

## AMENDMENT TO EMIRATE WISE REPORTING FOR E-COMMERCE SUPPLIES BY QUALIFYING REGISTRANTS

"The Federal Tax Authority (FTA) has recently issued VAT public clarification VATP033- **Amendments to Emirates' Reporting- Electronic Commerce Supplies by Qualifying Registrants and Ministerial decision No. 26 of 2023 on Criteria and Conditions for Electronic Commerce for Purposes of Keeping Records of the Supplies Made (w.e.f 1<sup>st</sup> July, 2023)**. The key areas covered in the said public clarification and ministerial decision are:

- *Meaning of Qualifying Registrants;*
- *Provision relating to record keeping requirements for Qualifying Registrants;*
- *Meaning of E-commerce and criteria and conditions for supply of goods and services to be considered as being supplied through Electronic Commerce;*
- *Threshold for qualifying registrants;*
- *Revised reporting mechanism;"*

For ease of reference, we have summarized below the key areas:

### A. Who will qualify as Qualifying Registrants:

Taxable person supplying goods and services through electronic commerce which exceed AED 100 million over a calendar year are referred as Qualifying Registrants.

### B. What is the provision relating to Record keeping requirements for Qualifying Registrants:

Qualifying Registrants are required to keep records of the transaction to prove the **Emirate in which supply is received by the customer**. The supporting documents and information relating to prove the Emirate is required to be kept by Qualifying registrants which may be required by FTA as part of tax audit.

### C. What is e- commerce and what are the criteria and conditions for supply of goods and services to be considered as being supplied through Electronic Commerce:

- FTA has defined e-commerce for the purpose of Emirates' reporting. E- commerce is the process of selling goods or services through: *electronic means, electronic platform, a store in social media, or electronic applications.*
- This would further also cover a *website, portal, gateway, interface, platform, marketplace, API, similar applications, stores in metaverse, smart kiosks, robotic devices etc.*
- Supply of goods or services shall be considered to be made via e-commerce medium where all of the following conditions are satisfied:

Condition	Explanation
<b>Listing or advertisement</b> on an E-commerce medium	<ul style="list-style-type: none"> <li>• Customer should be provided with all the required information of the goods or services to make an informed decision w.r.t purchase.</li> <li>• Listing or advertisement of general categories of any goods or services without displaying a price or only providing a link to another website where goods and services are only listed would not satisfy the condition.</li> </ul>
<b>Order</b> through the E-commerce medium,	<ul style="list-style-type: none"> <li>• Fully execution of order through e-commerce medium. Any manual procedure such as signing of an offline contract or agreeing to</li> </ul>

Condition	Explanation
<b>regardless of online or offline payment</b>	<p>terms &amp; conditions on another e-commerce medium or e-mail would not satisfy the condition.</p> <ul style="list-style-type: none"> <li>• The mode of payment will not be decisive factor for this condition.</li> </ul>
<p><b>Delivery of goods to customer's location</b> which is not owned or operated by supplier</p>	<ul style="list-style-type: none"> <li>• In case customer elects to take the delivery of goods from supplier's store or any other operated location of the supplier such as (Warehouses, stores of the supplier), supply would not be considered as made through e-commerce.</li> <li>• If the delivery location of the customer and billing address of the customer are different, then delivery location specified by the customer would be considered as emirate in which supply is received.</li> </ul>
<p><b>Provision of services</b> or the right to receive the Services is granted to the customer with <b>minimal or no human intervention.</b></p>	<ul style="list-style-type: none"> <li>• There should be minimal or no human intervention in case of services provided or right to receive services by customers.</li> <li>• <b>Certain examples specified in the public clarification:</b> <ol style="list-style-type: none"> <li><u>Considered supply through e-commerce:</u> <ul style="list-style-type: none"> <li>✓ Training consisting of automatic broadcasting of a pre-recorded lecture with automated assessment;</li> <li>✓ Granting right to receive meal delivery services even though delivery services are performed by human drivers.</li> </ul> </li> <li><u>Not considered supply through e-commerce:</u> <ul style="list-style-type: none"> <li>✓ Training provided by a human lecturer through live stream;</li> <li>✓ Granting of right to receive services provided through intervention of chat box operated by human being in a call centre;</li> <li>✓ Checking list of goods or services on e-commerce platform medium and calling or contacting the supplier who delivers the goods.</li> </ul> </li> </ol> </li> </ul>

**D. Who would be liable to report VAT for supply to end customers in case when e-commerce medium is acting as Undisclosed Agent:**

- The Public Clarification provides that when e-commerce operator acts as an undisclosed agent, the supplier shall be regarded as supplying the goods or services to the e-commerce medium, and the e-commerce medium shall be regarded as supplying the same goods or services to the customer.
- Therefore, the e-commerce operator shall be required to consider the supply to the end customer when determining the value of taxable supply made by it through e-commerce.

