



The Institute of Chartered Accountants of India - UAE (Dubai)



**Cabinet Decisions related to VAT
Decree Law.**

**Key Public Clarifications and User
Guides issued by FTA.**

July 2019



Base – Initiated in 2016

- Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) - (27 Nov 2016).
 - Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority (26 Sep 2016).
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Law & ER – 2017 release

Federal Decree-Law

No. 8 of 2017 on Value Added Tax.

Law No. 7 of 2017 on Tax Procedures

Cabinet Decision

No. 52 of 2017 on the Executive Regulations of the Federal Decree-Law No 8 of 2017 on Value Added Tax.

Cabinet Decision No. 36 of 2017 on the Executive Regulation of Federal Law No. 7 of 2017 on Tax Procedures

Cabinet Decision No. 39 of 2017 on Fees for Services Provided by the Federal Tax Authority

Cabinet Resolution No. 40 of 2017 on Administrative Penalties for Violations of Tax Laws in the UAE



Aug 2017

- Cabinet Decision No. 56 of 2017 on Medications and Medical Equipment Subject to Tax at Zero Rate.



Update 04 July 2019

Cabinet Decision No. 45 of 2019 on Amending the **List of Charities** Annexed to the Cabinet Decision No (55) of 2017 on Charities That May **Recover Input Tax** (effective from 4 July 2019).

Total 164 charities (including 7 charities included in July 2019):

- Federal - UAE Deaf Association
- Sharjah - Sharjah Award for Voluntary Work
- Sharjah - Sharjah Islamic Affairs
- Sharjah - Sharjah Charity House
- Sharjah - The UAE Board on Books for Young People
- Dubai - Hamdan Bin Rashid Al Maktoum Foundation for Distinguished Academic Performance
- Abu Dhabi - Sandooq Al Watan



May 2018

Cabinet Decision No. 25 of 2018 on the Mechanism of Applying Value Added Tax on **Gold and Diamonds** between Registrants in the State.

Followed by Guidance note on “Declaration by Registered Recipient of Gold and Diamond.”



Update 04 July 2019

Cabinet Decision No. (43) of 2019 on Amending the **List of Designated Zones** Annexed to the Cabinet Decision No. (59) of 2017 on Designated Zones for the purposes of the Federal Decree-Law No. (8) of 2017 on Value Added Tax.

Total 25 DZ (5 Abu Dhabi); (8 Dubai); (2 Sharjah); (1 Ajman); (2 UAQ); (5 RAK); (2 Fujairah).

Newly included on 04 July 2019.

RAK - Al Ghail Industrial Zone

RAK - Al Hulaila Industrial Zone

RAK - Al Hamra Industrial Zone



Tourist Refund

Cabinet Decision No. 41 of 2018 on <u>Introducing the Tax Refunds for Tourists Scheme</u>	24-July-2018
Federal Tax Authority Decision No. 1 of 2018 on the <u>Requirements for Retailers to Participate</u> in the Value Added Tax Refunds for Tourists Scheme	29-Aug-2018
Federal Tax Authority <u>Decision</u> No. 2 of 2018 on Tax Refunds for Tourists Scheme.	06-Nov-2018
FTA Decision No 1 of 2019 on <u>Maximum Amount of Cash Refunds</u> under Tax Refunds for Tourists Scheme.	28-April-2019

Decision No. 4 of 2018 on Tax Invoices – 17 Dec 2018.



Where a Registrant makes a supply of Goods or Services through **vending machines**, there shall be **no requirement to issue a Tax Invoice** in respect of the supply (subject to fulfillment of sufficient records available to establish particulars of supplies).

Decision No. 7 of 2019 on Tax Invoices and Credit Notes – 26 May 2019



Where a taxable person is required to issue tax invoices and tax credit notes relating to different supplies, such **tax invoices and tax credit notes may be issued in a single document** that clearly displays **“Tax Invoice/Tax Credit Note”**.

