



Private Clarifications

Tax Procedures | TPGPC1

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1. Introduction

The Federal Tax Authority (“FTA”) is the government entity responsible for the administration, collection, and enforcement of federal taxes in the United Arab Emirates (“UAE”).¹

The following federal taxes apply in the UAE:

- Excise Tax – introduced with effect from 1 October 2017
- VAT – introduced with effect from 1 January 2018
- Corporate Tax – introduced with effect from 1 June 2023

The FTA publishes guides, public clarifications, and other information to help taxpayers understand their federal tax obligations and to support voluntary compliance with the UAE tax laws. For other tax matters of uncertainty that are not covered under the guides, public clarifications and other publications issued by the FTA, taxpayers may seek guidance from the FTA on specific tax matters through the private clarification mechanism which is available via EmaraTax.

1.1. Purpose of this guide

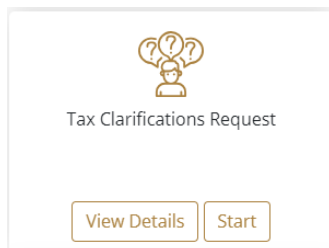
The purpose of this document is to provide guidance on the nature of private clarifications (“Clarification”) and the process to apply for a Clarification.

This guide will help you to understand:

- the nature of a Clarification,
- who is eligible to apply for a Clarification,
- the instances where a Clarification will not be provided or rejected,
- the Clarification process, including required documents, applicable fees and the instances in which the fees may be refunded.

For more details on the application process via EmaraTax, please refer to the service card which is available on the FTA’s website at <https://tax.gov.ae/en/services/tax.clarifications.request.aspx>.

¹ Article 4(1)(i) of the FTA Law.



1.2. Legislative references

In this guide:

- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments, is referred to as “FTA Law”,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures and its amendments, is referred to as “Tax Procedures Law”,
- Cabinet Decision No. 65 of 2020 on Fees for the Services Provided by the Federal Tax Authority, and its amendments, is referred to as “Cabinet Decision No. 65”,
- Federal Tax Authority Decision No. 4 of 2024 on Amending the Authority’s Policy on Clarifications and Directives is referred to as “FTA Decision No. 4”, and
- Federal Tax Authority Decision No. 5 of 2024 on The Refund of Fees of Private Clarification Requests is referred to as “FTA Decision No. 5”.

1.3. Status of the guide

This guide is not a legally binding document, but is intended to assist in understanding when a person may apply for a Clarification. The information provided in this Guide should not be interpreted as legal or tax advice. It is not meant to be comprehensive and does not provide a definitive answer in every case. It is based on the legislation as it stood when the Guide was published. Each person’s own specific circumstances should be considered.

Nothing in this guide modifies, or is intended to modify, the requirements of any legislation.



2. Nature of Clarifications

Private clarifications are clarifications issued by the FTA in the form of a document that is stamped and signed by the Director General or his delegate/representative, in relation to specific tax technical matters. These documents are issued to a specific taxpayer, according to the Clarification request submitted on Emaratax and the documents attached to the request.²

Clarifications set out the relevant tax legislation and application thereof to the specific background facts provided by the person applying for the Clarification (“Applicant”). The FTA’s response is based solely on the information and documents provided by the Applicant. The FTA will not verify the specific facts provided by the Applicant, but may request further information, if needed.

The Clarification provided by the FTA is only applicable to the specific Applicant in respect of the specific questions asked based on the facts provided for the specific tax type indicated. Clarifications should not be used by persons other than the Applicant. The FTA considers itself administratively bound to follow the position stated in the Clarification if the factual circumstances are materially the same as set out in the Clarification request.

Issued Clarifications are void ab initio (i.e. treated as if not issued) if:

- any facts stated in the Clarification request (or any other facts subsequently provided in response to a request for further information) are different from the transaction actually carried out,
- there is fraud, misrepresentation or non-disclosure of a material fact, or
- any condition or assumption stipulated by the FTA in its clarification is not satisfied or carried out.

