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MMJS UAE VAT Alert on VATP040

On March 14, 2025, the Federal Tax Authority ('FTA') issued the Public Clarification VATP040, providing clarification on the amendments made to Cabinet Decision no. 52 of 2017 on the Executive Regulation of the Federal Decree-Law No. 8 of 2017 on Value Added Tax ('Executive Regulation' or 'ER') vide Cabinet Resolution No. (100) of 2024. Majority of these amendments took effect from 15 November 2024.

We had issued an **Alert on 11th October 2024** giving insights to the key amendments. In furtherance to the same, the key highlights and takeaways from this Public Clarification issued by FTA are discussed in detail below.

Article No.	Clarification provided in VATP040	MMJS Comments (If any)
Article 2(4)(b) - Supply of goods	Article 2(4)(b) was amended to confirm that any disposal of real estate resulting in the transfer of ownership thereof by one person to another is considered to be a supply of goods.	Pursuant to this amendment, any disposal of real estate resulting in transfer of ownership (apart from sale) may get covered under the ambit of this Article.
Article 4(4) - Supply of More Than One Component	The FTA has clarified that in order for a single composite supply to exist, the different components must be supplied by a **single supplier** and the **price of the different components must not be separately identified or charged by the supplier.** Two important aspects to note in this regard are: • If the supplier subcontracts some of the components to a third party but remains contractually responsible for the supply to the recipient, the supplier is still regarded as supplying such components and the first condition that all the components must be supplied by a single supplier would be met. • Even if the supplier charges a single price for all the components, it would not be regarded as a single composite supply if the price for each component is separately identified, e.g. if the tax invoice, quote or underlying contract reflects the price of each component separately.	It is pertinent to note that both the conditions of a single supplier and single price need to be met for a transaction to qualify as a single composite supply. Artificially bundled supplies would not be regarded as a single composite supply if the price for each component is separately identifiable through tax invoice, quote or underlying contract. It is pertinent to note that, if the supplier charges a single price in the tax invoice, however, the price for each component is separately identified in quotation or contracts then the benefit of the single composite supply may not be available. Businesses operating in the insurance sector, real estate sector, advertisement/media, healthcare & retail sector, should give careful consideration as to how pricing is structured and presented in contractual agreements, quotes, tax invoices etc.
Article 5(2) – Exceptions related to Deemed Supply	The Clarification provides the following threshold limits with respect to the exceptions related to deemed supply:	Previously, output VAT was payable on the entire deemed supply value even if it exceeded the output VAT limit of AED 2,000. Post the amendment, output VAT in excess of AED 2,000, is regarded as VAT payable on deemed supplies.

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Article 2(4)(b) - Supply of goods	• A supply of samples or commercial gifts would not constitute a deemed supply if the value of such goods supplied within a 12-month rolling period does not exceed AED 500 per recipient. • If the total output tax payable on all deemed supplies is AED 2,000 or less within a 12-month period, the supply would not be regarded as a deemed supply. The FTA had clarified by way of an example that, where this monetary threshold is exceeded, only the amount in excess of the AED 2,000 would be considered as payable tax, i.e. the related supply would be regarded as a deemed supply. • Further, FTA has inserted a new clause where the supplier and recipient are government entities and charities, the output tax threshold for deemed supplies is AED 250,000, per 12-month period per supplier.	The FTA has also clarified that the AED 500 limit will not apply per calendar year or tax year but over any continuous 12-month period which is determined from the date of supply. With proper tracking mechanisms in place, businesses may now have the opportunity to reclaim additional input tax that were previously irrecoverable.
Article 8(6) – Voluntary Registration	The Clarification provides that a UAE resident would be eligible to apply for voluntary registration even if it incurs taxable expenses exceeding the registration threshold, only if the following additional conditions are fulfilled: • It can evidence that it carries on business in the UAE and; • It can prove that it intends to make any of the supplies listed in Article 54(1) of the Decree-Law.	As a standard practice, the FTA had already been requesting documentary evidence to substantiate that applicants were conducting or intending to conduct business in the UAE before granting them voluntary registration. Through this Clarification, the FTA has reaffirmed its approach. Further, if the taxpayer meets the taxable expense threshold but cannot establish the intention to make taxable supplies, voluntary registration would not be granted.