Where a Registrant makes a supply to another Person and such supply necessitated the issuance of a tax invoice or tax credit note, such tax invoice or tax credit note is **not required to include the physical address** of the supplier or the recipient of the goods or services **where the respective mailing address is stated on the respective tax invoice or tax credit note.**



Exhibitions and Conferences

- Cabinet Decision No. 26 of 2018 on the **Refund of Value Added Tax Paid on Services Provided in Exhibitions and Conferences** –
22 May 2018

 - Cabinet Decision No. 1 of 2019 on the **Refund of Value Added Tax Paid on Goods and Services Connected with Expo 2020 Dubai**
06 Jan 2019
-

Guides - 22 Guides issued on VAT and 4 on General Procedures



VAT FINANCIAL GUARANTEE OR CASH DEPOSIT RELEASE FOR NON REGISTERED IMPORTERS USER GUIDE 702	Aug-18
VAT User Guide (Registration, Amendments, De-registration)	Nov-18
Tax Group User Guide (Registration, Amendments and De-registration)	Nov-18
VAT IMPORT DECLARATION USER GUIDE (Registered and Non-registered)	Sep-18
VAT REFUND USER GUIDE	Jul-18
VAT RETURNS USER GUIDE	May-18
VAT PAYMENT FOR COMMERCIAL PROPERTY BUYERS	Jan-18
Real Estate VAT Guide VATGRE1	Feb-19
TAXABLE PERSON GUIDE FOR VALUE ADDED TAX - ISSUE 2	Jun-18
Director's Services VAT Guide VATGDS1	Mar-18
VAT REFUND FOR BUILDING NEW RESIDENCES BY UAE NATIONALS	Sep-18
Tax Groups VAT Guide VATGGR101	May-18
USER GUIDE FOR SUPPLIERS AND RECIPIENTS OF EXHIBITION AND CONFERENCE SERVICES - AT REFUND FOR EXHIBITIONS AND CONFERENCES	Jul-18
Designated Zones VAT Guide VATGDZ1 - ISSUE 1	Jul-18
Insurance VAT Guide VATGIN1	Sep-18
Charities VAT Guide VATGCH1	Oct-18
Input Tax Apportionment: Special Methods VAT Guide VATGIT1	Dec-18
Financial Services VAT Guide VATGFS1	Feb-19
Refund of Vat Paid on Goods and Services Connected with Expo 2020 Dubai	Mar-19
VAT REFUND FOR BUSINESS VISITORS	Apr-19
VAT ADMINISTRATIVE EXCEPTIONS	Jul-19
Voluntary Disclosure User Guide	Jul-18



12 Public Clarifications issued

VAT treatment of compensation-type payments	VATP001
Profit margin scheme – eligible goods	VATP002
Labour accommodation: residential versus serviced property	VATP003
Use of Exchange Rates for VAT purposes	VATP004
Non-recoverable input tax – entertainment services	VATP005
Tax Invoices	VATP006
Public Transportation	VATP007
Farm Houses and Farm Land	VATP008
Date of Supply for Independent Directors	VATP009
Bank Interest and Dividends	VATP010
Donations, Grants and Sponsorships	VATP011
Importation of goods by agents on behalf of VAT registered persons	VATP012

Real Estate

VAT Guide | VATGRE1 - Feb 2019



Real Estate

VAT Guide | VATGRE1 - Feb 2019



THE REAL ESTATE GUIDE CLARIFIED MANY ISSUES PERTAINING TO

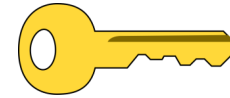
- ✓ Residential buildings
- ✓ Charitable Buildings
- ✓ Bare Land
- ✓ Commercial Real Estate
- ✓ Mixed use development
- ✓ Owners Association
- ✓ Development Infrastructure
- ✓ Supplies between landlords and tenants
- ✓ Place of supply
- ✓ Construction Industry
- ✓ VAT refunds for new residences
- ✓ Transitional provisions



VARIOUS PRACTICAL ISSUES WERE ANSWERED LIKE

- ✓ Supply of accommodation in labor camps,
- ✓ Partially completed buildings,
- ✓ Leasing of bare land for development,
- ✓ VAT recovery on infrastructure costs,
- ✓ Mixed use developments,
- ✓ Landlord contributions towards tenants' costs,
- ✓ Place of supply of real estate related services,
- ✓ Supplies of real estate within the Designated Zones
- ✓ Retention payments.





