

## THE MINISTRY OF FINANCE RECENT DECREES RE. TAX & CUSTOMS MATTERS

The Ministry of Finance (the “**MoF**”) has recently issued a number of decrees to amend the executive regulations of the following laws:

- i. the customs law no. 207 of 2020 (the “**Customs Law**”);
- ii. the unified tax procedures law no. 206 of 2020 (the “**Unified Tax Procedures Law**”);  
and
- iii. the value-added tax law no. 67 of 2016 (the “**VAT Law**”).

This publication aims to highlight the significant amendments which took place to the executive regulations of the above laws, which have a direct impact on private sector companies and would result in direct financial consequences on the addressees of these laws.

# AMENDMENTS TO THE EXECUTIVE REGULATIONS OF THE CUSTOMS LAW

The MoF issued the following decrees introducing significant amendments to the executive regulations of the Customs Law, issued by virtue of the MoF decree no. 430 of 2021:

## 1. Decree No.: 642 of 2022 (the “Decree”)

**Issuance Date:** 28 December 2022

**Purpose:** The Decree stipulates that private yachts of Egyptians residing abroad, tourists, and high-profile foreigners are now entitled to a “temporary release” within the limit of the duration of their temporary residency in accordance with their visa or residency. The previously statutory time-limit of 12 months has been abolished.

The above-mentioned release is conditional on the payment of suspension of the customs taxes consideration and other taxes and fees, for each month or part thereof. To be determined in accordance with the length of the yacht. It is worth noting that the fees may now be paid in United States dollars.

Further, the Decree provides for the same previously conditions and requirement regarding the “temporary release” of cars and yachts. Special requirements are to be fulfilled for cars and yachts of natural persons, high-profile individuals, legal entities, and foreign investors. Moreover, the yacht may now move from a port or a marina to any destination at the discretion of the owner of the yacht or their representative registered on the Unified e-portal for Yacht Tourism.

Additionally, the Decree provides for special procedures for yachts and cars following the expiration of the duration of the “temporary release”. It also grants the owner of the yacht, or their representative the following:

- a. the option to request the storage of the yacht at the maritime customs’ warehouse at any time; without any temporal restriction; and
- b. the benefit of a “second temporary release” for the yacht, by virtue of a request to be submitted by the owner or their representative, for the period they deem, without prejudice to the duration of the visa or residency of the owner of the yacht.

On the other hand, the Decree introduced the following new provisions:

- a. definition of the maritime customs’ warehouse;
- b. foreigners’ private yachts may benefit from a temporary release on their yachts, as well as any machines, equipment and devices related thereto, required for international or local races organized under the supervision of Maritime Transport Sector (the “**MTS**”) for a duration of one month (which may be extended subject to certain procedures);
- c. the Customs Authority may approve the temporary release of foreign yachts for the purposes of hosting commercial fairs, hosted under the supervision of the MTS; and
- d. Subject to the submission of guarantees covering the obligations of the licensee, a license may be granted to incorporate a maritime customs’ warehouse within the customs’ department in ports, marinas or outside either of them, for the purposes of storing yachts. Such guarantees include cash deposits, letters of guarantee and insurance policies.

**Entry into Force:** 29 December 2022.

## **2. Decree No.: 41 of 2023 (the “Decree”)**

**Issuance Date:** 23 January 2023

**Purpose:** With respect to entities benefiting from the incentives of the “*Accredited Economic Operator Program*” and operating under the “Temporary Admission Program”, the Decree reduces the period for covering the guarantees submitted by projects or entities operating under the temporary admission system for the total amount of customs’ tax, as well as other taxes and due fees, to a year and a half instead of 3 years, as of the operation date of the system.

In this context, several conditions are stipulated:

- a. the production unit is duly licensed;
- b. the actual production must have already begun during such period; and
- c. its obligation to re-export the previously imported goods is fulfilled in accordance with the “Temporary Admission Program”.

**Entry into Force:** 24 January 2023.

## **3. Decree No.: 52 of 2023 (the “Decree”)**

**Issuance date:** 30 January 2023.

**Purpose:** The Decree has increased the customs exemption limit for both tourists and residents to EGP 15,000 for new purchases that are for personal use and not for trading purposes.

**Entry into Force:** 31 January 2023.

# AMENDMENTS TO THE EXECUTIVE REGULATIONS OF THE UNIFIED TAX PROCEDURES LAW

The MoF issued the following decrees introducing significant amendments to the executive regulations of the Unified Tax Procedures Law, issued by virtue of the MoF decree no. 286 of 2021:

## 1. Decree no. 20 of 2023 (the “Decree”)

**Issuance Date:** 11 January 2023.

**Purpose:** The Decree amended the data to be presented by the employer in its tax declarations, as follows: (i) the amounts deducted on a monthly basis under the tax account, which are calculated through a system that standardizes the basis and criteria for calculating the payroll tax in accordance with the decrees issued by the MoF; (ii) the amounts paid for the past three months; and (iii) copies of payment receipts.

Further, the Decree attached a template of the electronic annual settlement declaration form of employees under no. (9).

