

Egypt VAT law published in the Official Gazette and takes immediate effect

September 2016

The Egyptian Parliament has discussed and approved the new Value Added Tax (VAT) law on 31 August 2016, and the law has been published in the Official Gazette taking effect on 8 September 2016.

The new VAT law replaces the current General Sales Tax (GST) law no. (11) Of year 1991 which is considered annulled as well as any legal provisions contradicting the new law.

This means that businesses are immediately required to comply with the requirements stipulated in the new law although a number of areas are still unclear under the current legal provisions and these would need further guidance and interpretation by the tax authorities.

The law stipulates that the Minister of Finance shall issue the VAT executive regulations within 30 days from the effective date of the law. Until then the current executive regulations to the GST will continue to apply to the extent it does not contradict the provisions of the new law.

What are businesses immediately required to do

Businesses currently registered under the GST law

- Businesses registered under the GST law will be automatically considered registered for VAT purposes, provided their annual turnover exceeds the new registration threshold (500,000 EGP).
- Importers of taxable goods registered under the current GST law will be automatically considered registered for VAT purposes regardless of their turnover.
- Manufacturers and importers of the goods and services subject to the Schedule Tax that are listed in Schedule No 1 of the new law who are currently registered under the GST law will also be automatically considered as registered for VAT purposes regardless of their turnover.
- Businesses mentioned above do not need to file any registration application nor notify the Egyptian Tax Authorities (ETA) of their VAT registration and they will keep the same tax registration number. This means that they must comply with the provisions of the law with immediate effect.

Businesses that are not currently registered under the GST law

- Businesses not required to register under the GST law and that are required to register for VAT purposes under the new law, must apply to the ETA for their VAT registration.
- Businesses supplying taxable goods and services with a turnover exceeding 500,000 EGP are required to register within 30 days from the date their turnover exceeds the registration threshold after the effective date of the law.
- If their turnover is below the registration threshold they may apply voluntarily to be registered for VAT purposes.

- Importers of taxable goods, exporters, distribution agents, as well as manufacturers or importers of goods and services subject to the Schedule Tax, are required to apply for VAT registration no matter the level of their turnover. They must apply within 30 days from the effective date of the law.
- The ETA will notify businesses of their registration for VAT purposes within 14 days from the date of application and the provisions of the law will apply to them from the date of notification.
- Businesses required to register under the new VAT law that do not file their application on time will be registered automatically by the ETA and considered as defaulters with all the consequences applicable under the provisions of the new law.

Cancellation of registration

- Businesses currently registered under the GST law with a turnover below the new VAT threshold shall be de-registered automatically, unless they specifically request to remain registered within 30 days from the effective date of the new law.
- Businesses who are de-registered shall submit a tax return within 30 days of the effective date of the law covering all tax periods prior to their registration cancellation and pay the tax due within 6 months from the effective date of the new law. De-registered businesses must keep their books and records for 5 years from the **date** of their registration cancellation.

Non-residents

- Non-resident and non-registered persons supplying taxable goods or rendering taxable services in Egypt to non-registrants who do not perform an activity through a PE in Egypt, shall appoint a fiscal representative responsible for all requirements listed in the new law.
- If the non-resident and non-registered person deal with resident persons in Egypt, the resident person must ensure that a fiscal representative has been assigned, otherwise the resident will be liable to pay the tax due - without prejudice to his right to go back to the non-resident person.

Transitional provisions

- Businesses registered for VAT purposes are entitled to deduct the GST previously incurred on their purchases in accordance with the specific conditions set out in the new law.
- Contractual arrangements signed before the effective date of the new law that will be executed partially or fully after the effective date of the new law, shall be modified to reflect the changes introduced in the law. This applies notably to the value of these contracts that will be impacted by the change in the tax rates.
- The new law grants businesses a three months transitional period for reconciling their VAT position, during which the ETA will not levy the additional tax for errors or omissions.

