MMJS VAT ALERT

Amendment to VAT Executive Regulations

The Federal Tax Authority has issued **Cabinet Resolution No. (100)** of 2024 (Amended Executive Regulations of **Federal Decree-Law No. (8)** of 2017 on **Value Added Tax** and its amendments), which replaces Cabinet Resolution No. (52) of 2017 and its amendments. Most of these amendments will take effect from 15 November 2024, while some are effective retrospectively. Additional Ministerial Decisions related to these amendments are expected to follow. In addition to summary alert, we are releasing the detailed alert along with our analysis.

Summary of key amendments and their VAT implications:

Article 2 – Supply of Goods

Amendment	Pursuant to the amendment, Article 2(4)(b) of the Executive Regulations reads as follows: (4) The following shall be considered a supply of Goods: a. A supply of real estate including the lease, sale and any other forms of disposal causing the transfer of ownership thereof from one Person to another.
MMJS Comments	The scope of real estate supply has been broadened. It now encompasses not only sales and leases but also any other forms of disposal that lead to the transfer of ownership from one person to another. With this broadened scope, it remains to be clarified whether the transfer of beneficial ownership of real estate will also be included under this scope.

Article 3 (bis) - Exceptions of Supplies

New article inserted. Article 3(1)(b) will be effective from 1 January 2023.

An article on 'Exceptions of supplies' has been newly added as follows:

1. The following shall not be considered a supply:

a. The grant or transfer of ownership or disposal of government buildings, real estate assets and other projects of a similar nature from a Government Entity to another Government Entity.
b. The grant or transfer of the right to use, exploit or utilise the government buildings, real estate assets and other projects of a similar nature from a Government Entity to another Government Entity, including any granted or transferred right of use, exploitation or utilisation as of 1 January 2023.

2. For the purposes of Clause 1 of this Article, Government buildings, real estate assets and other projects of similar nature shall mean the following:

a. Government Entities' premises.
b. Government capital projects.
c. Government infrastructural projects.
d. Real estate assets utilised and used by Government Entities.
e. Real estate assets allocated and utilised to serve a public utility and for public use.
f. Developed Government land.

3. The scope and inclusions of government buildings, real estate assets and other projects of a similar nature shall be determined by a decision issued by the Minister.

MMJS Comments

This new article has been introduced to exclude the grant or transfer of ownership, or the right of use/disposal of government buildings and real estate between government entities from the scope of supply.

Further, for some transactions, such as the grant or transfer of the right to use, exploit, or utilize government buildings, the amendment has been applied retrospectively, effective from 01 January 2023. As a result, government entities will need to reassess their past transactions and take corrective actions to adjust any VAT already paid.

A new cabinet decision is expected which will further outline the scope and inclusions of the above amendment.

Article 5 – Exceptions related to Deemed Supply

Amendment

2. For the purposes of Clause 5 of Article 12 of the Decree-Law, the total of Output Tax payable on all Deemed Supplies shall not exceed the following:

a. An amount of AED 2,000 (two thousand dirhams) for each supplier, within a 12-month period, and any amount exceeding this threshold shall be considered Payable Tax.
b. An amount of AED 250,000 (two hundred fifty thousand dirhams) for each supplier that is a Government Entity or a Charity in case the recipient is a Government Entity or a Charity, within a 12-month period, and any amount exceeding this threshold shall be considered Payable Tax.

MMJS Comments	Special relief has been granted to government entities and charities by increasing the threshold for deemed supply on transactions between suppliers and recipients that are both government or charitable entities, for an output tax amounting to AED 250,000 (i.e. the value of supplies amounting to AED 5 million). Any amount exceeding this threshold over a 12-month period shall be covered under the ambit of deemed supply. Further, for supplies not mentioned above, the threshold for deemed supplies remains unchanged, i.e. output tax amounting to AED 2,000 over a 12-month period. However, following the recent amendment, VAT will apply under the deemed supply provisions to the amount that exceeds this threshold.

