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United Arab Emirates

VAT Public Clarification VATP040 - Amendments to the Executive Regulations of Federal Decree-Law No. 8 of 2017 on Value Added Tax – Cabinet Decision No. 100 of 2024

March 2025

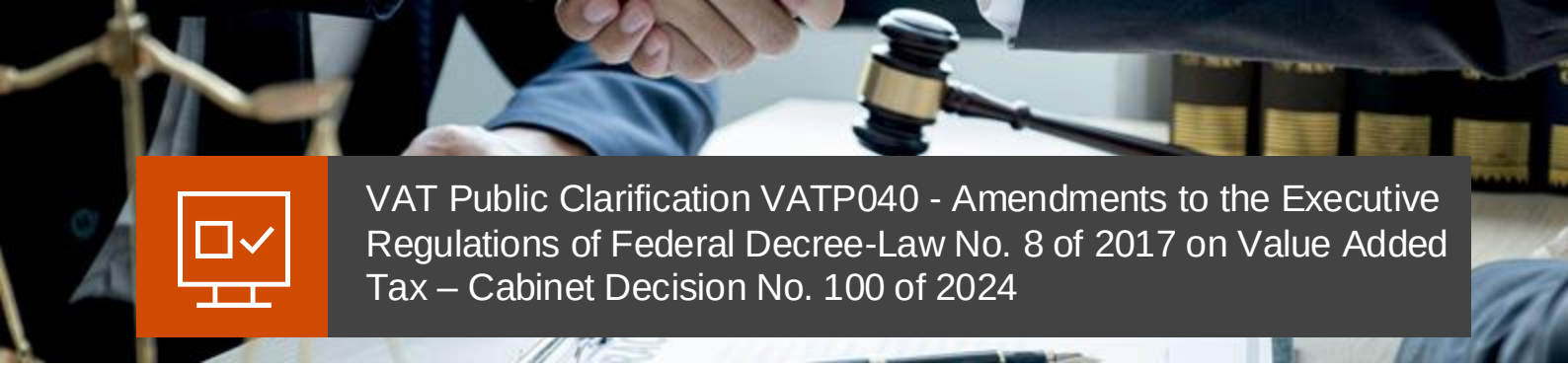
In brief

As covered in our previous PwC Tax Alert issued on 4 October 2024, Cabinet Decision No. 100 of 2024 amended several provisions of the UAE VAT Executive Regulations with effect from 15 November 2024.

This tax alert covers the newly published Federal Tax Authority (FTA) Public Clarification (VATP040) which details the FTA's interpretation and application of the aforementioned amendments to the UAE VAT Executive Regulations.

The Public Clarification provides the FTA's interpretation on key amendments made to the Executive Regulations, providing guidance and examples. The following are particularly relevant to taxpayers, with some having general application, and others being industry specific:

- Single composite supply
- Exceptions related to deemed supply
- Zero-rating the export of goods
- Zero-rating the export of services
- Zero-rating international transportation services
- Zero-rating certain means of transport ("qualifying means of transport")
- Zero-rating goods and services in connection with means of transport
- Exempt financial services – Virtual Assets and fund management services
- Non-recoverable input tax - (Medical insurance)
- Apportionment of input tax
- Tax invoices



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Single composite supply

The amendment clarifies that even where a supply falls within the meaning of Article 4(3) of the Executive Regulations, it will not be considered as a single composite supply until the requirements of Article 4(4) of the Executive Regulations are met.

Exceptions related to deemed supply

The amendment specifies that where the exception for a deemed supply based on the monetary threshold of AED2,000 total output tax over a 12-month period is exceeded, only the amount in excess of AED 2,000 would be considered as payable tax (i.e. the related supply would be regarded as a deemed supply).

Zero-rating the export of goods

For completeness, please note that the zero-rating of direct or indirect exports of goods before 15 November 2024 remains subject to the documentary evidence required under Article 30 of the Previous Executive Regulations, prior to the amendment. Before 15 November 2024, the only accepted official evidence was an official export document issued by a Local Emirate's Customs Department to evidence goods leaving the UAE (i.e. exit certificate).

Zero-rating the export of services

The total number of days the non-resident recipient of services is present in the UAE during a rolling 12-month period should be considered to determine whether the non-resident is regarded as being "outside the UAE" at the time the services are rendered.

The FTA gives the following example, where there is a supply of services provided throughout a year, if the non-resident recipient's director is in the UAE for more than 30 days during the 12 months period preceding the date of supply, the recipient is regarded as being in the UAE.

Further, following the alignment of Article 52 with Article 31 of the Executive Regulations the FTA has provided another example when a person should be considered outside the State.