Furthermore, the Clarification will cease to be effective if the provisions of the tax legislation that are the subject thereof are repealed or amended, or a public clarification or guide is later issued on the same subject following the issuance of the Clarification. In such cases, the FTA is not obliged to notify the Applicant or to otherwise publish a notice of withdrawal or modification of the Clarification.

The FTA may withdraw a Clarification. In such instance, the Applicant may rely on the issued Clarification until the effective date of the withdrawal.

² FTA Decision No. 4.



If the FTA issues a subsequent Clarification to the taxpayer on the same subject, the subsequent Clarification shall supersede the previous Clarification with effect from the date specified in the new Clarification.



3. Eligibility criteria

There are two types of eligibility criteria to consider, firstly whether the relevant person is eligible to submit a Clarification request and secondly whether the specific request is eligible to be considered under the Clarification process.

3.1. Eligible persons

The person seeking clarification on a tax matter of uncertainty may apply for a Clarification. In the case of a tax group, only the representative member of that tax group is permitted to request the Clarification, i.e. none of the other tax group members are allowed to submit a Clarification request. It is important to note that there are different types of tax groups, e.g. VAT and Corporate Tax groups. The representative member of a VAT tax group may not submit a Corporate Tax Clarification request in respect of a member of its VAT group, unless the persons are part of the same Corporate Tax group and the person is also the parent company of that Corporate Tax group, and *vice versa*.

Tax agents and legal representatives

The person's (or tax group's) tax agent or legal representative³ may apply on behalf of the person. Note that only a tax agent registered with the FTA for the specific tax type the request relates to, may submit the Clarification request on behalf of the person. In such case, the name of the relevant taxpayer should be reflected on the Clarification request, i.e. the request must be submitted in the name of the taxpayer.

Clarification requests submitted by tax advisors/consultants or any other person that is not the taxpayer's tax agent or legal representative will not be accepted.

Tax affairs of another person

Clarifications will only address the tax matters of uncertainty of the Applicant and not the tax affairs of any other person. For example, the recipient of goods or services may not apply for a Clarification of the tax treatment to be applied by the supplier of the goods or services. In such instance, the supplier may submit its own Clarification request if the eligibility criteria are met.

In exceptional cases, more than one person may submit a joint Clarification request, e.g. where they are parties to the same transaction and the factual background information is agreed between them. These instances will be evaluated on a case-by-case basis to determine whether the parties may be co-Applicants to the same Clarification request.

³ As defined in Article 1 of the Tax Procedures Law.



3.2. Eligible matters

A taxpayer may only apply for a Clarification if there is a specific tax matter(s) of uncertainty.

The taxpayer (or its authorised signatory, tax agent, legal representative or the representative member/parent company of the specific tax group) may only submit a Clarification request if the following requirements are met:

- The request relates to federal taxes or relevant penalties.
- The request clearly indicates the relevant tax type the request relates to.
- The request relates to tax legislation as applied to the facts and circumstances of the taxpayer (or in exceptional cases, taxpayers) submitting the request, i.e. the Clarification issued by the FTA is not applicable to a third party.
- The request contains all the relevant information the FTA needs to consider for deciding on the correct tax treatment of the subject of the request.⁴

If all of the above requirements are not met, the FTA may reject the request for a Clarification.

3.3. Grounds for rejection

The FTA will not accept a Clarification in the following instances:

Cases where the Applicant is not eligible to submit the Clarification request

The Clarification request is submitted by:

- A person representing the Applicant (e.g. the authorised signatory) but the relevant proof of authorisation is not provided.
- A tax agent but the request does not include the taxpayer's details, such as the taxpayer's name and tax reference number (TRN).
- A natural person is reflected as the Applicant but the Clarification request pertains to a juridical person.
- A member of the relevant tax group other than the representative member/parent company of that tax group.
- The Applicant requests a Clarification relating to Corporate Tax but is not registered for Corporate Tax. The only exception is where the Clarification request relates to registration.

⁴ FTA Decision No. 4.



