

## Egypt issues VAT Law no. 67 of 2016

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### Executive summary

Egypt issued VAT Law no. 67 of 2016 on 7 September 2016 in the *Official Gazette* to be effectively applied from 8 September 2016.<sup>1</sup>

### Detailed discussion

#### Scope of VAT application

All local and imported goods and services are subject to VAT except those specifically exempted. Services are defined in the law as any imported or local work done and not classified as goods.

There are 57 exempted goods and services listed in a separate table including:

- ▶ Tea, sugar and milk
- ▶ Gas, electricity and water
- ▶ Banking services that are legally restricted to banks only
- ▶ Medicines and the active substances used in the manufacture of medicines, whether locally manufactured or imported
- ▶ Health services except plastic surgery and weight loss services other than for medical purposes

- ▶ Public education and scientific research services, including schools offering international curricula
- ▶ Public hospitals, public Medicare services, public clinics, and non-profit organizations
- ▶ Free radio and TV transmission services
- ▶ Sale and lease of vacant plots, agricultural lands, buildings and housing and non-housing units
- ▶ Advertisement services

### VAT rate

The general VAT rate is 13% for the fiscal year ending 30 June 2017. From 1 July 2017, the general VAT rate increases to 14%. Machinery and equipment used in producing taxable or non-taxable goods or rendering services are subject to a 5% VAT and exported goods and services are subject to a zero VAT rate.

Special rates apply to a number of goods and services listed in Table (1) of the VAT Law, as follows:

- ▶ Goods and services subject to the Table rates only
- ▶ Goods and services subject to the Table rates and the VAT general rate, with a right to deduct the input VAT in the application of VAT at general rate

### Taxable value

The general value that should be declared as the amount subject to VAT for goods and services is the amount actually paid or payable by any means of payment.

The value subject to VAT for locally used goods is 30% of the sale value, without applying the deduction rules provided in Article no. 22 of the VAT law, on the condition that the goods should be used for a period of not less than two years.

With respect to installment sales, the value subject to VAT should include the installment interest exceeding the credit and deduction rate announced by the Egyptian Central Bank on the date of sale.

The value subject to VAT for Table goods and services subject to the Table rate and VAT is as follows:

- ▶ Local goods and services: Actual purchase amount paid or payable amount + Table tax amount
- ▶ Imported goods: Customs duty value + Customs duty + Table tax + any other imposed taxes or fees
- ▶ Imported service: Actual paid amount + Table tax

The VAT taxable amount includes:

- ▶ The amount paid by the purchaser or the service recipient
- ▶ All related expenses spent as commissions, packing, stacking, transportation, insurance, charged by the seller to the purchaser or importer
- ▶ In the case of related party transactions, the sale value should be according to arm's length standards

### Registration threshold

Each natural person or legal entity selling goods or services subject to VAT whose gross sales of taxable and exempted goods and services equals or exceeds EGP500,000 (approx. US\$56,000) within the 12 months preceding the date of the VAT law enforcement, is obligated to register with the Egyptian Tax Authority (ETA) within 30 days from the date of the enacted law.

A natural person or legal entity, reaching or meeting this threshold after the enactment of the VAT law is obligated to register within 30 days from the date of reaching the VAT registration threshold.

### VAT returns

A monthly return should be filed for the VAT and or the table tax due within two months following the tax accounting month. As an exception, for the April tax return, the filing deadline is 15 June. The return must be filed even if no sales are made within the tax period. If the tax return is not filed before the legal deadline, the ETA has the right to make a deemed assessment by providing the basis of this assessment. This action would not remove the legal responsibility of the taxpayer.

### Input tax deduction

Input tax is the VAT incurred or charged to the registrant upon purchasing or importing goods and services, including machinery and equipment, whether directly or indirectly related to the sale of goods and services subject to VAT.

When calculating the tax, the following should be deducted from the tax due on the sales value:

- ▶ Tax paid or accounted for returned sales
- ▶ Tax charged on inputs including the tax charged to the goods and services sold by the registrant through all distribution phases according to the conditions and situations that will be provided by the executive regulations relating to the VAT law

Items not entitled to tax deduction include:

- ▶ Table tax whether goods and services subject to this tax or inputs of goods and services subject to this tax
- ▶ Input tax included in the cost items
- ▶ Exempted goods and services

### **Services rendered by a nonresident person (Reverse Charge)**

*If a nonresident person (both natural and legal), not registered with the ETA renders a service subject to VAT in Egypt, to a person not registered in Egypt:*

This person is obligated to appoint a representative or an agent in Egypt to fulfill all the obligations due on the nonresident, as provided by the law including registration, payment of VAT, the additional tax and any other taxes due according to the VAT law

If the nonresident party does not appoint a representative or agent in Egypt then the Egyptian resident receiving the service is obligated to remit the VAT and any other tax due according to the VAT law to the tax authority without breaching his right to reimburse the tax payments made from the nonresident vendor.

