

*One of the numerous Free Zones in Dubai, Dubai World Central (DWC), now known as Dubai South, is an area partially under construction and projected to be the world's largest global gateway by hosting a number of activities such as logistics, aviation, commercial, exhibition, and other related businesses. Dubai South will also serve as the venue for the EXPO 2020. This briefing discusses to what extent the Free Zones within Dubai South can be regarded as a Designated Zone in terms of VAT laws and regulations.*

## 1. What is Dubai South?

Now known as Dubai South Free Zone, Dubai South will host, among other features, what is projected to be the world's largest airport (Dubai World Central – DWC). Apart from that, Dubai South has already attracted companies active in the aviation industry and in the logistics field and it is anticipated that it will develop into a regional hub for those industries. The airport is part of a much larger project; a development of six clustered zones which comprises of:

- Dubai Logistics City (DLC);
- Dubai Commercial City (DCC);
- Dubai Residential City (DRC);
- Dubai Aviation City (DAC); and
- Golf City.

Dubai South is the branding name of the aforementioned free zones.

## 2. What is a Designated Zone?

Designated Zones fulfil certain criteria outlined by the Federal Decree-Law No (8) of

2017 on VAT and its Executive Regulations. Such areas will then be treated, generally, as being outside the UAE's territory for purposes of VAT.<sup>1</sup> In principle, Free Zones would be considered a Designated Zone if the following criteria are met:

- specific fenced area;
- security /Customs controls to monitor entry/exit of individuals/goods to/from a Designated Zone;
- compliance with Federal Tax Authority (FTA) procedures by the respective authority.<sup>2</sup>

## 3. Is Dubai South a Designated Zone?

The correct answer is: partly:

- Cabinet Decision No. (59) of 2017 and No. (35) of 2018 state the areas which are Designated Zones. One amongst the eight free zones in Dubai that are defined as a Designated Zone is Dubai Aviation City (DAC).<sup>3</sup>

<sup>1</sup> Art. 51(1) Cabinet Decision No. (52) of 2017 on the Executive Regulations of the Federal Decree-Law No (8) of 2017 on Value Added Tax.

<sup>2</sup> Art. 51(1) Cabinet Decision No. (52) of 2017 on the Executive Regulations of the Federal Decree-Law No (8) of 2017 on Value Added Tax.

<sup>3</sup> Cabinet Decision No. (59) of 2017 on Designated Zones for the purposes of the Federal Decree-Law

- The Circular No. 1 of 2018 (dated 25 January 2018) of the Dubai Aviation Corporation (DACC – authority administering DAC) clarifies the qualification of DAC as a Designated Zone.<sup>4</sup>
- Law No. (10) of 2015 on Dubai Aviation City Corporation defines the land governed by DACC as “Dubai Aviation City”.<sup>5</sup>
- The boundaries of the land have been adopted by Dubai Decision No. 12/2015. The boundaries contain the entire area of Dubai South.
- However, according to the aforementioned Circular No. 1 of 2018, all Free Zone enterprises operating within the fenced and customs-controlled area of the Dubai South Free Zone are in a “Designated Zone” for the purposes of the VAT law.
- From the information at hand, only a part of Dubai South qualifies to be a Designated Zone as of now, that being Dubai Aviation District.

#### 4. *What is the difference between a Designated Zone and an ordinary Free Zone in terms of VAT treatment?*

Different VAT rules apply to businesses operating in Designated Zones and ordinary Free Zones.

##### **a. Ordinary Free Zones**

Any supply of goods and/or services from and to Free Zones (for VAT purposes, Free Zones are considered as being UAE territory) is generally subject to VAT as the

supply is within the scope of the VAT laws and regulations.

##### **b. Designated Zones**

Supply of services in Designated Zones are treated as being made within the UAE and therefore, are generally taxable at the standard rate (5%).

Supply of goods within and from Designated Zones is generally considered as being carried out outside of the UAE, thus VAT is generally not applicable (out of scope). However, if goods are “consumed” within the Designated Zone, then VAT will be applicable (concept of “consumption within a Designated Zone”). The term “consumed” is to be interpreted broadly.

The concept of “consumption within a Designated Zone” is, however, overridden in the cases when the goods are

- incorporated into, attached to or otherwise form part of another good located in the same Designated Zone and that other good is not consumed;
- used in the production of another good located in the same Designated Zone and that other good is not consumed; or
- resold.

##### **Examples:**

*A company is incorporated in the Dubai Aviation City (DAC) and supplies filters to the aviation industry:*

- The company supplies to another company in the same Designated Zone (DAC) that uses such filters in*

No. (8) of 2017 on Value Added Tax and Cabinet Decision No. (35) of 2018 on Amending the List of Designated Zones Annexed to the Cabinet Decision No. (59) of 2017.

<sup>4</sup> Circular No. 1 of 2018 regarding Dubai Aviation City – Dubai South – as a Designated Zone pursuant to Cabinet Decision No. (59) of 2017 on Designated Zones

for the purposes of the Federal Decree-Law No. (8) of 2017 on Value Added Tax.

<sup>5</sup> Law No. (10) regarding Dubai Aviation City Corporation (DACC).

*their end product which is also not consumed within DAC.*

This is a non-taxable supply of goods since the concept of “consumption in the Designated Zone” does not apply due to the overriding rule (incorporation into another good - outside of scope).

- b. *The company provides after-sales services within the DAC to a third party.*

The place of supply is inside the UAE. Therefore, the supply of services is taxable.

- c. *The company sells products to another company in the same Designated Zone which intends to sell such products to other customers outside the UAE.*

The resale of the goods is not treated as consumption. Therefore, the

transaction is not subject to VAT (outside the scope).

It should be noted that the burden is on the supplier for determining the purpose of goods, ensuring supply is treated correctly for VAT purposes and providing proof (in the form of a written statement).

## 5. Conclusion

With the expansion of the airport (DWC) and Dubai South being the host of EXPO 2020, Dubai South will become a lucrative investment location for businesses active in the aviation and logistics industry. While setting-up, investors should check whether they would be operating out of a Designated Zone. As further parts of Dubai South get developed, it is likely that more areas within it will meet the Designated Zone criteria, thus expanding the extent of Dubai South as a Designated Zone.

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