

Private clarifications

VAT — 2022



What is a private clarification?

- A private clarification provides a taxpayer with written guidance on the FTA's interpretation and position on specific tax matters of uncertainty.
- The response given to Clarification Requests by the FTA only applies to the applicant and the specific transaction on which such guidance has been requested.



Applying for a private clarification

- The taxpayer must submit the clarification request online via the FTA website.

Who can submit the form

- The person seeking a clarification
- Appointed tax agents
- Court appointed legal representatives
- For members of a tax group, the request should be submitted by the representative member of the tax group
- Tax advisors cannot submit clarification requests on behalf of their clients

What information must be provided

- Applicant details
- Any tax advice the applicant has received on the matter of uncertainty to be clarified
- A formal letter including details of the facts, legal references, the applicant's technical view, any alternative treatment which he considers may apply as well as any question(s) for the FTA to clarify
- If a person is not registered, supporting details to identify the applicant (either Emirates ID or Passport copy) and proof of authorization
- If a person is registered, the request should be sent by the authorized signatory

When the FTA will not provide clarification

01

If the taxable person requests a clarification for a matter that does not fall within the criteria mentioned on the previous slide

02

If the application form is not filled in correctly

03

If the content of the application form is not complete and / or the FTA considers more information is required to proceed with the review

04

If the FTA does not believe that there are genuine points of uncertainty in the application

05

If the application is about the treatment of transactions which the FTA believes are for the purposes of avoiding tax

06

If the taxable person is asking the FTA to give tax planning advice

07

If the application is related in any way to a matter raised in a tax inspection, audit or assessment by the FTA

08

If there are factual discrepancies between the facts per the cover letter and the supporting documents provided as part of the application.

09

If the request relates to the tax matters of another person, unless the request is submitted by the authorised tax agent or court appointed legal representative.

Receiving a response to a clarification request

- In most cases, it will take the FTA up to 45 business days to respond to a clarification request.
- If the application is incomplete, or additional information is required, the FTA will request the required / additional information. After re-submitting the complete application, it may take the FTA a further 45 business days to respond to the updated request for clarification.
- Additionally, if the case is very complex or requires input from other government departments, the FTA may require a further 45 business days to respond to the initial request for clarification.
- The FTA will provide an answer based on the facts provided at the time the clarification form is submitted.
- The FTA will send their response in a letter format and the applicant will receive it as an attachment to an email.



Changes after a private clarification is issued

- Only the applicant may use the private clarification, i.e. no other person may rely on the view set out in the private clarification.
- The onus is on the taxpayer to keep up to date on changes in tax legislation and policies. If there are any subsequent changes, the taxpayer need to consider whether it impacts on the position set out in the private clarification and apply for a new clarification if he is uncertain about specific tax matters.



Further guidance

Clarifications User Guide