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	The intention to make supplies listed in Article 54(1) of the Decree Law may be demonstrated by contracts to supply taxable goods and or services to other persons for consideration.	
Article 14 – Tax Deregistration	The key points highlighted in the clarification are: • The FTA may deregister a person who has initiated a deregistration application and saved it as a draft without completing the process if the person continuously submitted nil returns or no returns because it stopped making taxable supplies. • The FTA may determine a different effective date of tax deregistration from the date requested in the tax deregistration application by the registrant, or the date on which the tax deregistration request was submitted. • Tax deregistration does not absolve a person from complying with the Decree-Law and its Regulation, including the obligation to reapply for tax registration when the requirements for registrations are met. • Further, Article 14(bis) was added to allow the FTA to deregister a person without a deregistration application if continuing their registration could undermine the integrity of the tax system.	It is important to note that where the deregistration application is saved as 'draft' on the Emaratax portal, the FTA may deregister the entity even without submitting the deregistration application, if the entity continues to submit nil returns or no returns are filed because it stopped making taxable supplies.
Article 15 - Deregistration of a tax group registration or amendment thereof	The Clarification provides that the FTA has powers to remove the member from a tax group if that member stops making taxable supplies.	It is relevant to note that, recently the FTA has started monitoring the entities (members) in the tax group and if such members does not meet the criteria to be part of

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	Further, it explicitly states that the representative member of the tax group shall be responsible for informing the FTA when a member of the tax group is no longer eligible to be part of such tax Group and accordingly apply for tax group amendment to remove such member.	the tax group then such members are required to be removed from the tax group.
Article 29 (5) - Accounting for tax on the profit margin	The definition of purchase price as per clause 5 of Article 29 has been amended to not only include the purchase price of the good but also costs and fees incurred to purchase the good. FTA has clarified that such "costs and fees" could include Customs duties, shipping, handling, wrapping and installation costs charged/re-charged by the seller of the good. However, if such costs and fees are paid to a VAT registered supplier, then the same shall not be included in the purchase price, as the recipient may recover input tax based on the tax invoice issued by the supplier of such services.	Businesses operating under profit margin scheme will need to reassess their approach to calculate the purchase price of goods, ensuring that all associated costs such as shipping, handling, and transaction fees are included. It is important to note that the cost or fee which is charged by non-registrants would also be included in the purchase price. *Example: If a taxable person purchases an equipment for AED 50,000 from a non-registrant who also charges AED 5,000 for shipping fees and AED 2,500 for installation charges, the total "purchase price" for purposes of the profit margin scheme would be AED 57,500.*
Article 30 - Zero-rating the export of goods	Effective 15 November 2024, the taxable person exporting goods is required to retain any of the following combinations of documents to avail the benefit of zero-rating: • A customs declaration, and commercial evidence; • A shipping certificate and official evidence;	Effective 15 November 2024, Exporters will benefit from relaxed documentation requirements to prove export of goods. However, a specific combination of documents should be retained as any other document would be unacceptable to the FTA.

