UAE releases public clarifications, user guides, and Cabinet Decisions on VAT

Executive summary

Since the start of June 2018, the United Arab Emirates (UAE) Federal Tax Authority (FTA) has commenced the publication on its website of various public clarifications on complex Value Added Tax (VAT) matters and issues on the application of Federal Decree-Law No. (8) of 2017 on Value Added Tax (the Law) and Cabinet Decision No. (52) of 2017 on the Executive Regulations of the Federal Decree-Law No. (8) of 2017 on Value Added Tax (the Executive Regulations).

These include new public clarifications on the following VAT-related matters:

- VAT treatment of compensation-type payments
- Profit margin scheme – eligible goods
- Labor accommodation for residential versus serviced property
- Use of exchange rates for VAT purposes

The FTA has also published user guides on:

- Voluntary disclosure
- VAT refunds
- Clarifications

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Further to this, in July 2018, the FTA published amendments to the following:

- List of Designated Zones for the purposes of the Law
- List of charities that may recover input tax

This Alert summarizes the latest publications released by the FTA.

### Detailed discussion

#### VAT Public Clarifications

**VATP001 – VAT Public Clarification on the VAT treatment of compensation-type payments**

This public clarification addresses the issue of whether VAT is due on compensation payments. Compensation payments may include contractual payments to compensate for loss, settlements, fines or penalties and payment for damaged goods. The public clarification analyzes numerous situations and whether the compensatory payment in question is consideration for a supply, which would then have an impact on determining the VAT treatment of the said compensation-type payment.

**VATP002 – VAT Public Clarification on the profit margin scheme – eligible goods**

This public clarification categorizes goods which are eligible for the profit margin scheme and the conditions which need to be met to apply for the profit margin scheme. The clarification confirms that goods which have previously been subject to VAT before the supply in question, may be subject to the profit margin scheme. Goods which qualify under the profit margin scheme includes second hand goods, antiques and collectors' items. Businesses which use the profit margin scheme must ensure that they have appropriate records in place to identify goods that have been supplied under the scheme.

**VATP003 – VAT Public Clarification on labor accommodation: residential versus serviced property**

In this public clarification, the FTA confirms that labor accommodation may be classified into two categories for VAT purposes. First, whether they take the form of a residential building and therefore are exempt from VAT (zero-rated if first supply) or second, whether it would be considered as serviced accommodation, and therefore subject to the standard rate of VAT. The public clarification lists various services that may be included with the property in the form of normal and additional services, which will ultimately categorize whether the property falls under the residential or serviced category for VAT purposes.

**VATP004 – VAT Public Clarification on the use of Exchange Rates for VAT purposes**

The public clarification provides details on how to deal with invoices that were issued before 17 May 2017, invoices issued from 17 May 2018 onwards, as well as invoices relating to imported goods and services. Under Article 69 of the Law, where a supply was made in a currency other than UAE Dirham, the amount stated on the issued tax invoice should be converted into the UAE Dirham according to the exchange rate approved by the Central Bank at the date of supply. For tax invoices issued from 17 May 2018 onwards, businesses must use the exact exchange rate as published by the Central Bank, which includes using the same number of decimal places as published. For example, if the exchange rate for US dollars is published as 3.672500, the full exchange rate should be used on the tax invoice, and it is not permitted to round the exchange rate to fewer decimal places, e.g., 3.7.

#### FTA User Guides

**Voluntary Disclosure User Guide**

The purpose of this guide is to assist UAE taxpayers to submit voluntary disclosure forms to the FTA.

A voluntary disclosure is required either:

- If the taxpayer becomes aware that a tax return submitted to the FTA or a Tax Assessment sent to the taxpayer by the FTA is incorrect.
- If the taxpayer becomes aware that a tax refund application that they have submitted to the FTA is incorrect.

The voluntary disclosure user guide provides information on:

- Time limits for voluntary disclosure
- Corrections of errors
- Additional reporting requirements
- Supporting documentation
- Action buttons
- The description of the columns on VAT voluntary disclosure
- Penalties
- Important on-screen tools and other tips
**VAT Refund User Guide**

The guide is intended to help taxpayers file their VAT refund claims and the process to be followed when applying for a refund from the FTA. This guide should be read in conjunction with Taxable Person Guide for VAT.

The VAT refund user guide provides information on:
- Timeframes for repayment
- Completing and submitting the form
- Important on-screen tips
- Details about the VAT refund form

**Clarifications User Guide**

The purpose of this guide is to provide users with help on how to submit clarification requests to the FTA regarding specific matters of uncertainty for which they would like further guidance.

The user guide provides information on:
- Who is qualified to apply for a clarification
- What information is needed when completing the clarification forms
- Completing the clarification form
- Submitting the clarification form
- Responses from the FTA on the clarification
- Reconsideration in case of disagreements with the FTA’s clarification

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**Cabinet Decisions**

**Cabinet Decision No. (35) of 2018 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**

The cabinet decision adds three new designated zones with effect from 18 June 2018.

The three new designated zones for VAT purposes are:
1. Al Butain International Airport Free Zone – Abu Dhabi
2. Al Ain International Airport Free Zone – Abu Dhabi

**Cabinet Decision No. 15 of 2018 on Amending the List of Charities Annexed to the Cabinet Decision No. (55) of 2017 on Charities That May Recover Input Tax**

The following charities have been added to the list of charities that may recover input tax:
1. Al Jalila Foundation Supporting Education and Research in the Medical Fields – Dubai
2. Sharjah City for Humanitarian Services – Sharjah
3. Althiqa Club for Special Needs – Sharjah
4. Ajman Awqaf Center – Ajman
For additional information with respect to this Alert, please contact the following:

**Ernst & Young Middle East, Dubai**
- David Stevens, *EY VAT Implementation Leader*  
  david.stevens@ae.ey.com
- Nicola Butt  
  nicola.butt@ae.ey.com
- Marc Collenette  
  marc.collenette@ae.ey.com
- Engela Wiid  
  engela.wiid@ae.ey.com
- Martin Lazaroff  
  martin.lazaroff@ae.ey.com
- Mark McKay  
  mark.mckay@ae.ey.com
- David Betton  
  david.betton@ae.ey.com
- Anthony Brown  
  anthony.brown@ae.ey.com
- Javier Pardo  
  javier.pardo@ae.ey.com
- Athar Fahim  
  athar.fahim@ae.ey.com

**Ernst & Young Middle East, Abu Dhabi**
- James W Bryson  
  james.bryson@ae.ey.com
- Sana Azam  
  sana.azam@ae.ey.com
- Gordan Rotkvic  
  gordan.rotkvic@ae.ey.com

**Ernst & Young LLP, Middle East Tax Desk, Houston**
- Gareth Lewis  
  gareth.lewis1@ey.com
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