The Applicant should submit the Clarification request using its own profile on EmaraTax (or via a tax agent). If the Applicant is registered for the relevant tax type and does not submit the Clarification request via its own EmaraTax profile, the request shall be rejected.

Out of scope cases

The FTA will reject Clarification requests submitted for the following, as these fall outside the scope of the Clarification process:

- Administrative exceptions.
- Payment of administrative penalty in instalments.
- Waiver of administrative penalty.
- Use of a special apportionment method.
- Commercial activity certificate.
- Tax residency certificate (“TRC”), unless the request relates to whether a person is eligible to apply for a TRC.
- Tax Assessment review.
- Reconsideration.
- IT System issues/queries.
- Advance pricing agreements.

The above services can be accessed via the FTA’s website at:

<https://tax.gov.ae/en/services.aspx?type=3&typename=customr.service>

Cases of Incomplete or incorrect Clarification requests

The request for a Clarification form is not correctly completed, or is incomplete, for example:

- All relevant information in respect of the specific tax matter is not provided.
- Sufficient tax technical analysis is not provided – a clear analysis in relation to the specific tax matter must be provided, including references to legal provisions and guidance which are relevant to assessing the tax treatment of the matter, including tax advice obtained from tax agents/advisors/consultants.
- An alternative tax technical analysis is not provided – the lack of an alternative analysis may indicate that there is no genuine point of uncertainty and that the Applicant is merely seeking confirmation of their tax position.
- Relevant supporting documents are not provided - documentary proof to support the information provided and tax technical analysis is required, for example, sample invoices, contracts, payment slips, tax advice received, etc.
- Some of the fields in the Clarification request form are incomplete – it is not sufficient



to merely refer to an attached letter.

- Where there is a discrepancy between the information provided in the EmaraTax Clarification request form and an attached document, the FTA may either reject the request or request further information. Information reflected on the request form should align with the supporting documents uploaded.
- The Clarification request does not relate to the correct tax type(s) – for example, an applicant that is only registered for VAT and not for Corporate Tax cannot request a clarification in relation to Corporate Tax, unless it is a registration query.

Cases that do not represent a tax matter of uncertainty

Taxpayers are required to consider the relevant guidance already provided by the FTA before applying for a Clarification. The FTA may reject a Clarification request if the specific tax matter was already previously clarified, for example:

- An FTA guide or public clarification already addresses the specific tax matter the Applicant is requesting a Clarification on.
- A Clarification on the same specific tax matter was previously issued to the same Applicant.

Tax audits and assessments cases

The FTA may reject Clarification requests if:

- A tax assessment on the same specific tax matter was previously issued to the same Applicant.
- The Applicant is subject to a tax audit, assessment or inspection by the FTA, and the subject matter of the Clarification request is related to the matter under tax audit, assessment or inspection.

Other cases

In addition to the above, the FTA may also reject Clarification requests if:

- The Clarification request is based on a hypothetical scenario that has not been seriously considered by the Applicant. The Clarification service is not an advisory service and the FTA will, generally, not address multiple hypothetical scenarios.
- The Clarification request relates to more than one tax but is not in respect of the same specific tax matter. For example, a registrant may submit a single Clarification request to cover the VAT and Corporate Tax treatment of the same group restructuring. However, if the request covers different matters, e.g. the VAT treatment of employee benefits and whether distribution activities constitute qualifying activities from a



Corporate Tax perspective, the taxpayer would need to submit two separate Clarification requests.

- The Clarification request addresses issues that the FTA suspects may constitute tax planning, tax avoidance or tax evasion, including the application of Article 50 of the Corporate Tax Law regarding the General Anti-abuse Rules or similar provisions under double taxation agreements.

In the case of a rejection, the Clarification request fee would be forfeited unless one of exceptions stated in section **5.1** applies.



4. Clarification process

Clarification requests are only accepted via EmaraTax. In order to submit a request, the Applicant must have a user profile.

For more information on the process to create a user profile, please refer to the EmaraTax Register as an Online User – User Manual which is available on the FTA’s website.

