

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

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

We, Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates,

Having reviewed the Constitution;

Federal Law No. (1) of 1972 on the Competencies of the Ministries and Powers of the Ministers and its amendments;

Federal Law No. (11) of 1981 on the Imposition of a Federal Customs Tax on Imports of Tobacco and its derivatives and its amendments;

Federal Law No. (26) of 1981 on the Commercial Maritime Law and its amendments;

Federal Law No. (5) of 1985 promulgating the Civil Transactions Law and its amendments;

Federal Law No. (3) of 1987 promulgating the Penal Law and its amendments;

Federal Law No. (10) of 1992 promulgating the Law of Evidence in Civil and Commercial Transactions and its amendments;

Federal Law No. (11) of 1992 promulgating the Law on Civil Procedures and its amendments;

Federal Law No. (18) of 1993 promulgating the Commercial Transactions Law and its amendments;

Federal Law No. (8) of 2004 on the Financial Free Zones;

Federal Law No. (1) of 2006 on Electronic Commerce and Transactions;

Federal Law No. (2) of 2008 on the National Societies and Associations of Public Welfare;

Federal Law No. (15) of 2009 on Combating Tobacco;

Federal Law No. (1) of 2011 on the State's Public Revenues;

Federal Law No. (8) of 2011 on the Reorganisation of the State Audit Institution;

Federal Decree-Law No. (8) of 2011 on the Rules of the Preparation of the General Budget and Final Accounts;

Federal Law No. (4) of 2012 on the Regulation of Competition;

Federal Law No. (12) of 2014 on the Organisation of the Auditing Profession;

Federal Law No. (2) of 2015 on Commercial Companies;

Federal Decree-Law No. (13) of 2016 on the Establishment of the Federal Tax Authority;

Federal Law No. (7) of 2017 on Tax Procedures; and

Pursuant to what was presented by the Minister of Finance and approved by Cabinet,

Have issued the following Decree-Law:

Chapter One

Definitions

Article (1)

In the application of the provisions of this Decree-Law, the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

State: United Arab Emirates.

Minister: Minister of Finance.

Authority: Federal Tax Authority.

Tax: Excise Tax.

Excise Goods: Goods that will be determined as being subject to Tax by a Cabinet Decision upon the recommendation of the Minister.

Import: The arrival of Goods from abroad into territory of the State.

Export: The departure of Goods from the territory of the State.

Person: A natural or legal person.

Taxable Person: Any Person registered or obligated to register for Tax purposes under the provisions of this Decree-Law

Designated Zone: Any fenced area intended to be a free zone that cannot be entered or exited except through a designated road, and any area designated by the Authority as being subject to the supervision of a Warehouse Keeper, in accordance with the Executive Regulation of this Decree-Law.

Warehouse Keeper: Any Person approved and registered at the Authority to supervise a Designated Zone in accordance with the Executive Regulation of this Decree-Law.

Tax Registration: A procedure whereby the Taxable Person or his Legal Representative registers at the Authority for Tax purposes.

Tax Registration Number (TRN): A unique number issued by the Authority for each Person registered for Tax purposes.

Registrant: The Taxable Person who has been issued with a TRN.

Importer: The Person whose name appears for customs clearance purposes as the importer of the Excise Goods on the date of Import.

Tax Return: Information and data specified for Tax purposes and submitted by the Taxable Person in accordance with the form prepared by the Authority.

Business: Any activity conducted regularly, on an ongoing basis and independently by any Person, in any location, which involves or may involve trading in Excise Goods.

Refundable Tax: Amounts that have been paid and that the Authority may return to the Person pursuant to the provisions of this Decree-Law.

Due Tax: Tax that is calculated and imposed pursuant to the provisions of this Decree-Law.

Payable Tax: The Due Tax that is due for payment to the Authority.

Deductible Tax: The Tax that has been paid, or considered as have been paid, by a Taxable Person.

Tax Period: A specific period of time for which the Payable Tax shall be calculated and paid.

Administrative Penalties: Amounts imposed upon a Person by the Authority for violating the provisions of this Decree-Law or Federal Law No. (7) of 2017 on Tax Procedures.

Administrative Penalties Assessment: A decision issued by the Authority in relation to the Administrative Penalties due.

