

MMJS VAT ALERT



Key Amendments to The UAE 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) in Arabic, 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.

Summary Of The Key Amendments

▶ **Article (3) bis – Exceptions to supply**

This article has been newly inserted wherein granting, transferring the right of ownership or use, disposal of government buildings, real estate assets and other projects from one government entity to another has been excluded from the ambit of supply retrospectively from January 1, 2023. The article also provides the meaning of such government buildings, real estate assets and other projects.

The above insertion is an important change for the government entities as such supplies would now fall outside the scope of VAT.

▶ **Article (5) – Exceptions related to Deemed Supplies**

This article has been amended to include exceptions related to deemed supply between the supplier and the recipient both being government or charitable entities for an output tax amounting to AED 250,000 during a period of 12 months.

▶ **Article (8) – Voluntary Registration**

Sub-clause 6 of this article has been amended to provide that a person can apply for voluntary registration provided he proves that he is conducting the business in UAE and has intent to make any of the supplies specified under clause (a),(b) or (c) of Article 54 (1) of the VAT Decree-Law.

▶ **Article (14) bis – Tax Deregistration to Protect the Integrity of the Tax System**

This article has been newly inserted which outlines the circumstances under 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.

The insertion comes pursuant to the amendment made to Article 21 of the VAT Decree law with effect from January 1, 2023.

▶ **Article (29) – Accounting for Tax on the Margin**

This article has been updated to clarify the definition of "purchase price" in the context of the Profit Margin Scheme. The purchase price now includes all costs and fees incurred in the acquisition of the goods.

▶ **Article (30) – Zero-rating the Export of Goods**

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.

- A customs declaration and commercial evidence proving the export
- A shipping certificate and official evidence proving the export
- A customs declaration proving the status of customs duties suspended if the goods are under customs duties suspension

However, FTA may not accept the documents submitted if they do not constitute sufficient evidence of the exit of goods from the country. This change is a positive development for industry players who have faced challenges in obtaining exit certificates.

▶ **Article (31) – Zero rating the Export of Services**

The amended article provides that benefit of zero rating for services would not be available for those services whose place of supply is within the UAE as per the special place of supply provisions outlined in Clauses (3) to (8) of Article (30) of the VAT Decree Law and telecommunication and electronic services under Article (31) of the VAT Decree-Law.

▶ **Article (33) – Zero-rating International Transportation Services for Passengers and Goods**

As per the amended article, services supplied during the supply of transportation services for passenger or goods transportation would only be zero rated if provided to the recipient of transportation services. Earlier, there was no such condition prescribed under law.

▶ **Article (35) – Zero-rating Goods and Services Supplied in Connection with Means of Transport**

The scope of zero rating has been narrowed down for operation, conversion, repair & maintenance services in connection with Means of transport under Article 35 of Executive Regulations. The benefit is available only to the specified services if such services are carried out on board the Means of transport. This amendment may have a negative impact on the logistics sector.

▶ **Article (42) – Tax Treatment of Financial Services:**

The FTA has introduced a significant update to its VAT legislation with the inclusion of digital assets in Cabinet Decision No. 100 of 2024, a much-anticipated move. As digital assets gain momentum in the UAE, this amendment provides clear guidance on the VAT treatment for digital assets.

Cabinet Decision No. 100 of 2024 amends Article 42(2) to include certain services as part of financial services. These majorly include:

- Investment fund management services provided by the fund manager independently in return for a fee to funds licensed by a competent authority in the State, including but not limited to managing the fund's operations and managing the investment for or on behalf of the fund and monitoring and improving the fund's performance;
- Transferring ownership of Digital assets including Digital currencies;
- Converting Digital assets; and,
- Safeguarding, managing, and enabling control of Digital assets.

As per Article 42(3) of the Cabinet Decision, investment fund management services, transfer of ownership of digital assets (including digital currencies), and conversion of digital assets are now classified as exempt from VAT. While the Cabinet Decision No. 100 of 2024 takes effect from November 15, 2024, the exemption for transferring ownership of digital assets including digital currencies and converting digital assets has been applied retrospectively, effective from January 1, 2018.

