

MMJS UAE VAT Alert

FTA Issues Public Clarification VATP041 to Replace VATP036 on SWIFT Messages

The Federal Tax Authority (FTA) in the United Arab Emirates (UAE) has recently issued VAT Public Clarification VATP041, which replaces the earlier clarification VATP036 on Society for Worldwide Interbank Financial Telecommunication (SWIFT) messages. This clarification reiterates the guidance on input tax recovery and the use of SWIFT messages as documentary evidence.

The clarification is specific to banks and exchange houses (collectively referred to as financial institutions) receiving charges for using the SWIFT communication system with banks outside UAE. These services generally qualify as import of concerned services, and financial institutions are required to account for VAT under the Reverse Charge Mechanism (RCM).

Tax Invoice Requirement

Under Article 48(1) of the UAE VAT Decree-Law, when a financial institution in the UAE receives interbank services via the SWIFT system from a bank outside UAE, it is treated as making a taxable supply to itself. The institution receiving services is responsible for all applicable VAT obligations, including accounting for VAT under RCM.

In such case, as per Article 30(2) of the UAE VAT Decree-Law, the place of supply is in the UAE, and the financial institution is typically required to issue a self-invoice to account for VAT on such services.

However, recognizing the practical challenges / administrative burden in issuing self-invoices for a high volume of SWIFT transactions, the FTA, under Article 59(7)(b) of the Executive Regulations, has clarified that if specific information is present on a SWIFT Message such that it becomes a 'Qualifying SWIFT Message', and the financial institution in the UAE retains the same (as evidence of receipt of services from banks outside UAE), the requirement to issue a self-invoice will be waived.

The FTA has defined a 'Qualifying SWIFT Message' which contains all the below–

- Name and address of the bank outside the UAE (SWIFT sender/supplier)
- Name of the UAE financial institution (SWIFT receiver/customer)
- Date of the transaction
- SWIFT message reference number
- Transaction reference number
- Description of the transaction
- Consideration charged and currency used

Input Tax Recovery

Unlike VAT P036, the FTA vide VAT P041 has explicitly clarified that for VAT recovery purposes, a 'Qualifying SWIFT Message' will be treated as an invoice issued by the foreign supplier. Subject to fulfilling other input tax recovery conditions, the institution may recover input VAT to the extent of the cost incurred for making taxable supplies.

Impact on Financial Institutions

- Administrative relief for financial institutions handling cross-border SWIFT transactions considering the impracticality of issuing self-invoices for high-volume transactions.

- Self-invoicing not required if a 'Qualifying SWIFT Message' is obtained and retained.
- Input VAT remains recoverable. However, VAT P041 clarifies that 'Qualifying SWIFT Message' would be construed as an Invoice issued by the banks outside UAE. Hence, it would be accepted as sufficient documentary evidence to recover input tax, subject to fulfilment of other prescribed conditions.

Action Required

- Financial institutions to review VAT treatment of interbank SWIFT charges to ensure compliance with VATP041.
- Verify that SWIFT messages include all required details such that it becomes a 'Qualifying SWIFT Message' as above.
- Retain 'Qualifying SWIFT Message' as substitute for self-invoices where applicable, and to recover input tax, subject to the cost incurred for making taxable supplies.
- Implement controls to identify non-qualifying messages and issue self-invoices within 14 days.

MMJS Insights:

VATP041 reiterates the requirement to self-issue a valid tax invoice under Article 48(1) of the UAE VAT Decree-Law when importing concerned goods or services. However, recognizing the volume and administrative burden on financial institutions, Article 59(7)(b) of the Executive Regulations allows for an exception—provided that a 'Qualifying SWIFT Message' is retained with all the prescribed details. With the issuance of VAT P041, the FTA has put to rest the ambiguity on the requirement to have a self-issued tax invoice and / or invoice from the non-resident supplier for import of SWIFT services. The FTA has clarified that where a financial institution in the UAE obtains and retains a 'Qualifying SWIFT Message', there is no need to issue self-invoice or to obtain invoice from bank outside UAE to recover input tax.

Important to Note

VAT P041 expressly mentions that this public clarification states the position of the FTA and neither amends nor seeks to amend any existing legal provisions. Therefore, it is effective as of the date of implementation of the relevant legislation, unless stated otherwise. In effect, this indicates FTA's position that self-invoicing requirement is applicable since 01 January 2018. Thus, businesses (regardless of their industry / sectors) must re-assess their compliance requirements on self-issuance of invoices retrospectively or prospectively to identify if they need to file administrative exception

(under Article 59(7)(b) of the Executive Regulations to the VAT Decree Law) for treating alternative document instead of a self-issued tax invoice for services received under RCM. Proactive steps and timely action may help save huge administrative penalties for businesses which, so far, have not complied with the above requirements.

How MMJS Can Help?

Should you need our assistance in analysing the impact of this public clarification or discussing any other tax matters, please feel free to reach out. Our team is here to assist you in ensuring full compliance with the legal provisions under UAE VAT law.

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