4.1 Applying for a Clarification

The Applicant may request a Clarification in English or Arabic. Clarifications are issued in the same language the Clarification request is submitted in, i.e. if the request is submitted in Arabic, the Clarification will be issued in Arabic. It is, therefore, important that the Applicant decides whether they prefer the Clarification to be issued in Arabic or English before starting the Clarification request process.

4.1.1 Completing the Clarification request form

To submit a Clarification request, the Applicant should select the “Tax Clarification Request” tile on the FTA’s website:

<https://tax.gov.ae/en/services/tax.clarifications.request.aspx>

The Applicant will then be requested to log into their profile to proceed with the Clarification request. All of the mandatory fields of the request form must be completed and the following supporting evidence should be uploaded as part of the request:

- A cover letter that describes the background facts, the specific tax technical query, relevant UAE tax legislation considered, the Applicant’s technical view as well as any alternative tax treatment.
- Documentary evidence relating to the request, for example contracts, invoices, correspondence etc.
- Any tax advice received from third parties in respect of the specific matter the Clarification is requested on.

If the Clarification request relates to more than one tax, all of the above need to be provided for each of the relevant taxes the Clarification relates to. The documents can be uploaded in Excel, JPEG, JPG, PDF and PNG format. The individual file size limit is 5 MB.

4.1.2 Clarification request fee

The fee for applying for a Clarification in respect of a single tax is AED 1,500 per



application. If the Clarification request relates to more than one tax, the fee is AED 2,250 per application. These fees are non-refundable, except for the cases listed in FTA Decision No. 5 (see paragraph 5.1 in this regard). The fees can only be paid via the EmaraTax portal using a valid bank card.

4.1.3 Submitting the Clarification request

The Applicant can save draft versions of the request. However, the request must be submitted within 40 business days from the date the Applicant initiated the request mechanism on EmaraTax, otherwise the request will be closed.

Once the request is submitted and the relevant fee is paid, a unique Clarification request reference number will be issued. This reference number as well as the relevant TRN should be reflected in all correspondence with the FTA relating to the specific Clarification request.

Requests received after 3pm on a business day will be regarded as being received on the following business day. For example, if a request is received at 3:30pm on a Friday, the request will be regarded as being received on the following Monday, assuming the Monday is not a federal public holiday.

4.1.4 Withdrawal of a Clarification request

Applicants are allowed to withdraw their Clarification request, but the Clarification request fee would be forfeited unless the request is withdrawn within two business days from the date the request was submitted.⁵

4.2 Validation of eligibility

The FTA will review the Clarification request to determine whether the Applicant is eligible to submit the Clarification request and that none of the grounds for rejection listed in paragraph 3.3 applies.

The Applicant will be notified if the Clarification request is rejected and reasons will be provided for such rejection.

If the Clarification request is accepted, the FTA may request further information. If further information is requested, the Applicant is required to submit the requested information within 40 business days from the date the information was requested. If the Applicant

⁵ Article 2(1) of FTA Decision No. 5.



does not provide the requested information within this period, the FTA may close the request in the system.⁶

4.3 Issuance of Clarifications

Clarifications are issued in either Arabic or English, depending on the Applicant's preference. If the Clarification request was submitted in Arabic, the Clarification will also be issued in Arabic, whereas the Clarification would be issued in English if the request was submitted in English.

In the case of Clarification requests relating to more than one tax type, separate Clarifications will be issued for each tax type covered under the request.

The FTA will issue Clarifications related to indirect taxes (i.e. Excise Tax and VAT) within 50 business days from the date the Clarification request was received. If further information was requested, the Clarification will be issued within 50 business days from the date the further information was received.

In the case of Corporate Tax, Clarifications will be issued within 60 business days from the date the request was received. If further information was requested, the Clarification will be issued within 60 business days from the date the further information was received.

In the case of complex tax matters, e.g. where other stakeholders need to be consulted, the FTA may request an extension for issuing the relevant clarification.

⁶ FTA Decision No. 4.