Article 8 – Voluntary Registration

Amendment	6. A Person may not register for Tax voluntarily unless he proves to the Authority that: a. He is carrying on a Business in the State, and b. He has the intention to make any of the supplies specified in paragraphs (a), (b) or (c) of Clause 1 of Article 54 of the Decree-Law.
MMJS Comments	Post this amendment, a person applying for voluntary registration will additionally need to prove to the FTA that he has the intention to make either of the following: • Taxable supplies • Supplies that are made outside the UAE which would have been taxable supplies if they were made in the UAE • Supplies that are made outside the UAE which would have been exempt if they were made in the UAE This is a positive development allowing businesses engaged exclusively in out-of-scope supplies, such as drop shipments, to apply for voluntary VAT registration provided other conditions of voluntary registration are satisfied.

Article 14 (bis) - Tax Deregistration to Protect the Integrity of the Tax System

New article inserted.	The Authority may issue a decision to deregister a Person for Tax if the Authority determines that maintaining such Tax Registration may prejudice the integrity of the Tax system, in certain circumstances.
MMJS Comments	This Article has been added pursuant to the amendment made to Article 21 of the VAT Decree-law earlier. The legislator has provided the conditions on basis of which the tax authority can deregister a registrant if maintaining a tax registration would affect the integrity of the system. The circumstances include cases where the registrant does not meet the registration requirements, does not submit the deregistration request within time frame or any other conditions determined by the authority.

Article 29 - Accounting for Tax on the Profit Margin

Amendment	The "purchase price" stated in Clause 4 of this Article includes, in addition to the price of the Good, any costs and fees incurred to purchase the Good.
MMJS Comments	The inclusion of costs and fees related to the acquisition of goods in the definition of purchase price is a beneficial change and aims to provide a more accurate basis for computing VAT on profit margin. However, it is important to thoroughly evaluate which specific costs can be included in this definition.

Article 30 - Zero-rating the export of goods

Amendment

This article has been amended and provides that any of the following documents would be acceptable to substantiate the zero-rating for export of goods.

1. a customs declaration, and Commercial Evidence that proves the Export,
2. a Shipping Certificate and Official Evidence that prove the Export, or
3. a customs declaration that proves the suspension arrangement of customs duties, in case the Goods are put into customs suspension.

Further the definition of "official evidence" and "commercial evidence" has been widened and a new definition of "shipping certificate" has been incorporated as follows:

"Official Evidence" means the export certificate issued by the customs departments in the State or a clearance certificate issued by these departments or the competent authorities in the State regarding the Goods leaving the State after verifying their departure from the State, or a document or clearance certificate certified by the competent authorities in the country of destination stating the entry of the Goods into the country

"Commercial Evidence" means the document issued by sea, air or land transport companies and agents, which proves the transfer and departure of the Goods from the State to outside the State, and includes any of the following documents:

1. Air waybill or air manifest.
2. Sea waybill or sea manifest.
3. Land waybill, or land manifest

"Shipping Certificate" means a certificate issued by sea, air or land transport companies and agents as an equivalent of a commercial evidence where it is not available"

The updated provision also clarifies that Authority may decide not to accept the documents submitted if they do not constitute sufficient evidence of the exit of the Goods from the State and may specify alternative forms of evidence according to the nature of the Export or the nature of the Goods being exported.

MMJS Comments	The recent amendment to the UAE VAT Executive Regulations marks a positive development, aligning with previous changes under the UAE excise law. The FTA has simplified the documentation requirements necessary for applying the zero rate of VAT on exports. Exporters may now retain any of the following as acceptable evidence: 1. a customs declaration, and Commercial Evidence that proves the Export, 2. a Shipping Certificate and Official Evidence that prove the Export, or 3. a customs declaration that proves the suspension arrangement of customs duties, in case the Goods are put into customs suspension. Previously, the FTA generally considered exit certificates as the official evidence to prove the exit of the goods outside the UAE and in cases where exit certificates were not available, the FTA rejected the zero-rating of the export of goods. However, the amendment has broadened the scope of acceptable official evidence to include import documentation issued by the importing country's authority as an alternative to the exit certificate provided by the UAE Customs Authority. Businesses should ensure that sufficient and verifiable evidence is provided to demonstrate that the goods have exited the UAE to qualify for zero-rating. However, if the alternative documents submitted are deemed inadequate by the FTA, the exit certificate may still be required to confirm the export.