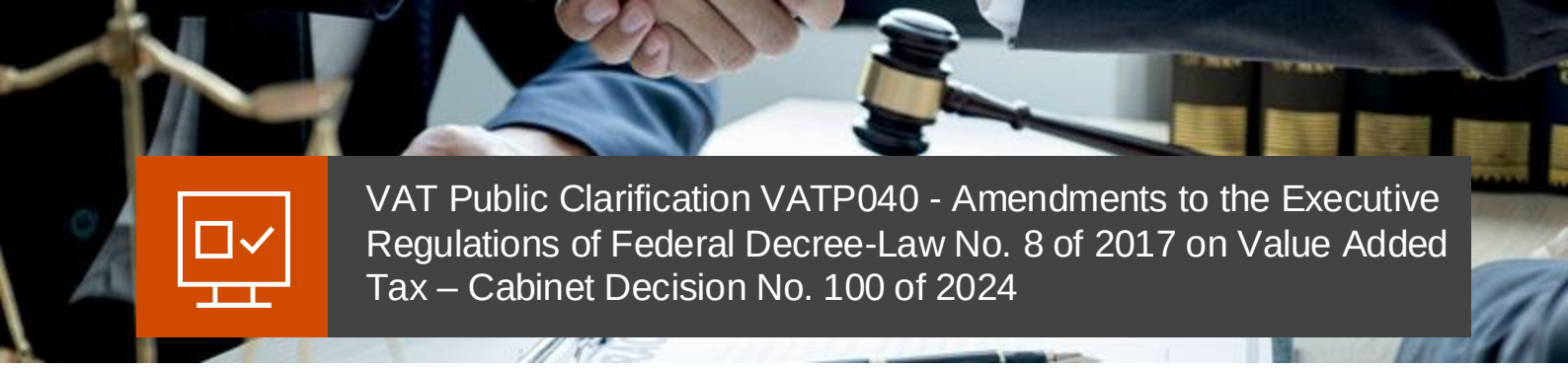
A person with a short-term presence in the UAE of less than a month is only regarded as being outside the UAE if this presence is not effectively connected with the supply, e.g. if the person is in the UAE for a short holiday or transits through the UAE and does not have any meetings related to the supply while in the UAE.

Zero-rating international transportation services

Article 33(1)(d) of the Executive Regulations was amended to clarify that the domestic transportation of goods as part of an international transport service may only be zero-rated if the service is supplied by the same supplier that provides the international transport service. The clarification further highlights that a subcontract to a different supplier for a domestic leg of an international transport should not qualify for zero-rating.

Zero-rating certain means of transport ("qualifying means of transport")

Where a ship is used for commercial purposes, but its main purpose is not to transport goods or passengers, the ship would not constitute a means of transport, e.g. a ship used for commercial fishing, a drilling ship or dredger. The supply or importation of such ship would, therefore, not qualify for zero-rating under Article 34 of the Executive Regulations, read with Article 45(4) of the Decree-Law.



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Zero-rating goods and services in connection with means of transport

The services must be supplied directly in connection with the qualifying means of transport and for the purposes of operating, repairing, maintaining or converting the means of transport:

- Repair services carried out on board of the qualifying means of transport,
- Maintenance services carried out on board the qualifying means of transport, and
- Conversion of the means of transport, provided that, after the conversion process is completed, the means of transport continue to meet the conditions of Article 34 of the Executive Regulations to be regarded as a qualifying means of transport.

For example, the cleaning of a hangar in which a commercial passenger aircraft is stored, is not a service that is supplied directly in connection with that means of transport, even though keeping a clean storage environment may be a requirement for the proper maintenance of the aircraft.

Exempt financial services - Virtual Assets and fund management services

The term “virtual currencies” is used to refer to types of digital currencies other than the digital representation of fiat currency (e.g. AED). Crypto currencies are a subset of virtual currencies. From a VAT perspective, crypto currencies are neither regarded nor treated as money.

The FTA further confirms that the exemption for the transfer and conversion of Virtual Assets is retroactive and effective from 1 January 2018.

The FTA further confirmed the exemption for the management of investment funds licensed by a competent authority in the UAE.

Non-recoverable input tax - (Medical insurance)

The clarification confirms that Article 53(1)(c)(3) allows a taxpayer to recover VAT incurred to provide health insurance to it is employees and employees’ families (husband, one wife, and up to 3 children under the age of 18), regardless of whether there is a legal obligation to provide such health insurance or not. Separately, the taxpayer can also recover VAT incurred in the provision of health insurance where there is a legal obligation on the employer to provide such insurance.

This amendment is only effective from 15 November 2024 and shall not be applied retrospectively. For example, if the employer paid health insurance premiums in January 2024 in respect of the full calendar year, only the VAT incurred on the portion relating to the period 15 November to 31 December 2024 may be recovered to the extent the employer incurs these costs to make taxable supplies, and provided the relevant supporting documents are retained.

Apportionment of input tax

Although Article 55(6)(a) of the Previous Executive Regulations was amended by Article 55(7)(a) of the New Executive Regulations to refer to the “sum of input tax for the tax period”, the simplified calculation referred to in the Input Tax Apportionment VAT Guide (“VATGIT1”) should still be used.

Furthermore, the FTA has the right to require taxable persons to apply for a specific apportionment method, considering the nature of the taxable person’s business and transaction types. For example, if the FTA finds during an audit that a financial institution is using the standard input tax-based apportionment method although the taxable person has multiple sectors, including real estate, retail banking and investment banking, the FTA may require that the taxable person apply to use the sectoral apportionment method.

Tax invoices

According to the amended Article 59(5) of the Executive Regulations, simplified tax invoices are not allowed in instances where the reverse charge mechanism is applied under Article 48 of the Decree-Law, e.g. concerned services.

Hence, the recipient of concerned services is required to issue full tax invoices complying with Article 59(1) of the Executive Regulations in these instances, unless an administrative exception was approved by the FTA.

The takeaway

Taxpayers should review their VAT position in light of this clarification and take the necessary steps to comply with amended Executive Regulations.

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Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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Thank you