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	• In the case of customs suspension, a customs declaration proving that the goods were placed under the applicable customs suspension regime. Further, the definition of "official evidence" has been widened to include the following: • A clearance certificate issued by the relevant Local Emirate's Customs Department or by the competent authorities in the UAE, after verifying that the goods left the UAE, or • any document or clearance certificate certified by the competent authorities in the country of destination confirming that the goods entered that country. The certification should be clearly reflected in the document, for example, an official stamp or seal. Furthermore, the document should be in Arabic or English, or a certified translation should be retained in one of these languages. Further, a new definition of "shipping certificate" has been incorporated. Shipping certificate is a certificate issued by sea, air or land transport companies and agents, that proves the departure of the goods from UAE to outside UAE. Furthermore, Article 30(6) of the Executive Regulation clarifies that the FTA can decide to reject documents that do not sufficiently prove that the goods have exited UAE. This could include cases where the text is not legible, or the	Further, exporters should ensure the requisite combination of documents is furnished to the FTA. The FTA retains the right to reject any such documents which do not constitute adequate documents to prove export of goods. For example, in case the exporter is submitting the customs declaration and commercial evidence and where the text is not legible, the FTA will have the right to request for shipping certificate and official evidence to prove the export of goods. Notably, the FTA has emphasized that exit certificates remain the only official evidence to prove export of goods prior to 15 November 2024. Accordingly, in absence of such exit certificates, zero rating benefit may be denied by the FTA.

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	particular required under Article 30(5) of the Executive Regulation cannot be determined based on the documents submitted. **It is pertinent to note that for the export of goods made before 15 November 2024, the only accepted official evidence is an exit certificate issued by a local Emirate Custom's department to evidence the goods leaving the UAE.**	
Article 31 – Zero rating the Export of Services	The amendment to Article 31(1)(a)(2) has removed the term "personal" from the phrase "movable personal assets" to clearly state that the services supplied in relation to moveable assets (goods) located in the UAE shall not qualify for zero rating. Further, the performance-based services and the services that are consumed within UAE, as specified under clauses (3) to (8) of Article 30 and Article 31 of the VAT Decree-Law, provided to a non-resident, would also not qualify for zero-rating. The term "a month" in clause 2 of this Article was replaced with "30 days". This would mean that recipients should not be in the UAE for more than 30 days to be considered as outside the state. Furthermore, to determine whether the non-resident is regarded as being "outside the UAE" the FTA has clarified that the total number of the days the non-resident recipient of services is present in the UAE during a rolling 12-month period should be considered, at the time the services are rendered.	The removal of term "personal" from the previous phrase "movable personal assets" further clarifies that zero-rating cannot be applied when the services are provided directly in relation to moveable assets located in the UAE. Notably this was always the position wherein the phrase "moveable personal assets" was referred to as goods located in the UAE. The amendment to Article 31 of the ER has specified the restrictions to zero rate performance-based services that are consumed within the UAE, and which are provided to a non-resident. This clarification further strengthens the position of VAT applicability on performance -based services in the UAE, which were earlier adopted by the companies. The clarification also provides a very important interpretation by the FTA pertaining to the recipient's presence in the UAE which is to be calculated based on 30 days within the 12-month

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		rolling period. It is imperative to monitor such presence of the recipient (including any directors/ employees) to avail zero rating benefit. Most importantly, in case the recipient's presence in the UAE is effectively connected with the supply, zero rating cannot be applied in any case. At present, the companies having common CEOs, Directors, General Managers (key managerial persons) managing multiple countries based out of UAE (e.g. a general manager based out of UAE managing the entire MENA region) wherein their costs are being recharged to the other overseas entities, the same is being treated as zero-rated. The above scenario is required to be re-evaluated as the FTA may deny zero rating in cases where the key managerial personnel are located in the UAE for more than 30 days, or are effectively connected with the supply.
Article 33 – Zero-rating International Transportation Services for Passengers and Goods	The amendment to Article 33 provides that domestic transportation of goods as part of an international transport service may be zero rated if the end-to-end transportation is handled by the same supplier. Further, if a supplier subcontracts the domestic transportation of goods as part of international transport service but contractually remains liable for the entire transportation and satisfies all the conditions for zero	The zero rating of domestic transportation of goods as part of an international transport service, which is provided by the same supplier, has been an established position which the FTA has taken during assessments and private clarifications. The amendment has reconfirmed this position. *Example: If a taxable person transports goods from Dubai to Delhi via Ras Al Khaimah,*