Article 31 – Zero rating the Export of Services

Amendment	The amended Article 31 provides that benefit of zero rating for services would not be available for those services whose place of supply is within UAE as per special place of provision as outlined under Clauses (3) to (8) of Article (30) of the VAT Decree Law and telecommunication and electronic services and Article (31) of the VAT Decree-Law.
MMJS Comments	The former Article 31 of the ER included provisions specifically restricting zero-rating for services related to immovable property and movable assets located in the UAE. The recent amendment to Article 31 broadens this restriction to include performance-based services that are consumed within the UAE. This is a clarificatory amendment as previously similar position was being followed.

Article 33 – Zero-rating International Transportation Services for Passengers and Goods

Amendment	It has been clarified in Article 33, that transport of goods within UAE will be eligible for zero-rating if they are provided by the same supplier as part of international transportation.
MMJS Comments	This amendment resolves a long-standing debate within the logistics sector. The FTA clarifies that the benefit of zero-rating applies only when the final mile deliveries are carried out by the same supplier, specifically the primary logistics provider, and not by any subcontractor.

Article 35 – Zero-rating Goods and Services in Connection with Means of Transport

Amendment	As per the amended Article, the benefit of zero rating would be available to the following services supplied directly in connection with the means of transport referred to in Article 34 for the purposes of operating, repairing, maintaining or converting the means of transport: a. Services of repairing the means of transport if carried out on board of the means of transport. b. Services of maintaining the means of transport if carried out on board of the means of transport, including the services of inspection and testing of the means of transport, its parts and equipment, cleaning, repainting, and other similar services. c. Services of converting the means of transport, provided that, after the completion of the conversion process, the means of transport continue to satisfy the cases stipulated in Article 34 of this Decision.
MMJS Comments	Previously, the scope of "repair, operation and maintenance of means of transport" was not limited to services provided on board of the means of transport. However, with this amendment, the scope has been narrowed down wherein the zero-rating benefit will now apply only to qualifying services carried out on board of the means of transport. This change would significantly impact businesses operating in the sector, and the businesses will have to reassess the VAT implications in line with the above amendments.

Article 42 – Tax Treatment of Financial Services

Amendment	2. Financial Services are Services connected to dealings in money (or its equivalent) and the provision of credit and include for instance the following: i.The provision or transfer of ownership of a life insurance contract or the provision of re-insurance in respect of any such contract. j. The management of investment funds, which means “services provided by the fund manager independently for a consideration, to funds licensed by a competent authority in the State, including but not limited to, management of the fund’s operations, management of investments for or on behalf of the fund, monitoring and improvement of the fund’s performance”. k. The transfer of ownership of Virtual Assets, including virtual currencies. l. The conversion of Virtual Assets. m. Keeping and managing Virtual Assets and enabling control thereof.
MMJS Comments	The transfer of ownership, conversion, and management of virtual assets including but not limited to cryptocurrencies are now exempt financial services under VAT, with the transfer of ownership and conversion of virtual assets being exempt effective from January 1, 2018. Taxable persons must retrospectively assess the impact of this update from the effective date, ensuring necessary adjustments are made. These include accurate VAT treatment, Input Tax recovery on expenses directly attributable to virtual assets, Input Tax apportionment for relevant tax periods, and the annual wash-up computation.

	Further, investment management services provided by fund managers to funds licensed by a competent UAE authority and management of virtual assets are also classified as exempt from VAT, however, the effective date is November 15, 2024. The exemption applies only if the fund is licensed by a competent UAE authority. Investment management services provided to UAE-based funds not licensed by a competent authority will remain subject to standard VAT rates. If the funds are located outside the UAE, a zero rate under Article 31 of the Executive Regulations will apply subject to the fulfilment of conditions. Investment fund managers providing services to both UAE-based and foreign funds must now assess their Input Tax recovery. Input tax related to overseas or non-licensed funds will be recoverable, while expenses related to UAE-licensed funds will not be recoverable. Common expenses attributable to both must be apportioned based on Input Tax apportionment ratio for each tax period, with an annual wash-up computation performed at the end of the tax year.

Article 46 – Tax on Supplies of More Than One Component

Amendment	For the purposes of the supply consisting of more than one component: 1. Where a supply is a single composite supply as provided in Article 4 of this Decision: b. If a single composite supply does not contain a principal component, the Tax treatment shall, generally, be applied based on the nature of the supply as a whole.
MMJS Comments	For single composite supply which fulfils the condition of Article 4 of the ER, but does not have a principal component, the tax treatment will be determined by evaluating the overall nature of the supply. With the amendment, it is important to consider how a supplier providing a single composite supply, which includes multiple goods or services subject to different VAT rates, will determine the applicable VAT rate in the absence of a principal component.

