



Major Overhaul of the UAE VAT Executive Regulations

VAT Alert

October 2024

For the first time since the introduction of VAT in 2018, the UAE the Federal Tax Authority (FTA) has introduced a significant number of changes to the Executive Regulations of the UAE VAT Law through **Cabinet Decision 100 of 2024**, amending Cabinet Decision No. 52 of 2017.

These changes, **effective from November 15, 2024**, mark a pivotal shift in the VAT landscape and demonstrate that the FTA is adapting to changes to the way business is evolving in the UAE.

An overview of the key amendments and their implications are discussed below:



Financial Services

- One of the most notable changes is the introduction of a **Digital Asset** definition under Article 1. Digital assets are now defined as “digital representations of value that can be traded or transferred digitally and used for investment purposes, excluding fiat currencies or securities”.

In continuation to this, Article 42 (2) has been amended to include following within the definition of financial services a) providing investment fund management services independently for a fee, for funds licensed by a competent authority in the state, including but not limited to managing fund operations and managing investments for the benefit of the fund or on its behalf and monitoring and improving fund performance; b) transferring ownership of digital assets, including cryptocurrencies; c) converting digital assets; d) safeguarding and managing digital assets and enabling control over them.

Additionally, Article 42 (3) now specifically exempts these services from VAT:

- a) Investment fund management services;
- b) Transferring ownership of digital assets, including cryptocurrencies;
- c) Converting digital assets;

with changes for the last two being applicable retrospectively from January 1, 2018.

This is a significant development, as it brings clarity and structure to the taxation of digital assets, which have been a growing area of interest and investment in the UAE.

Exception to Supply and Deemed Supply

- Another important amendment is the **Exception to Supply definition**, which now includes the transfer of ownership or disposal rights of government buildings and real estate assets between government entities. This also covers the right to use or exploit these assets, effective from January 1, 2023.

This change is crucial for government entities as it simplifies the process of transferring assets and ensures that such transactions are not subject to VAT.

- The **Deemed Supply Exception provision** has been simplified and extended, allowing up to AED 250,000 for each supplier who is a government entity or charitable organization if the recipient is also a government entity or charitable organization, within a twelve-month period.

This extension provides relief to charitable organizations and government entities, enabling them to carry out their activities without the additional burden of VAT.

Profit Margin Scheme

- Article 29 has been clarified to state that the “purchase price” under the **Profit Margin Scheme** includes all costs and fees incurred to purchase the goods.

This removes any ambiguity and provides a clear guideline for businesses on how to calculate the purchase price under this scheme.



Proof for Export of Goods

- For the **Export of Goods**, Article 30 now specifies the necessary documents to prove an export of goods has occurred and thus eligible to be treated as a zero-rated supply. The FTA has clarified that any of the following documents would be acceptable to for prove the export as a zero-rated supply:
 - A customs declaration and commercial evidence proving the export.
 - A shipping certificate and official evidence proving the export.
 - A customs declaration proving the customs suspension if the goods are under customs suspension.

The clarification of “official evidence” and “commercial evidence” within the VAT Executive Regulations provides exporters with a clear understanding of the documentation required to prove exports, thereby facilitating smoother export processes.

“Official evidence” has been defined as a certificate of export issued by the customs authorities in the state or a clearance certificate issued by those authorities or the competent authorities in the state regarding the goods leaving the state after verifying that the goods have left the state, or a document or clearance certificate certified by the competent authorities in the destination country indicating that the goods have entered it.

Further, “Commercial evidence” means a document issued by shipping or air transport companies or agents proving the transportation and departure of goods from the state to outside the state, including any one of the following documents: Airway bill or air cargo manifest, Bill of lading or sea cargo manifest, Land transport bill or land cargo manifest.

Also, the term “Shipping certificate” has been clarified to mean a certificate issued by shipping or air transport companies or agents equivalent to commercial evidence if it is not available.

This is welcome clarity for exporters in UAE, many of whom were struggling to get Exit Certificates as export proof due to practical challenges/limitations at different customs stations of the UAE.



Zero-rated Services

- Article 31 for **Export of Services** now states that services will not be zero-rated if their place of supply is within the UAE for scenarios under clause 3 to 8 of Article 30 of the UAE VAT Law or Article 31 of the UAE VAT Law.