LET'S FOCUS NOW ON SOME KEY POINTS

1

RESIDENTIAL BUILDING AND FIRST SUPPLY



First supply

- DATE OF COMPLETION IS THE DATE IT IS CERTIFIED AS COMPLETE BY A QUALIFIED PARTY

EXCEPTION

- IF THE BUILDING IS OCCUPIED BEFORE THAT DATE THE DATE ON WHICH THE BUILDING IS OCCUPIED SHALL BE TAKEN AS THE DATE OF COMPLETION



CONVERSION OF A BUILDING INTO A NEW RESIDENTIAL BUILDING VAT TREATMENT??



The first supply will be zero rated provided:



- ✓ The supply must take place within 3 years of the completion of the contract
- ✓ The original building which was converted or any part of it, must not have been used as a residential building or comprise of a residential building within 5 years prior to the conversion work commencing.

3

MIXED USE DEVELOPMENTS



- A mixed use development is a building or a plot which has clear and distinct areas which are put to different uses and which would have different VAT treatment when supplied
- Usage of a distinct part of a mixed use development attracts VAT based on usage
- When a mixed used is therefore sold in its entirety it shall be **NECESSARY TO APPROPRIATE THE CONSIDERATIONS RECEIVED BETWEEN THE DIFFERENT PART OF THE BUILDING. THE VALUE OF THE CONSIDERATION RELATING TO THE RESIDENTIAL PART OF THE BUILDING SHALL BE TREATED AS EXEMPT FROM VAT(OR ZERO RATED WHERE IT IS FIRST SUPPLY)** and value of consideration relation to the commercial part of the building shall be treated as standard rated.



3

MIXED USE DEVELOPMENTS



COST RECOVERY ON DEVELOPMENT COSTS:

Input tax on commercial building: Recoverable over the duration of the development of the building

Input tax on residential building: Recoverable in full on the basis, that costs relate to zero rated supply

THEREFORE VAT INCURRED ON THE CONSTRUCTION OF A MIXED USE DEVELOPMENT SHOULD BE RECOVERABLE IN FULL



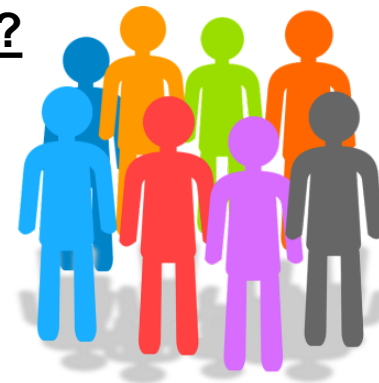


OWNERS ASSOCIATION



DOES IT NEED TO BE REGISTERED FOR VAT PURPOSE?

- ✓Control, management and administers the common areas
- ✓Legal Personality distinct from its members
- ✓Economic Activity.
- ✓Taxable supplies
- ✓Taxable turnover



5

DEVELOPMENT INFRASTRUCTURE



Infrastructure work undertaken by master developers:

- A master developer purchases a large plot of land, which is then sub-divided into smaller plot of land for sales.
- As a part of this process he will add infrastructure to the communal areas of the development such as roads, power and water and connections to other infrastructure such as internet and phone lines, mosques, parks, utility networks and landscaping etc.





DEVELOPMENT INFRASTRUCTURE



- These costs are fully recoverable by the master developer as they have been incurred in the normal course of his business.
- In the event that a mixture of bare land and commercial real estate is sold from the site, then the VAT incurred on infrastructure should be apportioned under the normal input tax apportionment rules



6

SNAGGING



I) Where the original builder corrects the snags at his cost ?

VAT TREATMENT

No consideration, no supply therefore no VAT

II) Where the customer uses a second supplier to correct the snags or where the original supplier corrects the snags for an additional fee,

VAT TREATMENT

Additional supply of service to the customer and VAT will be due on supply.