Article 53 – Non-recoverable Input Tax

Amendment	Input Tax shall be non-recoverable if it is incurred by a Person in the following cases: Where Goods or Services were purchased to be used by employees for no charge to them and for their personal benefit including the provision of entertainment services, except in the following cases: 3) Without prejudice to Clause 1 of this paragraph, where the Taxable Person provides health insurance, including enhanced health insurance, to its employees and their family members (as applicable) up to a husband or one wife, and three children younger than eighteen years.

MMJS Comments

This is a welcome move by the FTA wherein Registrants are now allowed to recover Input Tax for health insurance coverage to dependents, for one spouse and up to three children under the age of eighteen, regardless of whether such coverage is mandated by the relevant labor laws in the Emirates.

This amendment will also apply to UAE Nationals, since it permits Input Tax recovery without prejudice to Clause 1 of the article, which stipulates that coverage must be a legal requirement.

Previously, the ability to recover Input Tax for health insurance coverage to dependents was restricted solely to the Emirate of Abu Dhabi, where it was a legal requirement for employers to provide health insurance for dependents, for one spouse and up to three children under the age of eighteen. With this amendment, the scope of Input Tax recovery for dependent insurance is now extended to all Emirates.

Input tax disallowed previously will remain irrecoverable, as the effective date of this amendment is November 15, 2024. Registrants must assess the conditions for Input Tax recovery based on this effective date.

Article 55 – Apportionment of Input Tax

Amendment

4. As an exception to Clauses 1, 2 and 3 of this Article, the Tax year shall end in the following cases:

a. where a Taxable Person applies for Tax deregistration, the Tax year shall end on the last day such Person was a Taxable Person,
b. where a member joins a Tax Group, the Tax year shall end on the last day before joining the Tax Group, or
c. where a member leaves a Tax Group, the Tax year shall end on the last day such Person was a member of the Tax Group.

6. To determine the Input Tax that could be recoverable, the Taxable Person shall apportion Input Tax as follows:

a. Input Tax on supplies that wholly relate to supplies as specified in Clause 1 of Article 54 and Article 57 of the Decree-Law made by the Taxable Person may be recoverable in full.
b. Input Tax that is not recoverable in accordance with Article 53 of this Decision or that does not relate to supplies specified in Clause 1 of Article 54 and Article 57 of the Decree-Law made by the Taxable Person may not be recoverable unless the provisions of the Decree-Law and this Decision provide otherwise.
c. Input Tax that partly relates to supplies as specified in Clause 1 of Article 54 and Article 57 of the Decree-Law and partly not, shall be calculated in accordance with Clause 7 of this Article, and only the part that relates to supplies specified in Clause 1 of Article 54 and Article 57 of the Decree-Law may be recoverable.

12. For purposes of Clauses 4 and 11 of this Article, where a Tax year is less than 12 (twelve) months, the amount mentioned in Clause 11 of this Article must be adjusted to an amount proportionate to the length of such Tax Period.

16. Without prejudice to Clauses 9, 10 and 11 of this Article, the Taxable Person may apply to the Authority to approve the use of a specified recovery percentage to calculate the recoverable Input Tax in any Tax Period based on the recovery percentage of the preceding Tax year.

MMJS Comments	The revisions to Article 55(4) introduce tax year ends under specific circumstances, such as: (a) the cancellation of a taxable person's registration, (b) a member's entry into a tax group, and (c) a member's exit from a tax group. Article 55(6), which addresses the apportionment of Input Tax, has been expanded to incorporate considerations outlined in Article 57 of the VAT Decree-Law, which governs the recovery of Tax by Government Entities and Charities. Furthermore, Article 55(12) now stipulates that if a tax year is shorter than the standard 12-month period, the AED 250,000 actual use threshold must be proportionately adjusted to correspond with the duration of that shorter tax period. It ensures that taxable persons who have a tax year shorter than the standard 12 months are not unfairly impacted when calculating the actual use threshold for input VAT apportionment. This adjustment supports fair and accurate apportionment, enhancing compliance. Lastly, the amendment to Article 55(16) allows registrants to seek FTA approval for a specific recovery rate, permitting them to calculate recoverable Input Tax for a tax period based on the recovery rate from the preceding tax year. This is a welcome move as it provides flexibility and offers a practical approach for businesses. However, it will be important to observe how efficiently this process is implemented in practice.

