

# ***UAE: Cabinet Decision on mechanism of applying VAT on gold and diamonds between Tax Registered Persons***

May 2018

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## ***In brief***

The Ministry of Finance (MOF) has published a Cabinet Decision No. (25) of 2018 ('the decision') on the mechanism of applying VAT when gold, diamonds or any products made out of gold or diamonds as a principal component ('goods') are traded between taxable persons in the UAE. The decision does not apply to transactions in investment gold and is implemented from 1<sup>st</sup> June 2018.

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## ***In detail***

This decision does not change the VAT treatment on the supplies of gold, diamonds or their products, it only shifts the liability to calculate and account for UAE VAT from the supplier to the taxable purchaser, under the reverse-charge mechanism.

The decision is **only** applicable for gold and diamond merchants who further resell, produce or manufacture gold or diamond products. Any supplies of gold, diamonds or products made of gold and diamonds from retailers to the end customers **are not** impacted by this decision.

The decision provides a relief to gold and diamond merchants who are dealing, mainly at export, in high value commodities and may be facing significant cash flow impact due to the payment of input VAT on their purchases. A similar mechanism is currently available in the VAT Law for both VAT taxable suppliers/customers dealing in crude or refined oil, natural gas and hydrocarbons (Article 48 of the VAT Law).

The Cabinet Decision states that where a VAT registered supplier supplies these goods to another VAT registered person (B2B) in the UAE, who uses these goods to resell, produce or manufacture any of the goods, the supplier shall not be liable to charge the tax on the supply and report it in their VAT return. Instead, the purchaser of the goods is the person liable to calculate and account for the tax on the acquisition of such goods.

In order to avail the benefit as stipulated in the decision, the supplier must obtain a confirmation in writing from the recipient of the goods that:

1. The recipient is a VAT registered person on the date of supply
2. The recipient shall use the goods acquired for re-sale, production and manufacture any of the goods
3. The recipient shall calculate the VAT on the acquisition of the goods himself.

The supplier is responsible for verifying the confirmation obtained from the purchaser using the means approved by the Federal Tax Authority ('FTA'), such as the TRN verification tool available from the FTA portal. In case of failure to obtain or verify such written confirmation, the liability to calculate, charge and report the tax will remain with the supplier.

Similarly, if the supplier is aware, or should have known, that the recipient is not VAT registered on the date of the supply and despite that passes on the responsibility to account for VAT to the recipient; then the supplier and the recipient will be held jointly liable for any VAT due and any related penalties.

The main objective of this decision is to grant a cash flow relief to businesses trading in high value goods, who export and have longer payment terms. It also reduces the tax administration of the FTA dealing with VAT refunds arising from these transactions.

Under the general VAT rule, the supplier is liable to charge the VAT and remit it to the FTA on a given deadline even if this VAT has not yet been collected from the purchaser while the purchaser, performing the majority of its transactions at export, does not collect enough output VAT to offset its amount of input VAT and therefore carries significant amounts of excess input VAT to be refunded from the FTA.

The decision only covers supplies which are subject to standard-rate of VAT. Accordingly, supplies of gold which are at least 99% purity, which are tradable in global bullion markets are not impacted by this decision. The suppliers of such zero-rated goods shall continue to account for VAT normally.

### ***The takeaway***

The purpose of this decision is to address one of the key concerns, which is to ensure competitiveness of the UAE in the gold and diamond market, since the introduction of VAT on 1<sup>st</sup> January 2018.

The additional executive decision for this mechanism is yet to be published, but is expected to provide further practical details.

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