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	-rating in terms of Article 33 (1) of the ER, then the same may be treated as zero-rated supply of services. Additionally, the FTA has clarified that the international transportation service is required to be provided to the recipient and not to a person other than the recipient, to qualify for zero-rating.	*the domestic leg between Dubai and Ras Al Khaimah would only qualify for zero-rating under Article 33(1)(d) of the Executive Regulation if both the domestic leg (Dubai to Ras Al Khaimah) and the international leg (Ras Al Khaimah to Delhi) is supplied by the same taxable person.* *However, in the case where the client enters into an agreement to transport the goods only from Dubai to Ras Al Khaimah and engages another party for international leg i.e. Ras Al Khaimah to Delhi, then domestic leg would not qualify for zero rating.* Importantly, the transportation service should only be provided to the recipient. In case the contractual and the actual recipient are different, the benefit of zero rating would be denied.
Article 34 – Zero-rating certain means of transport ('qualifying means of transport')	With respect to ships, boats or other floating structures, the amendment provides that the supply will qualify for zero-rating only if the same is designed or adapted to be used for the commercial transportation of passengers or goods provided the same is not designed and adapted for recreation, pleasure or sports. Where a ship is used for commercial purposes, however the 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	The amendment to the Executive regulations aligns with the prevailing provisions under the VAT Decree law. Further, such position has been clarified by the FTA in numerous private clarifications..

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	Regulation, read with Article 45(4) of the Decree-Law.	
Article 35 – Zero-rating Goods and Services in Connection with Means of Transport	The amendment specifies that zero rating will be applied only on services relating to repair, operation and maintenance of a qualifying means of transport which are provided on board. The FTA has provided an example which is reiterated below: *The cleaning of a hangar in which a commercial passenger aircraft is stored, is not a service that is supplied directly in connection with the means of transport, even though keeping a clean storage environment may be a requirement for the proper maintenance of the aircraft.*	This clarification is critical, and the business is required to analyze each of the activity as to whether then same would be directly in connection with the qualifying means of transport and for the purposes of operating, repairing, maintaining or converting the means of transport. Previously, businesses have interpreted this article treating all services relating to repair, operation and maintenance as zero rated. Post the amendment, the scope for zero rating has been narrowed and all services cannot be subjected to zero rate.
Article 42 – Tax Treatment of Financial Services	**FUND MANAGEMENT SERVICES** Investment management services provided by fund managers to funds licensed by a competent authority in the UAE are exempt from VAT. In case the fund is not licensed by a competent authority in the UAE, the investment management services provided by the fund managers would be treated as a taxable supply. Additionally, it has been stated that the fund managers are required to evaluate the tax position adopted and accordingly assess whether they are still eligible to be registered or apply for deregistration.	**FUND MANAGEMENT SERVICES** Effective 15 November 2024, fund management services provided to licensed funds shall be exempted from VAT. Fund management entities should consider the impact of such an amendment from a transitional perspective where date of supplies has triggered before 15 November 2024. One should also note that post 15 November 2024, any input tax would become a cost.

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	VIRTUAL ASSETS Effective from January 2018, the transfer of ownership of virtual assets and conversion of virtual assets are classified as financial services. Accordingly, such transfer of ownership of Virtual Assets and conversion of virtual assets would be exempt from VAT. It is imperative to note that effective 15 November 2024, keeping and managing virtual assets is also classified as a financial service. In case such services are provided for an explicit fee, commission, the services will be taxable. The FTA further clarified that, considering the exemption from VAT is provided retrospectively for transfer of ownership of virtual assets, including virtual currencies and conversion of virtual assets, the registrants may consider issuing credit notes in case where VAT @ 5% was applied on the supply previously.	**VIRTUAL ASSETS** The Taxable person is required to retrospectively assess the impact of the clarification and take appropriate steps such as 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. Basis the amendment, the taxable person is required to assess as to whether there is requirement for de-registration. The taxable person may consider issuing the credit note wherever the VAT has been charged for the supplies which qualifies as exempt transactions pursuant to the amendment.
Article 46 - Tax on supplies of more than one component	The amendment provides that in case of supplies having more than one component wherein the principal component cannot be identified, the tax treatment is required to be adopted basis the general nature of the supply as a whole.	The previous article used to cover cases where a principal component is required to determine the taxability. However, in cases where a principal component was not available, the tax treatment was ambiguous. The amended provision requires suppliers to consider the overall nature of supply to determine the taxability.