Article 59 – Tax invoices

Amendment	2. A simplified Tax Invoice shall contain all of the following particulars: e. The total Consideration and the Tax amount charged expressed in AED. 5. As an exception to Clause 4 of this Article, and in cases other than where the reverse charge mechanism applies in accordance with Article 48 of the Decree-Law, the Registrant may issue a simplified Tax Invoice. 11. Where an agent who is a Registrant makes a supply of Goods or Services for and on behalf of the principal of that agent, that agent may issue a Tax Invoice in relation to that supply as if that agent had made the supply, provided that the principal shall not issue a Tax Invoice, subject to: a. the agent retaining sufficient records in such a manner as to determine the name, address and Tax Registration Number of the principal supplier, and b. the principal supplier retaining sufficient records in such a manner as to determine the name, address and Tax Registration Number of the agent. 13. For the purposes of Clause 2 of Article 67 of the Decree-Law, the Registrant shall issue the Tax Invoice within 14 (fourteen) days from the date of the supply provided for in Article 25 or 26 of the Decree-Law, except in the following cases: 1. Where the Tax Invoice is issued in accordance with Clause 2 of this Article, the Registrant shall issue the Tax Invoice on the date of supply, 2. for the purposes of Clause 6 of this Article, the Registrant shall issue a summary of the Tax Invoice and deliver it to the Recipient of Goods or Recipient of Services within 14 (fourteen) days of the end of the calendar month within which the date of supply occurs for such supplies. 3. any other cases specified by the Authority. 14. Where the Authority grants approval under Clause 7 of this Article, such approval may be withdrawn at any time where the Authority considers that the conditions of approval are no longer met.

	15. As an exception to Clause 5 of this Article, the Authority may specify the cases in which a Tax Invoice that meets the requirements of Clause 1 of this Article must be issued, even if one of the cases provided for in Clause 5 of this Article applies.
MMJS Comments	This amendment is crucial for businesses issuing simplified and summary tax invoices. Simplified tax invoices must be issued on the date of supply, and the 14-day timeframe for issuing a tax invoice does not apply. However, a summary tax invoice can be issued and delivered to the recipient within 14 days after the end of the calendar month that includes the date of supply. Previously, the requirement stipulated that the summary tax invoice had to be issued within the same calendar month as the date of supply. Additionally, when a VAT registered agent makes a supply on behalf of a principal and issues a tax invoice, both the agent and the principal must maintain sufficient records (including names, addresses, and tax registration numbers) for accountability and traceability in the invoicing process.

Article 60 – Tax Credit Note

Amendment	1. The Tax Credit Note shall contain all the following particulars: e. The value of the supply shown on the Tax Invoice, the correct amount of the value of the supply, the difference between those two amounts, and the Tax charged that relates to that difference in AED. In case more than one Tax Credit Note is issued in relation to the same Tax Invoice, the value of the supply shown on the Tax Invoice in the subsequent Tax Credit Note shall be the adjusted value based on the previous Tax Credit Note. 6. Where an agent who is a Registrant makes a supply of Goods and Services for and on behalf of the principal of that agent, that agent may issue a Tax Credit Note in relation to that supply as if that agent had made the supply, provided that the principal shall not issue a Tax Credit Note, subject to: a. the agent retaining sufficient records in such a manner as to determine the name, address and Tax Registration Number of the principal supplier, and b. the principal supplier retaining sufficient records in such a manner as to determine the name, address and Tax Registration Number of the agent. 7. Where approval has been granted by the Authority under Clause 2 of this Article, that approval may be withdrawn at any time where the Authority considers that the conditions of that approval have not been met.
MMJS Comments	This article has been amended and stipulates that in cases where multiple tax credit notes are issued against the same tax invoice, the value of the supply in subsequent tax credit notes must be adjusted according to the previous tax credit note. This could be practically challenging for certain sectors, such as insurance, where multiple tax invoices and tax credit notes are issued against a single policy for medical and fleet insurance. Further, when a VAT registered agent issues a tax credit note on behalf of the principal, both the agent and the principal must maintain sufficient records (name, address, and tax registration number) to ensure accountability and traceability in the tax credit note process.

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