Stockpiler: The Person who owns Excise Goods and cannot demonstrate that such goods had been previously subject to Tax pursuant to the conditions stated in the Executive Regulation of this Decree-Law.

Customs Legislation: Federal and local legislation that regulates customs in the State.

The Implementing States: The States of the Gulf Cooperation Council that apply the Tax Law pursuant to an issued legislation.

Tax Evasion: The Person's use of illegal means, resulting in the reduction of the amount of the Due Tax, non-payment thereof, or a refund of a tax that the Person did not have the right to have refunded under the provisions of this Decree-Law.

Chapter Two

Implementation, Scope and Calculation of Tax

Article (2) - Implementation and Scope of Tax

1. The provisions of this Decree-Law shall apply to the Excise Goods specified by a Cabinet Decision at the suggestion of the Minister.
2. Tax shall be imposed on the following activities related to Excise Goods:
 - a. Production of Excise Goods in the State, where such production was in the course of doing business.
 - b. Import of Excise Goods.
 - c. Release of Excise Goods from a Designated Zone.
 - d. Stockpiling of Excise Goods in the State, where such Stockpiling was in the course of doing business.

Article (3) – Tax Calculation

A Cabinet Decision shall be issued at the suggestion of the Minister to determine the tax rates that shall be imposed on Excise Goods and the method of calculating the Excise Price, provided that the tax rate shall not exceed (200%) of the Excise Price of the Good.

Article (4) - Tax Obligations

1. The Due Tax shall be the responsibility of:
 - a. The Person who conducts any of the activities mentioned in clause (2) of Article (2) of this Decree-Law;
 - b. The Person involved in any of the activities mentioned in clause (2) of Article (2) of this Decree-Law, in the event the Person who conducted the activity has failed to meet his obligation to pay the Tax, pursuant to what is specified in the Executive Regulation of this Decree-Law;
 - c. The Warehouse Keeper, in the case of the release of Excise Goods from a Designated Zone, and where the Payable Tax has not been previously paid, pursuant to what is specified in the Executive Regulation of this Decree-Law.
2. The following are excluded from the provisions of clause (1) of this Article:
 - a. The Person who imports Excise Goods of value less than that specified in the Customs Legislation, if such Excise Goods are accompanied by the Person within the frame of an international voyage and are used for non-commercial purposes.
 - b. A Stockpiler in case the conditions specified in the Executive Regulation of this Decree Law are met.

Chapter Three

Tax Registration and Deregistration

Article (5) - Tax Registration

1. A Person shall be prohibited from conducting any activities that fall within clause (2) of Article (2) of this Decree-Law before registration thereof for Tax purposes in accordance with the provisions of this Article.
2. Without prejudice to the provisions of clause (1) of this Article, the Person liable for the Due Tax according to Article (4) of this Decree-Law shall apply to the Authority for Tax Registration as set forth in Federal Law No. (7) of 2017 on Tax Procedures, within 30 days as of the end of any month during which the Person carries out or intends to carry out activities mentioned in Article (2) of this Decree-Law, or from the effective date of this Decree-Law, whichever is later.
3. The Executive Regulation of this Decree-Law shall determine the effective date of the Tax Registration referred to in this Article.

Article (6) – Exceptions from Registration

1. The Authority may except a Person from Tax Registration, if the Tax is due under paragraphs (b) and (c) of clause (2) of Article (2) of this Decree-Law, and he can demonstrate to the Authority that he will not regularly Import Excise Goods, pursuant to what is specified in the Executive Regulation of this Decree-Law.
2. Anyone excepted from Tax Registration according to clause (1) of this Article shall inform the Authority of any changes to his circumstances that would make him subject to Tax under the provisions of this Decree-Law, within the timeframe and in accordance with the procedures stated in the Executive Regulation of this Decree-Law.
3. The Authority shall collect any Due Tax and Administrative Penalties from the Person excepted from registration under clause (1) of this Article.

Article (7) - Tax Deregistration

A Registrant shall apply to the Authority for Tax Deregistration if he is no longer liable for the Tax under Article (4) of this Decree-Law within the timeframe specified in the Executive Regulation of this Decree-Law.