Financial Services

VAT Guide | VATGFS1



Financial Services VAT Guide | VATGFS1

February 2019

Financial Services

VAT Guide | VATGFS1



What are financial services as defined by the Law? - Financial services are services connected to dealings in money (or its equivalent) and the provision of credit and include, but are not limited to the following:

1. the **exchange of currency**, whether effected by the exchange of bank notes or coin, by crediting or debiting accounts, or otherwise;
2. the issue, payment, collection, or transfer of ownership of a **cheque or letter of credit**;
3. the issue, allotment, drawing, acceptance, endorsement, or transfer of ownership of a **debt security**;
4. the provision of any **loan, advance or credit**;
5. the renewal or variation of a **debt security, equity security, or credit contract**;
6. the provision, taking, variation, or release of a **guarantee, indemnity, security, or bond in respect of the performance of obligations** under a cheque, credit, equity security, debt security, or in respect of the activities specified in items (2) to (5) above;
7. the operation of any **current, deposit or savings account**;
8. the provision or **transfer of ownership of financial instruments** such as derivatives, options, swaps, credit default swaps, and futures;
9. The payment or collection of any amount of **interest, principal, dividend, or other amount** whatever in respect of any debt security, equity security, credit or contract of life insurance;
10. agreeing to do, or **arranging, any of the activities** specified in items (1) to (9) above, other than advising thereon.

Financial Services

VAT Guide | VATGFS1



Exported services :

The supply of financial services to a recipient established outside the GCC (*whether or not they would otherwise have been exempt where supplied in the GCC*) will be zero-rated (i.e. they are **treated as taxable supplies**).

Financial Services

VAT Guide | VATGFS1

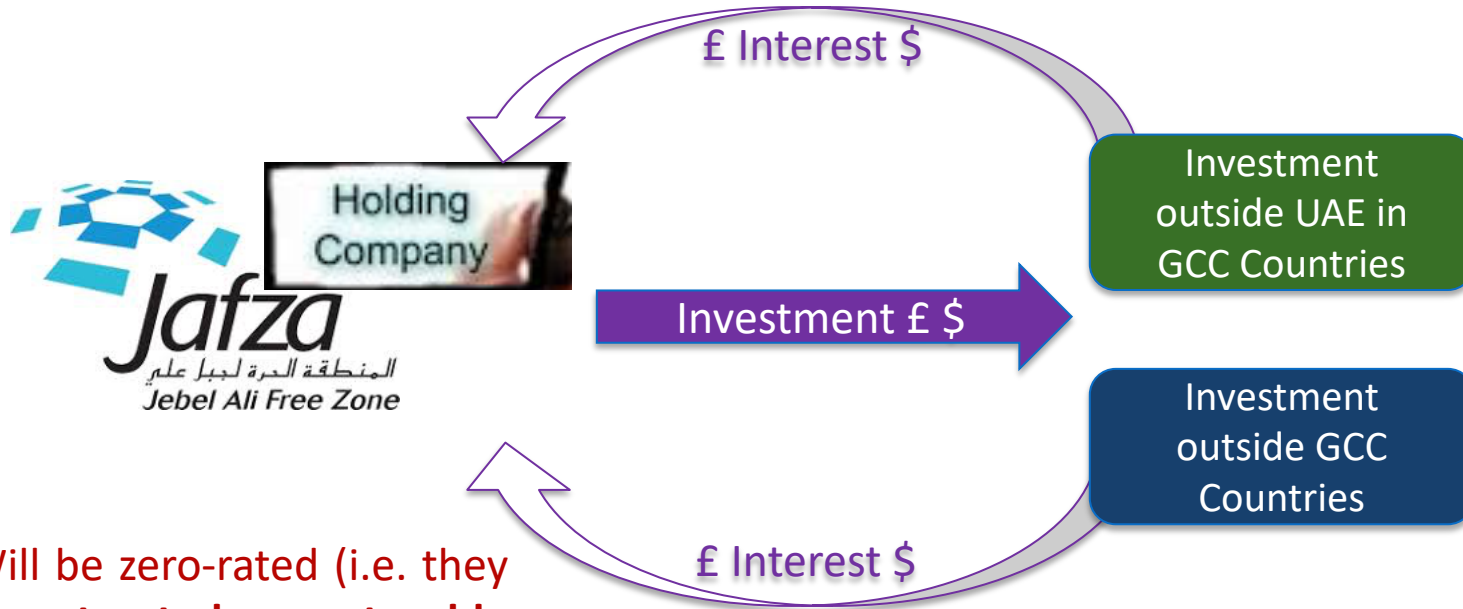


Exported services : Supplies of financial services to a **recipient established within the GCC Implementing States**

have the following VAT treatments:

- where the recipient is registered or registerable for VAT in the GCC state in which the financial service is received, the **supply is outside the scope of UAE VAT** and the **recipient is liable to account for the reverse charge in the GCC member state** in which the supply is received, at the prevailing rate of VAT applicable to that service in that state. Input tax which is wholly attributable to such supplies is recoverable whether or not the supplies in question would have been exempt or taxable in the UAE.
- where the recipient is not registered nor registerable for VAT in the GCC state in which the financial service is received, **the place of that supply will be the UAE**. In such instances, the supply **will have the normal UAE VAT liability and related VAT recovery**.

Financial Services



Will be zero-rated (i.e. they are treated as taxable supplies)

Financial Services



Exported services - Reference Articles:

ER - Article (42) Clause (7) - Tax Treatment of Financial Services

7. Where Article (31) of this Decision applies in respect of a supply of financial services, this supply should be treated as zero-rated.

ER - Article (31) Zero-rating the Export of Services

DL Article (54) Recoverable Input Tax

ER - Article (52) -Input Tax Recovery in Respect of Exempt Supplies

Supplies referred to in paragraph (c) of Clause (1) of Article (54) of the Decree-Law are the supplies of financial Services, where the place of supply of these Services is treated as outside the State and the Recipient of Services is outside the State at the time when the Services are performed.

Financial Services

VAT Guide | VATGFS1



Imported Services

- Where services are received from outside the GCC, those services will be liable to VAT at the **standard rate where the supplies would be standard-rated supplies were they to be made in the UAE.**
 - In this scenario, the imported services will be subject to the reverse charge mechanism as if the importer had supplied these services to itself. The importing financial services institution must therefore account for the VAT incurred on the imported services.
 - It will also be entitled to claim for the input tax on such services, subject to the usual rules of recovery, including those of input tax apportionment.
-

Financial Services



Imported Services - Reference Articles:

- As per DL / ER Article (1) – Definitions, Concerned Services is defined as...
Services that have been imported, where the place of supply is in the State, and would not be exempt if supplied in the State.
- In case of financial services, if **“financial services” are provided within the state, then it will be exempt** & hence it is not covered in Concerned Services definition & resultant RCM as specified in DL Article (48) also will not apply.

VAT treatment of compensation-type payments

VATP001



الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY



VATP001

VAT Public Clarification

VAT treatment of compensation-type payments

توضيح عام بشأن ضريبة القيمة المضافة

المعاملة الضريبية لدفعات التعويضات



VAT treatment of compensation-type payments

VATP001

A contractual payment to compensate for loss:

An example of such a compensatory payment are “**liquidated damages**”. ***Liquidated damages are predetermined amounts that parties to an agreement designate during the formation of the agreement for the injured party to collect as compensation upon a specific breach*** – for example, for an early termination of a contract or a late performance. The purpose of such payments is not to provide consideration for a provision of any goods or services but to compensate a party for loss of earnings. As such, the payments are outside the scope of VAT.



Contract between Developer & Contractor



Scenario where “Developer” (Purchaser) assigns the contract to the “Contractor” (Seller) for development of building/ structure.



Scenario 1: The “Developer” pays the liquidated damages when the contract is NOT performed.



It may not be subject to the VAT, since no supply is undertaken.

Reference point to be considered that no contract / transaction has been performed / undertaken.