General Features of the VAT law

Scope and rate

- VAT will be applied to a broader range of goods and services, while a number of basic goods and services which affects the low-income earners will be exempt, in addition to other exemptions listed in the law.
- One standard rate of 13% for the FY16-FY17 and 14% starting from the FY17-FY18 will be applied to all goods and services, except for machinery and equipment that will be subject to 5% (except for buses & passengers cars that are subject to the standard rate). Some goods and services will also be subject to the Schedule Tax applied at different rates depending on the nature of the good or service.
- The new law clarifies the tax treatment in a number of areas that were unclear under the GST legislation. This will reduce potential disputes between the tax payers and the Egyptian Tax Authority notably in relation to sales by instalment, consumed assets, etc.

Tax return

- The VAT and Schedule Tax return must be submitted on a monthly basis, and the deadline for submitting the return did not change (two months from the end of each tax period, except for the April return that should be submitted by 15 June).

Reverse charge

- For services renders in Egypt to a registrant by non-residents and non-registered persons, the following shall apply:

First case: If the service acquired from abroad is not for business purposes, the recipient shall be liable to calculate and pay the tax due within thirty days from the date of sale (in case no fiscal representative has been assigned).

Second case: If the service is acquired from abroad for business purposes to perform a taxable activity, the recipient shall be treated as an importer and supplier of the service at the same time. In our view this may lead to a neutral effect for the recipient as he will be able to deduct the VAT theoretically due on the service acquired.

Input VAT deduction

- Registered businesses are entitled to deduct VAT incurred on goods and services acquired in relation to their taxable supplies.
- Registered businesses are not entitled to deduct input VAT related to their exempt supplies or related to their supplies of goods and services subject to Schedule Tax.

VAT refund

- The VAT shall be refunded within 45 days from the date of submitting the documented refund request, instead of three months in the current GST law. This includes:
 - The VAT receivable balance which has been carried forward more than six VAT periods.
 - The refund claim related to Export sales and the VAT paid prior to registration on machinery and equipment used in the production of taxable products or rendering taxable services.

Goods and services subject to the Schedule Tax (in addition to VAT)

- Soda soft drinks
- Televisions (more than 32 inch), refrigerators (more than 16 feet) and deep Freezers
- Air conditioning and its independent units
- Cars with their different engines capacity
- Communication services through mobile networks

Goods and services subject to Schedule Tax only

- Tobacco, cigarettes, snuff and Molasses
- Gasoline, kerosene, diesel fuel, diesel oil and fuel oil
- Manufactured Potatoes
- Construction contracts
- Transportation among the provinces (bus - Railway)
- Professional services and consulting

Goods and services exempt from VAT

- Tea, sugar, coffee, dairy products and all kinds of bread
- Agricultural products which will be sold in their natural state except tobacco
- Manufactured Fruits, vegetables other than potatoes and juices and their concentrates

- Beans, grains, salt and spices
 - Medicines and Effective materials used in its production
 - Food that is manufactured and sold to the end consumer directly through non-touristic restaurants and shops
 - Natural gas, butane gas (Albotjaz)
 - Production, transfer or sale or distribution of electricity
 - The sale & lease of space land, agricultural land & buildings and residential & non-residential units
 - Providing mailbox banking services
 - Banking transactions which are legally restricted to banks
 - Non –banking financial services which works under the supervision of the Egyptian Financial Supervisory Authority
- Insurance
 - Real estate finance
 - Financial lease
 - Microfinance
 - Private and governmental insurance funds
 - Factoring
- Insurance and re-insurance services
 - Education, training and scientific research services
 - Health Services
 - Ground internet services (exempt for one year)

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

Dean Kern

Middle East Tax and Legal Services Leader

Direct: +971 (0)4 304 3575

Email: dean.kern@ae.pwc.com

Abdallah ELAdly

Egypt Tax Leader

Direct: +202 2 2759 7887

Email: abdallah.eladly@eg.pwc.com

Jeanine Daou

Middle East Indirect Tax Leader

Direct: +971 (0)4 304 3744

Email: jeanine.daou@ae.pwc.com

Karim Emam

Egypt Tax Partner

Direct: +202 2 2759 7881

Email: karim.emam@eg.pwc.com