5. Other matters relating to Clarifications

5.1 Refunding Clarification fees

The FTA may refund the fee paid for a Clarification request relating to one tax or more taxes, if the FTA decided not to issue the Clarification provided any of the following cases applies:⁷

- The Applicant withdraws the Clarification request within two business days from the date the request was submitted.
- The Applicant is not registered for Corporate Tax and the Clarification request relates to a Corporate Tax matter other than registration.
- The Applicant is subject to a tax audit at the time of submitting the Clarification request.
- The Clarification request relates to procedures that should be applied as a result of an FTA Decision.
- The Clarification request is a duplicate of another request submitted by the same Applicant on the same subject with similar documents submitted, if the FTA is already working on the other submitted request.
- The Clarification request is related to a matter the FTA is coordinating with the Ministry of Finance on to amend tax legislation regulating it.⁸

In any other instance, e.g. if a Clarification request is submitted on a matter already clarified in a public clarification or guide, the Clarification fee will not be refunded to the Applicant.

Extent of Clarification fee refund

The extent of the refund is determined based on the number of taxes covered under the Clarification request. If any of the above cases applies, the extent of the refund will be as follows:

- If the Clarification request related to a single tax, the full amount of the service fee of AED 1,500 will be refunded.⁹
- If the Clarification request related to more than one tax and the FTA does not issue any Clarification in respect of that request, the full amount of the service fee of AED 2,250 will be refunded.¹⁰ However, if the FTA issues a Clarification on one of the taxes, only AED 750 will be refunded, i.e. the difference between the service

⁷ Article 1(1) of FTA Decision No. 5.

⁸ Article 2 of FTA Decision No. 5.

⁹ Article 1(2)(a) of FTA Decision No. 5., read with Cabinet Decision No. 65.

¹⁰ Article 1(2)(b) of FTA Decision No. 5., read with Cabinet Decision No. 65.



fee of a Clarification request relating to more than one tax (AED 2,250) and the service fee of a Clarification relating to one tax (AED 1,500).¹¹

5.2 Disagreeing with Clarification issued

A Clarification is not considered to be a decision that is issued by the FTA and, therefore, is not subject to the dispute resolution process. Consequently, Applicants cannot apply for a reconsideration or review of a Clarification.

The Applicant may, however, apply for a new Clarification if the factual circumstances are materially different from what was submitted as part of the previous request for Clarification, or where the Applicant has new information which may change the outcome of the Clarification.

¹¹ Article 1(2)(c) of FTA Decision No. 5., read with Cabinet Decision No. 65.



6. Common errors

The FTA identified the following common errors based on Clarification requests received, which lead to either rejection of the request or a request for further information:

- Clarification requests submitted in the name of a natural person while the request pertains to a legal person.
- Clarification requests submitted by members of a tax group, other than the representative member (for VAT) or parent company (for Corporate Tax) of that tax group.
- Clarification requests submitted by tax advisors and other persons who are not tax agents, on behalf of a taxpayer.
- Incomplete Clarification request forms.
- Contradictory information reflected in the Clarification Request form, cover letter and other supporting documents, e.g. contracts.
- Insufficient background information/supporting information provided.
- Request not clearly stated or requesting the FTA to confirm whether the Applicant applied the correct tax treatment without specifying exactly what the tax matter of uncertainty is that the Applicant is requesting a Clarification on.
- The Applicant fails to provide its own analysis and application of the tax law, as well as alternative tax treatments.
- Clarification requests relying on non-UAE tax laws, e.g. GCC Agreements or tax laws of other countries.
- Clarification requests submitted to request administrative exceptions, reconsiderations or refunds.
- Clarification requests submitted in respect of matters already clarified in FTA guides, public clarifications or Clarifications issued to the same Applicant on the same matter.
- Failure to submit a cover letter.