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<tr><th>Article No.</th><th>Clarification provided in VATP040</th><th>MMJS Comments (If any)</th></tr>
<tr><td>Article 53(1)(c) - Non-recoverable input tax</td><td>FTA has clarified the following points on the eligibility to claim Input VAT on health insurance provided to dependents:

Registrants shall recover Input VAT on health insurance and top-ups provided, either directly or through a health insurer, to their family, regardless of whether there is a legal obligation to provide such health insurance.

For purposes of this exception, the term “family” is limited to a husband, one wife and up to three children younger than 18 years.

The above is effective from 15 November 2024 and the same should not be applied retrospectively. The eligibility to recover the extent of Input VAT claim has been clarified through an example below:

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.</td><td>Post the amendment, there was an ambiguity as to whether Input VAT on dependent health insurance can only be recovered for tax invoices received after 15th November 2024, or even for the invoices received in prior tax periods which includes insurance coverage for the period after 15th November 2024.

Based on the FTA’s clarification and example, in case the premium was paid for the full year, the input VAT can only be recovered for the proportional period starting 15 November 2024 to 31 December 2024, provided the employer incurs these costs to make taxable supplies and they have retained supporting documents such as tax invoice, payment proof etc.

However, the public clarification does not address the timeframe to claim the input tax credit. Accordingly, it may be evaluated whether a voluntary disclosure needs to be filed or not.

Notably, the provisions should also apply to UAE nationals and their dependents.</td></tr>
<tr><td>Article 55 - Apportionment of Input Tax</td><td>The Public clarification has provided important insights in relation to the amendments made under Article 55.

The tax year for certain special cases shall end as follows:
<table><tr><th>Scenarios</th><th>Last date of tax year</th></tr><tr><td>Tax Deregistration</td><td>Last day on which the person was a taxable person</td></tr></table></td><td>Prior to the amendment in the ER, the following formula was applied for the computation of the recovery ratio under the standard apportionment method:</td></tr>
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Article 55 - Apportionment of Input Tax	<table><tr><th>Scenarios</th><th>Last date of tax year</th></tr><tr><td>Joining the tax group</td><td>Day before the effective date of tax group amendment for addition of member to the tax group</td></tr><tr><td>Leaving a tax group</td><td>Day before the effective date of tax group amendment for removal of member from the tax group</td></tr></table> For computing recovery ratio as per standard input tax apportionment method, though the amended provision provides the denominator to be the sum of total input tax, the public clarification has clarified that the simplified calculation specified in Input tax apportionment VAT guide("VATGIT1") shall still be used. The FTA has further clarified that the threshold of AED 250,000 to determine whether an actual use adjustment is required, should be apportioned on pro-rata basis if the tax year is shorter than 12 months. This has been explained by an example as below: *Example: If a company joins a tax group five months after its tax year, an actual use adjustment would be required in its final return before joining the tax group where the variance between recoverable input tax determined under the annual washup and the actual use method exceeds AED 104,166.67 (250,000 x 5/12).* The amendment had introduced a specific recovery percentage which could be applied for input apportionment. The public clarification has addressed the basis	**a / (a + b) * 100 / 1** Where: a = Wholly Recoverable Input Tax b = Wholly Non-Recoverable Input Tax Pursuant to the amendment and based on the strict interpretation of Article 55(7), it was interpreted that the entire Input Tax incurred by the registrants, including blocked and common Input Tax, will be considered in the denominator for the computation of the recovery ratio. However, based on the clarification provided, the FTA has negated the changes made in the ER regarding the items to be included in the denominator for the computation of recovery ratio. In effect, Blocked Input Tax and Common Input Tax shall not be included in the denominator for the computation of the recovery ratio under the standard apportionment method. All taxable persons who have calculated the input VAT recovery ratio based on the amended formula must consider filing a Voluntary Disclosure. The threshold of AED 250,000 for actual use adjustment must be apportioned in the individual VAT return of a member joining or exiting a tax group during the tax year or at the time of deregistration.

