevant for VAT reporting, which are captured at the source system, are also mapped in the financial system.

A large number of reputed ERPs are able to manage data and put them into a format capable of complying with VAT laws. From experience, the inconvenience for companies managing a large quantum of data is typically because of the following:

1. Use of heterogenous systems;
2. Source data are not VAT ready;
3. Evolving law without a corresponding update of the ERP system;
4. Complex data management;
5. Human errors at the time of making entries in the ERP; and
6. Cross-functional co-ordination.

It is critical that logistics service providers use appropriate VAT automation tools and technologies that enable them to be fully VAT-compliant. This is critical as current ERP systems are unable to generate reports that are mandated by the FTA. One such report that ERPs are generally unable to create (at a transaction level) is the FTA Audit File (FAF). It is likely that the FTA may ask for the FAF file at the time of conducting Audit.

Since the penalties prescribed in the VAT legislation are onerous, any kind of negligence regarding this may prove costly and have a direct impact on the bottom line of the companies.



8. Conclusion

A robust compliance system and the use of tax automation would enable large logistics companies to comply with specific VAT requirements with regard to the information requested by the FTA during VAT Audit. Often, due to voluminous transactions, the authenticity of the tax data gets compromised and is not properly reviewed. An urgent matter is to allocate adequate budgets to the implementation of a robust IT infrastructure in order to support VAT compliance.

It is imperative that Management not only ensures that the correct VAT treatment is applied on their supplies, but also that this treatment is reflected in the VAT returns. While there are certain transactions whereby the position may differ amongst industry players (due to lack of clarity, etc.) and in such a scenario, it is advisable to seek clarification from FTA at the earliest possible time. If the response from FTA is different, i.e., taxable or exempt, in comparison to the tax position taken by the company for past transactions, this change would impact previous VAT returns and payments, and would lead to penal consequences.

9. Glossary of Terms

UAE	United Arab Emirates
KSA	The Kingdom of Saudi Arabia
GCC	Gulf Cooperation Council
VAT	Value Added Tax
UAE VAT Law	Federal Decree-Law No. (8) of 2017 on Value Added Tax
ER	Cabinet Decision No. (52) of 2017 on the Executive Regulations of the Federal Decree-Law No (8) of 2017 on Value Added Tax
TRN	Tax Registration Number
FTA	Federal Tax Authority
FAF	FTA Audit File
DZ	Designated Zone
BL	Bill of Lading
AWB	Air waybill
IT	Information Technology
ERP	Enterprise Resource Planning

10. Authors

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Pratik specializes in Indirect Taxes, risk management, and process consulting from an indirect tax perspective. Pratik has more than 15 years of experience and has worked with organizations such as Ernst & Young, India and SKP Business Consulting LLP.

Pratik is an active speaker and shares his views and thoughts with regard to leadership with the Indo-German Chamber of Commerce, Indo-French Chamber of Commerce, Swiss Business Hub, UK Trade & Investment, The British Institute of Facilities Management, The Institute of Chartered Accountants of India, FICCI (Real Estate Division), ASSOCHAM, CII, NASSCOM, All India Federation of Tax Practitioners Association, Indian Petrochem - International Conference, and PHD Chamber of Commerce.

Separately, his views are regularly captured by various prominent tax portals, International Tax Review magazine, leading business news channels and other print media. Pratik has led a team of more than 55 indirect tax professionals who were involved in training more than 3000 government officials on the Indirect Tax regime in India and around the world. He is a regular contributor to World Bank Group for their annual 'Doing Business' guide.

He has worked on large VAT implementation projects in GCC and possesses expertise in transition management, developing internal controls, Standard Operating Procedures (SOPs), training, etc. He leads a team working on a large compliance project and regularly engages with the client to highlight issues, risks, etc.

He has also undertaken Customs and VAT advisory services with regard to cross-border transactions such as import and re-export, export and re-import for repairs, refurbishing, etc.

He has assisted clients on the applicability of Excise provisions to specific products and has advised on different aspects such as valuation, rate of excise, impact on pricing and profits, reporting in the return, etc.

Sunny Kachalia
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Sunny is a Chartered Accountant with over nine years of experience in Indirect Taxes. His major skills include leadership and project management to handle large VAT/GST implementation projects. In UAE, he has got experience of working in sectors such as Shipping & Logistics, Insurance, Oil & Gas, Media & Entertainment, and Hospitality.

He has handled and advised on company specific issues arising during VAT implementation such as transition management, contract changes, pricing impact, transaction structuring, etc.

He has extensive experience in VAT and Customs advisory services and has handled health checks and due diligence projects for various multinationals. Sunny has authored articles on VAT which have been published in leading newspapers in UAE.

He works closely with companies' finance and IT teams during engagements to ensure that changes required as per VAT regulations are applied in companies' IT systems, internal policies and procedures, etc. He has got hands-on experience in undertaking compliances as per GCC VAT and other tax jurisdictions.

About WTS Dhruva

WTS Dhruva Consultants is a part of Dhruva Advisors LLP, a boutique tax and regulatory services organization. At Dhruva we work closely with regulators on policy issues and with our clients on tax advocacy and advisory matters. Dhruva Advisors LLP is headquartered in Mumbai-India, with 11 offices pan-India and globally, including the Middle-East, Singapore and the U.S. Globally, we are a team of over 340 Tax Professionals comprising of Chartered Accountants and Tax Attorneys, led by 25 Partners. Over 40 of these key Tax Specialists are based in the GCC region itself.

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Our recognitions

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- Dhruva Advisors has been named India Disputes and Litigation Firm of the Year 2018 at ITR's Asia Tax Awards, 2018
- Named European Indirect Tax Firm of the Year at International Tax Review's European Tax Awards 2018.
- Awarded European Indirect Tax Firm of the Year 2017 at International Tax Review's European Tax Awards 2017.
- Awarded Asia Tax Policy Firm of the Yead 2017 at International Tax Review's Asia Tax Awards 2017.
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