**Entry into Force:** 12 January 2023.

## 2. Decree no. 42 of 2023 (the “Decree”)

**Issuance date:** 24 January 2023

**Purpose:** The Decree has added new provisions, as follows:

- a. a tax is due on all types of education certificates mentioned under Article 39 of the Unified Tax Procedures Law. The taxes should be remitted by no later than October of each year and the notification should include the number of certificates, the type of each and the amount of due taxes;
- b. A tax is due on contracts, personal status documents, and judicial deeds by no later than the last ten days of the month following the realization of the taxable event. The notification must include the number of papers of contracts or attestations, the number of papers of judicial deeds, and the number of marriage and divorce contracts; and
- c. in the event of non-remittance of the tax amount, the relevant entity shall notify the competent tax authority during the last ten days of the month following the date of issuance of the permit, license, renewal or amendment.

**Entry into force date:** 25 January 2023.

# AMENDMENT OF THE EXECUTIVE REGULATIONS OF THE OF THE VAT LAW

The MoF issued the following decrees introducing important amendments to the executive regulations of the VAT Law, issued by virtue of decree no. 66 of 2017:

## 1. Decree no. 24 of 2023 (the “Decree”)

**Issuance date:** 11 January 2023

**Purpose:** The Decree introduced significant provisions as follows:

- a. taxes on imported goods will not be due for collection at customs release if it is proven that such tax was collected by a non-resident registrant. If the value taken as basis for calculating the amount of tax amount collected by the non-resident registrant is less in value than the value stipulated in Articles (7) and (10) of the VAT Law, the difference in tax shall only be collected, and other due taxes and fees at customs release; and
- b. VAT shall be due once the taxable event is realized, whether it was undertaken by someone who is not residing in Egypt, or through their representative, or through electronic means, or any other mean, or whether it was undertaken by local resident from abroad.

The main provisions of the Decree include, the following:

- if the provision of the service does not require the physical presence of the service provider, then Egypt will be deemed as the place of undertaking the service in the following cases:
  - o If the recipient of the service is not registered and resides in Egypt; the criteria for residency is exhaustively explained under the Decree;
  - o If the recipient of the service is a taxpayer registered in Egypt; and
  - o If the recipient of the service is a governmental or non-governmental entity, any legal person, or any legal entity recognized in Egypt, whether registered or unregistered.
- Subject to the satisfaction of certain conditions, services and goods imported by projects in the free zones and economic zones of special nature are subject to “zero” tax prices if these goods and services are essential to undertake the licensed activity (except for passengers’ cars).
- the General Authority for Economic Zone is now competent to ratify service contracts and official letters necessary to obtain the above-mentioned tax exemption.
- specific rules and procedures are stipulated by the Decree to register the non-resident unregistered person on the Authority’s e-portal using the simplified system for supplier registration. In the event that such persons do not submit the registration request, they will be deemed as automatically registered from the date of their sales reaching the limit of the registration.
- amendments on the conditions and procedures of tax refund on (i) exported goods, (ii) services provided on exported goods, (iii) exported services. In this regard, two payment methods were added regarding the submission of evidence of provision of the exports’ amounts to any of the banks under the supervision of the Central Bank of Egypt (“CBE”),

as follows: (i) the e-payment methods by the importer or their representative to the exporter in foreign currencies; or (ii) bank deposit of the transaction value in foreign currency in accordance with the rules and regulations of the CBE regarding countries where bank transfers are not possible, and in accordance with the export documentation stipulated by the VAT Law.

- detailing the conditions, procedures and duration of tax refund concerning the purchases of foreign visitors when leaving the country.
- A provision was added to “the list of VAT refund cases” concerning tax due on a non-resident person registered under the supplier registration simplified system for the purposes of undertaking the activity thereof inside the country. The provision stipulates the procedures of e-applying for the refund, the required documents, limit of the refund and the conditions of goods and sales to obtain such refund. Noting that to file a tax refund request, both electronic and traditional procedures are now open.
- Amending the exclusions listed under the definitions of the residential and non-residential units whereby the Decree has excluded hotels, and other places subject to special regulations.
- A definition was provided for the first time for the “electronic distribution platform” as: “a digital visual interface, such as a website or internet window, e-shop, e-market, or other, which enables a connection between the supplier of the goods or the service provider, and the beneficiary in order to supply the goods or provide the service through such platform.”
- if the imported service was provided by an electronic distribution platform, the platform will not be responsible to collect and remit the VAT in the event of any of the following:
  - written agreement concluded between the platform and service provider which explicitly provides that the service provider shall be liable to remit such VAT;
  - the invoice or receipt issued to the non-registered person includes a statement which provides that the individual dealing with the service on the platform is the same individual providing such service, while including the type of service; or
  - the general terms and conditions regulating the platform provide that the platform does not deliver the service to its beneficiaries and is not entitled to collect the VAT from those who provide the service on the platform, given that such terms and conditions should not include any provision which explicitly, or implicitly, provides that the platform plays any role in the due provision of service to its beneficiary.
- the electronic distribution platform will not be responsible for any VAT due in excess of the VAT declared and remitted by the service provider in the event that the platform has collected and remitted the VAT in accordance with the details accurately submitted by the service provider, or a third-party, which is then proven to be inaccurate, without the prior knowledge of the platform of such inaccuracy, in the normal course of business.
- the rules and procedures to suspend the payment of due VAT on imported equipment and machines or those purchased from local factories or productive units to be used in industrial production.

**Entry into force date:** 12 January 2023.

## **2. Decree no. 57 of 2023 (the “Decree”)**

**Issuance date:** 5 February 2023

**Purpose:** The Decree amends the composition of the committee examining allegations against the employees of the Tax Authority who are entitled to judicial authority for charges committed by them while undertaking their profession or by reason of undertaking the same.

**Entry into Force:** 6 February 2023