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UAE VAT Update
VATP036 – SWIFT messages

The Federal Tax Authority (FTA) in the United Arab Emirates (UAE) has recently issued Value Added Tax (VAT) Public Clarification VATP036 on the acceptability of SWIFT messages for the purpose of substantiating the supporting documentation requirements and input tax recovery conditions for financial institutions in the UAE.

The clarification is pertinent to banks and exchange houses *(collectively referred to as financial institutions)* receiving interbank charges for using the Society for Worldwide Interbank Financial Telecommunications ("SWIFT") communication system with the banking institutions outside the UAE. Typically, these services qualify as import of concerned services, obligating the taxable persons in the UAE to account for VAT under the Reverse Charge Mechanism (RCM).

The FTA has clarified that SWIFT messages received by financial institutions for such international bank charges would be considered eligible to fulfil the supporting documentation requirements and for input tax recovery conditions wherein such SWIFT messages meet relevant criteria.

Below is the detailed analysis of the clarification:

1. When financial institutions receive interbank services from banks outside the UAE for using SWIFT communication system, they are considered as making taxable supplies to themselves and are responsible to fulfil all the VAT obligations

2. The provision of the right to use the SWIFT communication constitutes a service for VAT purposes. Wherein such services are received from outside the UAE, it constitutes as a concerned service for UAE VAT purposes.

3. **The financial institutions would be required to account for due tax under Reverse Charge Mechanism (RCM) and are required to self-issue valid tax invoice to itself as recipient of the supply.**

4. Practically, these international bank charges and their underlying transactions are evidenced by SWIFT message which do not meet the requirements of a valid tax invoice for UAE VAT purposes.

5. In case a taxable person is not able to issue a compliant tax invoice, Article 59 (7)(b) of Executive Regulations to UAE VAT Decree Law provides an option to a taxable person to not issue a tax invoice as determined by the Federal Tax Authority.

Issuance of Tax Invoice

The FTA recognizes the volume of SWIFT messages being received by the financial institutions on a daily basis; it would be impractical to self-issue a tax invoice for each SWIFT transaction. Accordingly, to reduce the administrative burden, the FTA has clarified that SWIFT messages that meet the below requirements *(Qualifying SWIFT message)* will be accepted as sufficient record to establish the particulars of the supply.

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

If the above requirements are met, financial institutions would not be required to self-issue a tax invoice to document receipt of interbank charges if it retains the relevant Qualifying SWIFT message as evidence of the transaction.

Input Tax Recovery

Financial institutions would also be eligible to recover input VAT (subject to fulfilment of other conditions to recover input VAT) on such charges to the extent such charges are incurred to make taxable supplies. Accordingly, for the purposes of input tax recovery, a qualifying SWIFT message will be accepted as sufficient evidence to substantiate the supply/import of concerned services.

MMJS Analysis

The clarification is indeed a welcome move for financial institutions reducing substantial administrative burden. However, it is pertinent to note that the principles laid in this clarification may have a potential impact on the other industry sectors as well that are engaged in import of services. The FTA has clarified that the recipient of concerned services would be required to self-issue a tax invoice for the supply made to itself as the UAE VAT law shifts the responsibility on the recipient to fulfil the tax obligations under Reverse Charge Mechanism.

If such is the case, businesses should reassess compliance requirements on self-issuance of tax invoices retrospectively or prospectively and whether businesses should consider taking an administrative exception under Article 59(7)(b) of the Executive Regulations to the VAT Decree Law for allowing alternative document instead of a self-issued tax invoice for services received under RCM.

Further, for input tax recovery, it is important to consider whether a self-issued tax invoice for the

import of concerned services would serve as an “invoice” as per Article 55(1)(a)(3) of the UAE VAT Decree Law or is it mandatory to obtain an invoice from the non-resident supplier for the import of services in addition to the self-issued tax invoice. Pursuant to the amendment effected to the VAT Decree law last year, the issue of non-receipt of a non-resident supplier invoice has also been noticed in other business sectors wherein input tax recoverability has been an area of concern.

How MMJS Can help?

Should you need our assistance in analysing the impact of this public clarification or discussing any other tax matters, please reach out to the below or your known MMJS contact.

For more information, please get in touch with our team.

OUR TEAM

Surandar Jesrani
Group CEO and Managing Partner

Ankur Jain
Associate Partner
ankur@mmjs.co

Rishabh Tandon
Director
rishabh@mmjs.co

Tarun Grover
Senior Manager
tarun.g@mmjs.co

Pradip Thakkar
Senior Manager
pradip.t@mmjs.co

Zohra Afreen
Senior Manager
afreen@mmjs.co

Vanita Nagpal
Manager
vanita.n@mmjs.co