Cover letters

Applicants may consider structuring their cover letter around the following headings to ensure that all the relevant information is submitted as part of the Clarification request:

- Background information
 - The background information should be complete with all the details needed for the FTA to determine the appropriate tax treatment. No additional background information should be reflected in the analysis of the tax matter.
 - The relevant transaction should be clearly described, e.g. the supplier and recipient should be clearly identified, whether it is a one-off transaction or



- continuous in nature, whether the request is in respect of a past, current or future transaction.
- A description should be provided of, and reference to other supporting documents uploaded as part of the Clarification request, to explain their relevance to the Clarification request. In the case of long agreements/contracts, references should be made to the relevant clauses to consider.
- Request
 - The request should be clear and concise, focusing on the exact tax matter of uncertainty the Applicant is requesting a Clarification on.
 - If there is more than one question, the questions should be clearly numbered and based on the background information required.
 - Legislation and guidance considered
 - The relevant tax legislation considered as well as the applicable Articles, Clauses and Paragraphs should be listed.
 - The relevant FTA guides and public clarifications which were considered before the Clarification request was submitted, should be referred to.
 - Analysis of the matter and technical assessment
 - A detailed tax technical analysis based on the background information submitted as part of the Clarification request and the applicable UAE tax legislation, should be provided.
 - No new background information should be reflected in this section.
 - Based on the tax technical analysis, the Applicant should clearly state its conclusion, i.e. the Applicant's view on the correct tax treatment of the matter of uncertainty.
 - Alternative tax treatment
 - Since Clarifications are only issued in respect of tax matters of uncertainty, it implies that there is an alternative tax treatment for the specific matter.
 - In this section, the Applicant should provide a detailed analysis of any other alternative tax treatment, and explain why the alternative tax treatment is less appropriate than the Applicant's proposed tax treatment reflected in the previous section.



7. Glossary

The following glossary define some of the frequently used terms:

Term	Description
Applicant	Person applying for a Clarification.
Clarification	An official document issued by the FTA in response to a request from a specific person regarding the tax treatment of specific transactions.
Corporate Tax	The tax imposed by Federal Decree-Law No. 47 of 2022 on Taxation of Corporations and Businesses and its amendments, on juridical persons and Business income.
EmaraTax	The FTA's core tax system.
Excise Tax	Tax imposed under Federal Decree-Law No. 7 of 2017 on Excise Tax and its amendments.
FTA	Federal Tax Authority.
Legal representative	The guardian or custodian of an incapacitated person or minor, or the bankruptcy trustee appointed by the court for a company that is in bankruptcy, or any other person legally appointed to represent another person.
Tax	Every tax imposed under the Tax Law, that the FTA is mandated to administer, collect and enforce, i.e. Excise Tax, VAT and Corporate Tax.
Tax agent	Any person registered with the FTA who is appointed on behalf of another person to represent him before the FTA and assist him in the fulfilment of his tax obligations and the exercise of his associated tax rights.



Tax Law	Any federal law pursuant to which a Tax is imposed.
VAT	A tax imposed on the import and supply of goods and services at each stage of production and distribution, including the deemed supply, in accordance with Federal Decree-Law No.8 of 2017 on Value Added Tax and its amendments.



8. Updates and amendments

Date of amendment	Amendments made
December 2022	<ul style="list-style-type: none"> Revised the whole guide for simplification and amendment of content in light of recent updates. Addition of section 7 to clarify that Clarifications do not constitute an official decision by the FTA and is, therefore, not subject to the dispute resolution process.
June 2023	<ul style="list-style-type: none"> Revised the whole guide for simplification and amendment of content in light of recent updates. Removed references to eServices. Updated description of fields in Clarification application as per Emaratax. Addition of a section on fees for submitting Clarification requests.
November 2024	<ul style="list-style-type: none"> Revised the whole guide for simplification and amendment of content in light of recent updates. Added information regarding Corporate Tax Clarification requests and confirmed that only persons registered for Corporate Tax may apply for Clarifications, unless the request relates to eligibility to register for Corporate Tax. Updated to incorporate FTA Decisions No. 4 and 5. Removed description fields relating to Emaratax application fields. Added a list of common errors and outline for cover letters. Added a glossary for commonly used terms.