*If a nonresident person, not registered with the ETA renders a service to a VAT registrant not necessary for their activity, to a governmental entity or a general authority or an economic authority:*

Then the service recipient should account and remit the VAT due to the ETA within 30 days from the date of sale in case the nonresident party does not appoint a tax representative or agent on his behalf.

VAT registrants who import a service necessary for their VAT taxable activity are considered as an importer and a supplier of the said service at the same time.

In case the VAT is not paid within the legal deadline, an additional tax will be payable with and through the same procedures of the original tax payment.

The VAT registrant who paid the VAT due on the services received from a nonresident person is entitled to deduct this input tax if all conditions and rules stated in Article no. 22 of the law are fulfilled.

### **Tax audit, assessments and appeals**

The ETA is only entitled to make deemed tax assessments for the VAT, Table tax or to amend a tax return already submitted unless this is based on available supporting information/documentation, and this shall be within a period of five years starting from the tax return deadline according to the law. This period extends to six years in the case of tax evasion. This period is stopped by any of the statute of limitation means provided by the civil law, a tax assessment notification, a warning notification for payment or by transferring the case to the appeal committees.

If the ETA amends or deems the tax, a notification is sent to the VAT registrant via a registered postal courier or any electronic means acknowledged by the Electronic Signature law or other acknowledged means.

The registrant is entitled to appeal the amendment or deemed assessment within a period of 30 days starting from the date of receiving the ETA's notification for this purpose.

The legal procedures for the appeal will continue as detailed in the VAT law.

### **Penalties, sanctions and offences**

An additional payment is due for each month or part of month starting from tax payment deadline until the date of payment. The additional payment is 1.5% of the unpaid VAT and the Table tax amount including the tax resulting from amending the tax return.

Sanctions for breaching the law provisions set for procedures set out in the law include:

- ▶ A penalty between EGP500 and EGP5000 (approx. US\$56 to US\$560)
- ▶ Payment of the VAT, Table tax and additional tax
- ▶ Penalties to be folded if repeated within three years

### **Tax evasion sanctions**

- ▶ Prison terms from three to five years
- ▶ Penalty payment from EGP1,000 to EGP10,000 (approx. US\$112 to US\$1,120)
- ▶ Payment of the VAT, Table tax and additional tax
- ▶ Sanction to be folded if repeated within three years
- ▶ Tax evasion considers person breaching honor and honesty

The law requires among the documents submitted for tax deduction or refund a certificate from a Chartered Accountant confirming that the VAT registrant is entitled for tax deduction or refund. The VAT law includes specific penalties if the Chartered Accountant breaches the law in this regard. The following will be charged:

- ▶ Ceasing the accountant from practicing his profession for one year
- ▶ Penalty between EGP 10,000 to 50,000
- ▶ In case of repetition, penalties and sanctions are folded.

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## Endnote

1. See EY Global Tax Alert, [Egyptian Parliament approves VAT law bill](#), dated 1 September 2016

For additional information with respect to this Alert, please contact the following:

**Ernst & Young (Egypt), Cairo**

▶ Sherif El-Kilany	+202 272 60121, ext. 1121	sherif.el-kilany@eg.ey.com
▶ Ahmed El-Sayed	+202 272 60260, ext. 1101	ahmed.el-sayed@eg.ey.com
▶ Hossam Nasr	+202 272 60260, ext. 1143	hossam.nasr@eg.ey.com
▶ Maissa Zidan	+202 272 60260, ext. 1133	maissa.zidan@eg.ey.com
▶ Nesreen Maher	+202 272 60260, ext. 1140	nesreen.maher@eg.ey.com
▶ Ahmed Hegazy	+202 272 60260, ext. 1158	ahmed.hegazy@eg.ey.com
▶ Hany El-Gamal	+202 272 60260, ext. 1208	hany.el-gamal@eg.ey.com

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