Article (8) – Registration as a Warehouse Keeper

1. Any Person operating or intending to operate a Designated Zone shall apply for registration as a Warehouse Keeper pursuant to what is specified in the Executive Regulation of this Decree-Law.
2. The Executive Regulation of this Decree-Law shall specify the effective date of registration referred to in this Article.
3. A Person shall not act as a Warehouse Keeper before his registration in accordance with this Article.

Article (9) - The Procedures, Controls and Conditions of Tax Registration and Tax Deregistration

The Executive Regulation of this Decree-Law shall determine the procedures, controls and conditions of Tax Registration, Tax deregistration, and rejection of application for Tax Registration and Tax Deregistration.

Chapter Four

Rules Pertaining to Tax Payment and Tax Exemption

Article (10) – Tax Calculation Date

Tax shall be calculated as per the following dates:

1. The date of Import of Excise Goods.
2. 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.
3. With the exception of the two cases mentioned in clauses (1) and (2) of this Article, Tax shall be calculated based on the date on which Excise Goods were released for consumption pursuant to what is specified in the Executive Regulation of this Decree-Law.

Article (11) – Inclusion of the Tax in the Advertised Price

The advertised prices of Excise Goods shall be inclusive of the Tax. Instances where prices do not include the Tax will be determined by the Executive Regulation of this Decree-Law.

Article (12) – Tax Exemption

1. Excise Goods that are exported shall be exempt from tax.
2. The Executive Regulation of this Decree-Law shall specify the controls and conditions for exemption mentioned in clause (1) of this Article.

Chapter Five

Designated Zones

Article (13) - Designated Zone

1. A “Designated Zone” which fulfils the conditions specified in the Executive Regulation of this Decree-Law shall be treated as being outside the State for Tax purposes.
2. By way of exception to the provisions of clause (1) of this Article, the Executive Regulation of this Decree-Law shall specify the conditions under which the Business conducted within the Designated Zones shall be treated as being conducted in the State.

Article (14) – Transfer of Excise Goods in Designated Zones

1. Excise Goods may be transferred from one Designated Zone to another without being subject to Tax.
2. The Executive Regulation of this Decree-Law shall specify the controls and conditions of the transfer of goods from and to a Designated Zone as well as the mechanism of preserving, storing and processing such Excise Goods therein.

Chapter Six

Calculation of Due Tax

Article (15) - Tax Calculation

The Payable Tax owed by a Taxable Person shall be calculated for any Tax Period as the Due Tax from the Taxable Person for such Tax Period less the total Deductible Tax as calculated under provisions of Article (16) of this Decree-Law.

Article (16) – Deductible Tax

1. 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.
2. The Executive Regulation of this Decree-Law shall specify the conditions and controls for deducting the Tax mentioned in clause (1) of this Article.

Chapter Seven

Tax Period, Tax Return and Tax Payment

Article (17) –Tax Period

The Executive Regulation of this Decree-Law shall specify the Tax Period and the exceptional circumstances under which the Authority may amend the Tax Period.

Article (18) – Tax Return

The Taxable Person shall submit a Tax Return to the Authority at the end of each Tax Period within the timeframes and in accordance with the procedures specified in the Executive Regulation of this Decree-Law.

Article (19) – Payment of Tax

1. The Taxable Person shall settle the Payable Tax appearing in the Tax Return on the same date of submitting the Tax Return under Article (18) of this Decree-Law in accordance with the procedures specified by the Authority.
2. Any Person excepted from registration under clause (1) of Article (6) of this Decree-Law shall pay the Due Tax when importing Excise Goods.

Chapter Eight

Carrying Forward Excess Refundable Tax

Article (20) – Excess Refundable Tax

1. The Taxable Person shall carry forward any excess Refundable Tax to the subsequent Tax Periods and offset such excess against the Payable Tax or any Administrative Penalties imposed under this Decree Law or Federal Law No. (7) of 2017 on Tax Procedures in subsequent Tax Periods until full depletion of such excess , in the following cases:
 - a. If the Taxable Person's Deductible Tax set forth in Article (16) of this Decree-Law exceeds the Due Tax for the same Tax Period;
 - b. If the Tax paid to the Authority by the Taxable Person exceeds the Payable Tax according to the provisions of this Decree-Law.
2. If any excess remains for any Tax Period after being carried forward for a period of time, the Taxable Person may submit an application to the Authority for a refund of the remaining excess, in accordance with the timeframes and procedures specified by the Executive Regulation of this Decree-Law.