**E. What would be VAT implications for Incidental Supplies:**

Activities that support online transactions, such as payment systems, logistics for the delivery of goods and other similar platform services fall within the ambit of an electronic commerce supply of goods provided these ancillary services are provided by the same supplier of the goods.

**F. What is the notification/ intimation requirement for Qualifying Registrants (including registrants acting as undisclosed agents) from 1st July 2023:**

- FTA to be notified **via the first VAT Return** to be submitted after exceeding AED 100 million threshold.
- **Confirmation of the date** when the AED 100 million was exceeded.

**G. What would be the first year for calculation the threshold limit of AED 100 million:**

- The first assessment of whether the AED 100 million threshold is exceeded is based on the **calendar year, 2022. (i.e., 1<sup>st</sup> January 2022 to 31<sup>st</sup> December 2022).**
- If registrant does not exceed threshold in calendar year 2022, then the registrant must regularly conduct an assessment to determine whether the threshold is exceeded in any subsequent calendar years and intimate FTA through first VAT return after threshold was exceeded for any calendar year.

**H. What would be the revised reporting mechanism for Qualifying Registrants in case threshold of AED 100 million is exceeded:**

- From 1<sup>st</sup> July 2023 or the tax period following the calendar year in which threshold was exceeded, as the case may be, Qualifying Registrants would be required to **separately identify the Emirate in which e-commerce and non-e-commerce standard rated supplies** are to be reported, per tax period.
- This information shall be submitted as an underlying declaration and split between e-commerce and non-e-commerce standard rated supplies.
- The amounts declared in each of the relevant Emirate field under Box-1 of the VAT Return shall still be the aggregate of e-commerce and non-e-commerce standard rated supply.

**PKF Comments:**

- The purpose of amending the requirement of keeping records Emirate wise by a taxable person may be to determine tax revenue collection for independent Emirate by FTA. By prescribing a threshold limit, FTA intends to understand the tax revenue for each of the Emirates with respect to supplies from e-commerce operator.
- Taxpayer providing goods or services through E-commerce medium should evaluate whether they fall within the ambit of new Emirates reporting mechanism.
- Subject to meeting the threshold, tax payers are supposed to make changes related to record keeping in their system to prove the Emirate in which the supply is received.
- Taxpayers are required to maintain additional information and documents as may be required by the Law.

## How can PKF help?

- Businesses in the UAE must imbibe the new VAT regulations and establish for themselves a tailor-made VAT-oriented business system. PKF UAE brings world-class capabilities and high-quality service to clients helping them to align their working model to government reporting and compliance requirements.
- Our role as tax advisers include:
  - ✓ Analyzing the impact of VAT on your business – A complete analysis of the VAT effect on your business helps us provide tailor-made solutions for the financial, operational, and legal aspects of your business.
  - ✓ Advising on managing the VAT transaction process – Our expert advice will help your business manage VAT transactions effectively without any room for errors.
  - ✓ Invoicing under VAT – We help you to create and manage invoices in accordance with the VAT System.
  - ✓ Advising on VAT related compliances as required by UAE VAT Law –
    - Assistance in compiling of information regarding VAT return.
    - Assistance in preparing and filing VAT return.
    - Assistance in communication with the Federal Tax Authority (FTA) for tax related queries and processes (such as refund application, voluntary disclosures) and during tax audits conducted by the FTA.
    - Any other VAT related queries and compliances.
- With more than four decades of experience, PKF UAE ensures full guidance on how businesses can duly comply with VAT. While the ultimate responsibility and accountability to comply with the law are with the business, PKF UAE can advise at every stage of your business operations. PKF UAE works with an agenda that not only helps your business meet the required VAT standards but also provides inclusive solutions to run the business effectively.

## Contacts

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