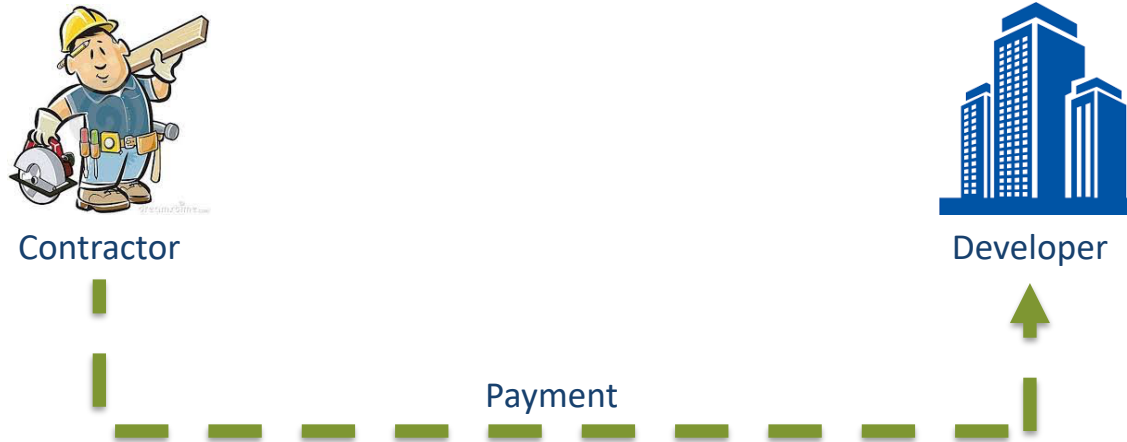
Scenario 2: The “Developer” pays the liquidated damages when the contract is performed.



It may be subject to the VAT, since these *liquidated damages may be considered as part of consideration*, “liquidated damages” received, as part of contract & reference supply of goods / services.



Scenario 3: The “Contractor” pays the liquidated damages when the contract is NOT performed.



It may not be subject to the VAT, in this case the considering there is no contract executed where goods/ service is provided by the “Developer” to “Contractor” (Note: Contract is for supply of goods / services by “Contractor” to “Developer”).



Scenario 4: The “Contractor” pays the liquidated damages when the contract is performed.



It may not be subject to the VAT, in this case the considering there is no contract executed where goods/ service is provided by the “Developer” to “Contractor” (Note: Contract is for supply of goods / services by “Contractor” to “Developer”).

Importation of goods by agents on behalf of VAT registered person VATP012



VATP012

VAT Public Clarification

Importation of goods by agents on behalf of VAT registered persons

توضيح عام بشأن ضريبة القيمة المضافة
استيراد السلع من قبل الوكلاء نيابة عن أشخاص
مسجلين لضريبة القيمة المضافة

Importation of goods by agents on behalf of VAT registered person VATP012



- **Importation of goods** from outside the UAE into the UAE mainland is subject to VAT. When a VAT registered person imports goods, he may, subject to certain conditions, account for VAT in the tax return (“VAT return”), rather than at the time of importation of the goods. However, when a person not registered for tax imports goods, VAT needs to be paid before the goods are released to the person.
 - There will be situations where a **VAT registered owner of the goods** may **request** another **VAT registered person** (“importing agent”) **to import goods** on behalf of the former. This will happen when the person importing the goods is, for example, **an agent** of the owner of the goods, or in some cases, **the customer of the owner of the goods**.
-



What if goods are sold under DDP terms?

Good sold at DDP (Delivered Duty Paid) can be used for any transport mode, or where there is more than one transport mode. **The seller is responsible for arranging carriage and delivering the goods** at the named place, **cleared for import and all applicable taxes and duties paid (e.g. VAT).**



Good sold under DDP...



VAT Registered
Owner of goods

Goods cleared using Mainland,
(customer) import code



VAT Registered
Mainland **Customer**



Import by Agent (or instance where “importer” and “owner of goods” are in mainland).

Option 1:

Agent: Make a **deduction** of the value of goods imported in **[Box 7]**.

Owner of Goods: Make a **positive adjustment** in the value of goods imported in **[Box 7]**, and standard adjustment in **[Box 10]**.

Option 2:

Agent: Issue a statement to the owner as prescribed in Article 50(7) of the Executive Regulations. The statement will be considered as a Tax invoice.

Transaction will reflect in **[Box 1]**, **[Box 6]**, & **[Box 10]**.

Owner of Goods: Statement issued under Article 50(7) under **[Box 9]** of the tax return for input tax.



Thanks

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