Article (21) – Tax Refunds in Special Cases

The Authority may refund the Tax based on a refund application submitted thereto to the following:

1. Foreign governments, international organisations and diplomatic bodies and missions, on condition of reciprocity, for Tax paid in the course of their official activities and in accordance with the conditions, controls and procedures specified in the Executive Regulation of this Decree-Law.
2. The Person who is registered in any Implementing State should he pay the Due Tax in the State and then export the Excise Goods to an Implementing State in accordance with the conditions, controls and procedures specified in the Executive Regulation of this Decree-Law.
3. Any other Persons or categories determined by a Cabinet Decision at the suggestion of the Minister.

Chapter Nine

Violations and Penalties

Article (22) – Administrative Penalties Assessment

Notwithstanding the provisions of Federal Law No. (7) of 2017 on Tax Procedures, the Authority shall issue an Administrative Penalty Assessment to the Taxable Person,

and notify the latter of the same within five business days from the date of issuance, if the Taxable Person committed any of the following violations:

1. Failure by the Taxable Person to display prices inclusive of Tax according to provisions of Article (11) of this Decree-Law.
2. 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.
3. 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.

Article (23) – Instances of Tax Evasion

Notwithstanding the instances of Tax Evasion referred to in Federal Law No. (7) of 2017 on Tax Procedures and the Penalties mentioned therein, a Person shall be deemed to have committed Tax Evasion if he conducts any of the following acts:

1. Bringing or attempting to bring Excise Goods into or out of the State without payment of the relevant Due Tax in part or in full.
2. Producing, transferring, acquiring, storing, transporting or receiving Excise Goods the Due Tax of which was unpaid with the intention of avoiding the payment of Due Tax.
3. Placing false distinguishing marks on Excise Goods, contrary to the provisions of clause (2) of Article (25) of this Decree-Law, with the intent of evading the payment of Due Tax or receiving unlawful refunds.
4. Submitting any false, counterfeit or unreal documents, returns or records, with the intent of evading the payment of Due Tax or receiving unlawful refunds.

Chapter Ten

General Provisions

Article (24) – Record-Keeping and Evidential Requirements

1. Without prejudice to the provisions related to record-keeping stipulated in any other law, the 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:
 - 1) Due Tax on imported Excise Goods.
 - 2) Due Tax on produced Excise Goods
 - 3) Due Tax on Excise Goods that have been stockpiled
 - 4) Deductible Tax according to the provisions of Article (16) of this Decree-Law.
2. The Council of Ministers shall specify, at the suggestion of the Minister, the Excise Goods that should be marked to indicate that Tax has been paid on them as well as the requirements conditions and procedures related to the marking of such goods.

This is an unofficial translation

3. The Executive Regulation of this Decree-Law shall specify the timeframes, conditions, and provisions for retention of records listed in clause (1) of this Article.

Articles (25) – Stating the Tax Registration Number

The Taxable Person, or any other Person authorised in writing by the Taxable Person, shall state the Tax Registration Number on all correspondence and dealings with the Authority, Tax Returns and any document related to Tax.

Chapter Eleven

Final Provisions

Article (26) – Executive Regulation

The Council of Ministers shall issue the Executive Regulation of this Decree-Law at the suggestion of the Minister.

Article (27) – Revenue Sharing

Revenue from Tax and Administrative Penalties collected in accordance with the provisions of this Decree-Law shall be subject to sharing between the Federal Government and the Emirates' Governments based on the provisions of Federal Decree-Law No. (13) of 2016 on the Establishment of the Federal Tax Authority

Article (28)

In the absence of any special provision in this Decree-Law, the provisions of Federal Law No. (7) of 2017 on Tax Procedures shall apply.

Article (29) – Abrogation of Conflicting Provisions

Any provision contrary to or inconsistent with the provisions of this Decree-Law shall be abrogated.

Article (30) – Publication and Application of the Decree-Law

This Decree-Law shall be published in the Official Gazette and will come into effect on 1 October 2017.

Khalifa bin Zayed Al Nahyan

President of the United Arab Emirates

Issued by us in the Presidential Palace in Abu Dhabi

This is an unofficial translation

On: 25 Dhul Qi'da 1437 H.

Corresponding to: 17 August 2017