These VAT Articles cover services in relation to goods, supply of means of transport, supply of restaurant, hotel, and food and drink catering services, supply of any cultural, artistic, sporting, educational or any similar services, supply of services related to real estate, supply of transportation services or transport-related services, Telecommunication and Electronic Services.

This change necessitates a detailed analysis by businesses to understand the impact on their operations and to ensure compliance with the new regulations.

- Article 33(2) clarifies that zero-rating applies to **services supplied in connection with international transport services** for passengers or goods, only if the services are supplied to the recipient of the transport services.

Similarly, Article 35(1)(b) specifies conditions for zero-rating services **supplied directly in connection with the means of transport** for the purposes of operating, repairing, maintaining, or converting will be applicable only if the following conditions are fulfilled:

- a) Repair services for the means of transport if the repair is carried out on board the means of transport;
- b) Maintenance services for the means of transport if the maintenance is carried out on board the means of transport, including inspection and testing services for the means of transport and their parts and equipment, cleaning, repainting, and similar services;
- c) Conversion services for the means of transport, provided that the means of transport remain compliant with the conditions mentioned in Article 34 of this decision after the conversion.

These clarifications ensure that businesses involved in international transportation and related services have a clear understanding of the VAT treatment of their services.



Composite Supply

- Article 46 (1) has been amended to apply tax treatment based on the overall nature of the supply if no main component is included in a **composite supply**.

This change provides clarity on how to treat composite supplies for VAT purposes.

Input VAT

- Article 53 now allows **recovery of input VAT for health insurance**, including enhanced health insurance for employees and their dependents within the limits of one spouse and three children under the age of eighteen.

This amendment is a significant relief for businesses, as it allows them to recover VAT on essential employee benefits.

- Article 55 clarifies the end of the tax year in various scenarios, including tax registration cancellation and changes in tax group membership. It also refers to Article 57 of the UAE VAT Law for apportionment.

For **input VAT apportionment calculations**, if the tax year is less than twelve months, the AED 250,000 limit for actual use should be proportionately adjusted. Taxable persons can also request FTA approval to use a fixed apportionment percentage based on the previous tax year.

The option to agree and use a fixed apportionment percentage for input tax recovery will be a welcome benefit for taxpayers whose annual business profile remains consistent, dispensing with the need for periodic recalculation. Also, the pro-rate adjustment of the actual use threshold may now also result in input tax adjustments for businesses who previously were below the AED 250k limit.

- Article 58 now includes Clause 17, stating that the first tax year for a self-developed **capital asset** is the year it is first used.

This amendment ensures that businesses have a clear understanding of when to start accounting for VAT on self-developed capital assets.





Tax Invoices

- The **timeline for issuing Tax Invoices** has been adjusted in specific scenarios, such as simplified and summary tax invoices.

If the tax invoice is a simplified tax invoice, the registrant must issue the tax invoice on the date of supply.

For the summary tax invoice, 14 days would be counted from the end of the calendar month that includes the date of supply for those supplies.

This change requires that businesses comply with the invoicing requirements in a timely manner, reducing the risk of non-compliance.

- Other **minor changes** include:
 - Definitions in the Regulations have been revised, including the removal of certain definitions which were already present in the UAE VAT Law and the addition of a bankruptcy trustee to the definition of Legal Representative. A new definition for “working day” has been introduced as well.
 - Voluntary registration provisions have been clarified, allowing persons to register voluntarily if they can prove their intent to make specified supplies under Article 54 of the Decree-Law.
 - Clause 9 has been added to Article 9, emphasizing that deregistration does not exempt individuals from their obligations, including the need to reapply for tax registration when requirements are met.
 - The definition of Relevant Charitable Activity in Article 38 has been deleted, and Clauses 14 and 15 have been added to Article 59.

The amendments to the UAE VAT framework are a significant development in the evolution of VAT in the UAE. Taxpayers should review the amendments and assess their impact on their operations and compliance obligations, making it imperative to grasp their full impact. Navigating these changes requires careful analysis and informed decision-making.

Speak to one of our experts

Grant Thornton UAE can assist you in understanding and navigating these changes, and we are ready to provide you with in-depth analysis and expert guidance. For a thorough understanding or any specific questions, reach out to the Grant Thornton UAE VAT team..



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