

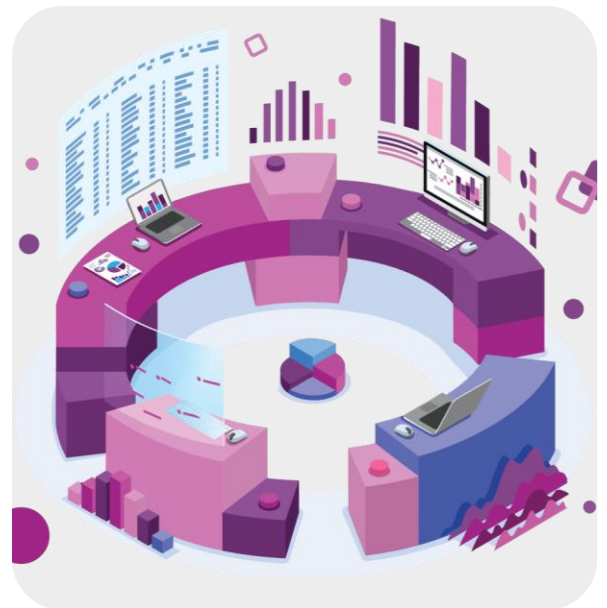


Insights into the Revised UAE VAT Executive Regulations (Cabinet Decision No. 100 of 2024)

Since the introduction of VAT in the UAE in 2018, the Federal Tax Authority (FTA) has taken a crucial step by implementing significant updates to the VAT Executive Regulation. These changes, outlined in Cabinet Decision 100 of 2024, revise the earlier Cabinet Decision No. 52 of 2017 and will take effect on November 15, 2024. This move underscores the FTA's commitment to refining the VAT framework in response to evolving business needs and market dynamics, ensuring that the tax system remains effective and relevant. Below, we outline the main changes to the new Executive Regulation (Cabinet Decision 100 of 2024).

01. Financial Services (including Crypto)

- A key update is the definition of **Virtual Assets** in Article 1 of Executive Regulation, which now describes them as "digital representations of value that can be digitally traded converted and can be used for investment purposes and does not include digital representations of fiat currencies or financial securities".
- Additionally, Article 42(2) has been updated to include new financial services:
 - a) the provision or transfer of ownership of a life insurance contract or the provision of re-insurance in respect of any such contract.
 - b) independent investment fund management for licensed funds, including but not limited to management of operations, investments, and performance monitoring of funds.
 - c) Transferring ownership of Virtual Assets, including virtual currencies.
 - d) Converting Virtual Assets.
 - e) Keeping and managing virtual assets and enabling control thereof.
- Article 42(3) now exempts the following services from VAT.
 - a) Fund management services as described in paragraph (j) of Clause 2 of this Article 42.
 - b) Transfer of ownership of Virtual assets including virtual currencies.
 - c) Conversion of Virtual assets. These last two exemptions (b & C) apply retroactively from January 1, 2018, subject to meeting the applicable conditions in the Clause 2 and 3 of Article 42.



This development clarifies the treatment of Digital Assets, reflecting their growing interest and investment in the UAE. The retroactive VAT exemptions also encourage further engagement in the digital asset sector.

02. Exceptions to Supply and Deemed Supply

- Another key amendment is the Exceptions of Supplies under Article 3 (bis), which now specifically excluded the grant or transfer of ownership or disposal rights of government buildings, real estate assets and other projects in similar nature between government entities including the right to use or exploit these assets, effective January 1, 2023. This change simplifies the VAT treatment for the transactions related to the *transfers of ownership and right of use* between government entities by excluding these transactions from VAT.
- Further, the Deemed Supply Exception provision under Article 5 of the Executive Regulation has been simplified and extended, allowing up to AED 250,000 for each supplier who is a government entity or charitable organization when the recipient is also a government entity or charitable organization, within a twelve-month period.
- Initially, certain supplies were not considered Deemed Supplies under the Executive Regulation if specific conditions were met, such as when the Input Tax on Goods or Services was not recovered, the supply was exempt, or refunded Input Tax was amended under the Capital Assets Scheme. However, after the recent amendment to the regulation, these provisions are no longer mentioned. As a result, such supplies now need to be treated as Deemed Supplies under the amended regulation.

This extension provides relief to these organizations, enabling them to carry out their activities without the added burden of VAT.

03. Profit Margin Scheme



Newly added Clause 5 of Article 29 has been clarified to specify that the "**purchase price**" under the Profit Margin Scheme encompasses any costs and fees associated with acquiring the goods in addition to the normal price of those goods. This important clarification removes any ambiguity that may have previously existed regarding the definition of purchase price. With clear guidelines,

businesses can accurately calculate the purchase price and ensure compliance with the scheme.

This clarity facilitates smoother transactions and enhances transparency in financial reporting, allowing businesses to make informed decisions and better manage their profit margins.

04. Proof for Export of Goods



Article 30 of the VAT Executive Regulation now specifies the necessary documents for proving the export of goods eligible for zero-rated supply. The FTA has clarified that acceptable documentation includes:

- a) A customs declaration and commercial evidence that proves the export.
- b) A shipping certificate and official evidence that proves the export.
- c) A customs declaration that proves the suspension arrangement of customs duties, in case the Goods are put into customs suspension.

The definitions of "official evidence" and "commercial evidence" in the VAT Executive Regulations provide exporters with clear guidance on the required documentation, facilitating smoother export processes.

- "Official evidence" refers to the export certificate or clearance certificate issued by the customs departments in the State, confirming the departure of goods, or a document certified by the competent authorities in the destination country verifying the goods' entry.
- "Commercial evidence" refers to documents issued by transport companies and agents that verify the transfer and departure of goods from the State, including air waybills, sea waybills, and land waybills.
- The term "Shipping certificate" is now defined as a certificate from transport companies serving as commercial evidence when other documents are unavailable.