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Article 55 - Apportionment of Input Tax	for application of such recovery percentage: • The specified recovery percentage will be based on the preceding tax year's recovery ratio using the special apportionment method in case the business requires the use of special method. This is regardless of whether the taxable person has applied to the FTA to use the special apportionment method. • If none of the special apportionment methods are applicable to the business, the specified recovery percentage will be based on the preceding tax year's recovery ratio using the standard apportionment method. • The specified recovery percentage can only be applied if the taxable person has been a VAT registrant for at least one tax year. • Once approved, the specified recovery percentage will be valid for 4 years, and the taxable person must apply it for a minimum of 2 years following the approval.	Taxable persons shall be relieved from recalculating the input tax recovery ratio for four years by applying to the FTA to use the specified recovery percentage. It is imperative to note that an actual use adjustment would still be required where a specific recovery percentage is followed.
Article 58(17) – Adjustments under the Capital Assets Scheme	For an internally developed capital asset, FTA has clarified that the first tax year shall be the year in which that asset is brought into use, even if the capital asset was ready for use in a prior year.	
Article 59 – Tax Invoices	The FTA has clarified the following points with respect to issuance of tax invoices:	The FTA has explicitly clarified that the requirement to issue tax invoices in case of import of goods/services. This was initially highlighted in the public clarification VATP036 on SWIFT Messages.

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	• Simplified tax invoices cannot be issued in cases where the reverse charge mechanism is applicable. In such instances, full tax invoices, as per Article 59(1), must be raised, unless an administrative exception is granted by the FTA.
	
	• Administrative exceptions under Article 59(7) may be granted when a tax invoice is raised but cannot be delivered to the recipient.
	
	• Where a registered agent makes supplies for and on behalf of the principal of that supply and the agent issues the related tax invoice:
	
	  • the agent must retain sufficient records to determine the name, address and TRN of the principal supplier, and
	
	  • the principal supplier must retain sufficient records to determine the name, address and TRN of the agent.
	
	• Further, FTA may withdraw an administrative exception decision relating to tax invoices if the conditions under which the exception was granted are not met.
		Basis the clarification, it is clear that all registrants must self-issue tax invoices in case of imports. If the registrants are unable to do so, they must consider applying for an administrative exception to either issue simplified invoices or refrain from issuing any tax invoices.

Article 60 – Tax Credit Note	FTA has reiterated through an example that when multiple tax credit notes are raised against a single tax invoice, the succeeding tax credit note must reflect the value of the supply based on the revised or adjusted value as per the previous tax credit note.	Issuance of subsequent tax credit notes with an incorrect value may deem the tax credit note to be non-compliant. Accordingly, businesses should consider issuance of correct tax credit notes. If the same cannot be issued due to valid reasons, an administrative exception request may be considered to be filed.

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	Further it clarifies that administrative exceptions under Article 60(2) can be requested if a tax credit note is issued but cannot be delivered to the recipient. Further, the following documentary evidence is required where a registered agent makes supplies for and on behalf of the principal of that agent, and the agent issues a tax credit note in respect of such supply: • the agent must retain sufficient records to determine the name, address and TRN of the principal supplier, and • the principal supplier must retain sufficient records to determine the name, address and TRN of the agent.	

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