▶ **Article (46) – Tax on Supplies of More Than One Component:**

For single composite supplies under Article (4) of Cabinet Decision No. 100 of 2024, the tax treatment will follow that of the principal component of the supply. If no principal component exists, the tax treatment is determined by the overall nature of the supply.

▶ **Article (52) – Input Tax Recovery in Respect of Exempt Supplies:**

This article has been updated to incorporate the changes made to Article 31 of Cabinet Resolution No. (99) of 2022. Under the revised provision, a person is considered "outside the State" even if they are physically present within the State, as long as their presence is short-term, specifically, less than one month, and not effectively connected to the supply.

▶ **Article (53) – Non-recoverable Input Tax**

The amendment to Article 53(1) now permits registrants to recover Input Tax on health insurance coverage for one spouse and up to three children under the age of eighteen, even if such coverage is not mandated by the relevant labour laws in the Emirates. Previously, this recovery was only permitted in the Emirate of Abu Dhabi, where it was a legal requirement.

▶ **Article (55) – Apportionment of Input Tax**

- The addition of Article 55(4) introduces tax year ends in the scenarios wherein a) a taxable person cancels their tax registration, b) a member joins a tax group and c) a member leaves a tax group. Additionally, Article 55(12) update states that if a tax year is shorter than a 12-month period, the threshold for actual use of AED 250,000 must be adjusted to reflect a proportionate value based on the duration of that tax period.
- The amendment as outlined in Article 55(16), enables registrants to request the FTA for approval of a specific recovery rate to calculate the recoverable Input Tax for any given tax period based on the recovery rate of the previous tax year.
- Article 55(6) which discusses apportionment of Input Tax now includes consideration of Article 57 of the VAT Decree-Law which involves recovery of Tax by Government Entities and Charities.

▶ **Article (59) – Issuance of Tax Invoice**

This article has been amended to include the following:

- Simplified tax invoices, which can be issued to recipient who is not registered for VAT or where the consideration is below AED 10,000, do not apply in cases where VAT is accounted under the reverse charge mechanism. The recipient of concerned goods or concerned services must self-issue a full tax invoice, as the responsibility for fulfilling tax obligations under the reverse charge mechanism in the UAE VAT law lies with the recipient.
- Simplified tax invoices must be issued on the date of supply itself, and the 14-day timeframe for issuing a tax invoice does not apply. This timeframe is only applicable for full tax invoices.
- 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. The requirement to issue it within the same calendar month as the date of supply has been removed.
- 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.
- The FTA reserves the right to withdraw administrative exceptions related to omitting certain mandatory details from a tax invoice or non-issuance of a tax invoice if conditions are no longer met.
- The FTA can mandate the issuance of a full tax invoice, even when the conditions for a simplified invoice are fulfilled.

▶ **Article (60) – Issuance of tax credit note**

This article has been amended to include the following:

- If multiple tax credit notes are issued for the same tax invoice, the value of the supply in subsequent credit notes must be adjusted according to the previous credit note.
- When a VAT registered agent issues a 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 invoicing process.
- The FTA reserves the right to withdraw administrative exceptions granted for omitting mandatory details from a tax credit note or non-issuance of a tax credit note if the conditions for approval are no longer being met.

▶ **Article (69) – Refund for foreign governments**

This article has been amended to include the following:

- Foreign governments, international organizations, diplomatic bodies, missions, or their officials can submit a tax refund claim for VAT incurred.
- The refund request must be submitted within 36 months from the date the tax is incurred, or within a different period if specified by an applicable international treaty or agreement.
- The refund claim can be based on reciprocal tax treatment in the foreign country or an international treaty concerning tax liability.

Taxable persons should review the amendments and prepare for compliance by the effective date of 15 November 2024 (other than specified cases where changes are retrospective).

We recommend immediately assessing the impact of these changes on your systems and processes and developing a compliance plan.

Our detailed alert with MMJS analysis will follow.

Get in Touch with Our Team



Surandar Jesrani
Group CEO and Managing Partner



Ankur Jain
Associate Partner, Indirect Tax



Rishabh Tandon
Senior Director



Tarun Grover
Senior Manager



Vanita Nagpal
Senior Manager



Divya Mary James
Manager



Mir Mohammed Ali Omar
Manager

+971 4 276 2233
vat@mmjs.co