This clarity is beneficial for UAE exporters, many of whom faced challenges obtaining exit certificates as proof of export due to limitations at various customs

05. Zero-rated services

- Article 31 Executive Regulation on Export of Services specifies that services will not be zero-rated if Services are not treated as being performed in the State or in a Designated Zone, according to clauses 3 to 8 of Article 30 or Article 31 of the UAE VAT Decree Law. These articles cover various services, including services related to goods, transportation, catering, cultural activities, real estate, and telecommunications.
- This change requires businesses to analyze the impact on their operations and ensure compliance with the new regulations.
- As per newly issued Executive Regulation Article 33(1) (d) has been amended stating that "Transporting Goods from one place in the State to another place in the State **if the Services are supplied by the same supplier** as part of the supply of Services of transporting these Goods either from a place in the State to a place outside the State or from a place outside the State to a place in the State shall be zero-rated."



- Article 33(2) (b) clarifies that zero-rating applies to services supplied to the recipient of transportation services during the supply of transportation services.
- Article 35(2) outlines the conditions for zero-rating services directly related to the operation, repair, maintenance, or conversion of means of transport. These conditions must be met:
 - a) Repair services are eligible for zero-rating if conducted on board the means of transport.
 - b) Maintenance services qualify if performed on board, including inspection, testing, cleaning, repainting, and similar services.
 - c) Conversion services are eligible as long as the means of transport remain compliant with the conditions specified in Article 34 after the conversion.

These clarifications help businesses involved in international transportation to understand the VAT treatment of their services more precisely.

06. Composite Supply

- Article 46 has been updated with Para (b) to clarify that if a composite supply doesn't include a main component, the tax treatment will be based on the overall nature of the supply.

This change clarifies the treatment of composite supplies for VAT purposes. It offers guidance on how to handle these supplies more effectively.

07. Input VAT

- Clause 1 of Article 53 now permits businesses to recover VAT on health insurance, including enhanced coverage for employees and their dependents, specifically one spouse and up to three children under eighteen.
- Clause 4 of Article 55 clarifies the end of the tax year in different situations, such as when a taxable person applies for tax deregistration, where a member joins or leaves the tax group. It also references Article 57 of the UAE VAT Law regarding apportionment and input tax recoverability.
- As per Clause 12 of Article 55 clarifies input VAT apportionment calculations, in a case where the tax year is shorter than twelve months, the AED 250,000 limit for actual use should be adjusted proportionately. Taxable persons may also seek FTA approval to apply a fixed apportionment percentage based on the previous tax year.
- Article 58 now includes Clause 17, which states that the first tax year for a self-developed capital asset is the year it is put into use for the first time.



The recovery of input VAT on dependent's portion offers substantial relief for businesses by enabling them to recover VAT on essential employee benefits. Additionally, the option to use a fixed apportionment percentage for input tax recovery will benefit taxpayers with a consistent annual business profile, eliminating the need for frequent recalculations.

The pro-rata adjustment of the actual use threshold may also lead to input tax adjustments for businesses that previously fell below the AED 250,000 limit. Furthermore, this amendment on self-developed capital assets clarifies when businesses should begin accounting for VAT on self-developed capital assets.

08. Tax Invoices

- As per clause 13 of Article 59, the timeline for issuing tax invoices has been revised for certain situations, including simplified and summary tax invoices. For simplified tax invoices, the registrant must issue the invoice on the date of supply. For summary tax invoices, they must be issued within 14 days from the end of the calendar month which includes the date of supply.



This change emphasizes timely compliance with invoicing requirements, reducing the risk of non-compliance for businesses.

09. Other changes

- The definitions in the Regulations have been updated, including the removal of certain definitions already present in the UAE VAT Law. Additionally, the definition of Legal Representative now includes a bankruptcy trustee, and a new definition for "working day" has been introduced.
- Clause 6 of Article 8 has been clarified, allowing a person to register voluntarily if they are carrying on a Business in the State and if he can demonstrate his intention to make specific supplies as outlined in Article 54 of the Decree-Law.

- Clause 9 has been added to Article 14, highlighting that deregistration does not relieve individuals of their obligations, including the requirement to reapply for tax registration when conditions are met.
- The definition of Relevant Charitable Activity in Article 38 has been removed, and Clauses 14 and 15 have been added to Article 59.

The revisions to the UAE VAT framework represent a notable advancement in VAT development. Taxpayers should carefully review these changes and assess their effects on operations and compliance requirements. Understanding these amendments is essential, as managing them requires thoughtful evaluation and informed decision-making.

HOW BAM ADVISORS (BAM) CAN ASSIST YOUR COMPANY

- BAM can help in understanding the requirements of the topics mentioned above and if any transactions that have been conducted by you would qualify to not be treated as a supply.
- BAM can guide to ensure that the classification of such transactions does not violate tax codes and help manage any associated risks.
- BAM is proficient in devising tax-efficient strategies tailored to meet your workforce demands, offering comprehensive assistance in discerning the optimal tax-efficient approaches for recruitment and expansion of your workforce.
- BAM can assist in preparing the necessary documentation, such as reports, tax computations, and supporting schedules to ensure compliance with tax laws and regulations.

Contact Us

To discuss how we can support your business, please reach out to us

Bazaar Accounting & Management Advisors LLC

Office # 1403, Floor # 14, Al Moosa Tower 1, Sheikh Zayed Road, Dubai, UAE.

T: +971 4 234 2722

E: info@bazaaraccounting.com

W: www.bazaaraccounting.com