VAT Public Clarification

Goods Supplied in a Designated Zone, and Connected Shipping or Delivery Services

Issue

Taxable persons are required to impose VAT on every taxable supply and deemed supply made by that person in the UAE. VAT is also imposed on the importation of concerned goods.  

The supply of goods within a designated zone is generally regarded as being outside the scope of UAE VAT, unless the goods are supplied to be consumed. For the purposes of this Public Clarification, a designated zone is not considered to be within the UAE unless stated otherwise.

In instances where goods are supplied within a designated zone for consumption (within or outside the designated zone) the place of supply of these goods shall generally be in the UAE, unless a specific exclusion applies. In lieu of such an exclusion, such supplies may potentially be subject to double taxation, i.e. on the transfer of ownership of the goods as well as on importation thereof.

The place of supply of services is generally regarded as being inside the UAE if supplied in the designated zone. In lieu of a special exclusion, the

الموضوع

يتعين على الخاضعين للضريبة فرض ضريبة القيمة المضافة على كل توريد خاضع للضريبة وторيد اعتباري يقومون به في الإمارات العربية المتحدة (“الدولة”). كما يتم كذلك فرض ضريبة القيمة المضافة على استيراد السلع المعنية.

عموماً، يعتبر توريد السلع داخل منطقة محددة خارج نطاق ضريبة القيمة المضافة في الدولة ما لم يتم توريد السلع للاستهلاك. ولأغراض التوضيح العام هذا، لا تعتبر المنطقة المحددة على أنها في الدولة ما لم يتم النص على خلاف ذلك.

في الحالات التي يتم فيها توريد السلع داخل منطقة محددة لغرض الاستهلاك (داخل أو خارج المنطقة المحددة)، يكون مكان توريد هذه السلع عموماً في الدولة، ما لم ينطبق أي استثناء محدد. وفي حالة عدم وجود استثناء، قد تخضع هذه التوريدات لضريبة مزدوجة، أي عند نقل ملكية السلع عند استيرادها.

يُعتبر مكان توريد الخدمات عموماً بأنه داخل الدولة إذا تم تقديم الخدمات في المنطقة المحددة. وفي حالة لم ينطبق استثناء خاص، فإن مكان توريد خدمات الشحن والتوصيل
place of supply of shipping or delivery services in respect of goods moved from a designated zone is in the UAE and may require non-resident suppliers of these services to register for VAT in the UAE.\textsuperscript{4}

In order to avoid double taxation on goods supplied from a designated zone, and to provide registration relief to non-resident suppliers who also ship or deliver these goods, Article 51 of Cabinet Decision No. 52 of 2017 on the Executive Regulation of the Federal Decree-Law No. 8 of 2017 on Value Added Tax, was amended by Cabinet Decision No. 88 of 2021 ("Executive Regulation"), with effect from 30 October 2021.

This Public Clarification provides guidance on the application of Article 51(5) and (7) of the Executive Regulation.

**Summary**

Article 51(5) of the Executive Regulation\textsuperscript{2} was amended to treat the supply of goods in the designated zone as outside the scope of UAE VAT if the goods are consumed outside the designated zone, provided evidence is obtained and retained that:

- the goods were delivered to a place outside the UAE; or
- VAT was paid on the importation of those goods into the UAE.

For purposes of this Public Clarification, the goods mentioned in the previous paragraph are

*فيما يتعلق بالسلع التي يتم نقلها من منطقة محددة يكون في الدولة وقد يكون على موردي هذه الخدمات غير المقيمين التسجيل لضريبة القيمة المضافة في الدولة.*\textsuperscript{4}

لتجنب الازدواج الضريبي على السلع الموردة من منطقة محددة، ولعدم تسجيل الموردين غير المقيمين الذين يقومون أيضًا بشحن وتوصيل هذه السلع، تم تعديل المادة (51) من قرار مجلس الوزراء رقم (52) لسنة 2017 في شأن اللائحة التنفيذية للمرسوم بقانون اتحادي رقم (8) لسنة 2017 في شأن ضريبة القيمة المضافة من خلال قرار مجلس الوزراء رقم (88) لسنة 2021 ("اللائحة التنفيذية"), والذي يعمل به اعتبارًا من 30 أكتوبر 2021.

يقدم هذا التوضيح العام إرشادات حول تطبيق البندين (5) و(7) من المادة (51) من اللائحة التنفيذية.

**ملخص**

تم تعديل البندين (5) من المادة (51) من اللائحة التنفيذية\textsuperscript{2} لتتم معاملة توريد السلع في المنطقة المحددة على أنه خارج نطاق ضريبة القيمة المضافة في الدولة إذا تم استهلاك السلع خارج المنطقة المحددة، شريطة الحصول على والاحتفاظ بما يثبت:

- أن السلع تم توصيلها إلى مكان خارج الدولة، أو
- أنه تم دفع ضريبة القيمة المضافة عند استيراد تلك السلع إلى الدولة.

وللأغراض التوضيح العام هذا، تم الإشارة إلى السلع المذكورة في الفقرة السابقة مجتمعة بعبارة "السلع المؤهلة" عند استيفاء جميع شروط الفقرة (ب) أو الفقرة (ج) من البندين (5) من المادة (51) من اللائحة التنفيذية.\textsuperscript{2}
collectively referred to as “Qualifying Goods” where all the requirements of Article 51(5)(b) or (c) of the Executive Regulation are met.²

The service of shipping / delivery of Qualifying Goods is also outside the scope of UAE VAT if supplied by the same supplier of the goods, provided the supplier is a non-resident who is not registered for VAT in the UAE.⁵

**Detailed discussion**

**General**

Taxable persons are required to impose VAT on all taxable supplies made in the UAE.⁶ Designated zones specified by a Cabinet Decision are generally treated as being outside the UAE if they meet the requirements listed in Article 51(1) of the Executive Regulation, which include that the area is fenced and has security measures and Customs controls in place to monitor entry and exit of individuals and movement of goods.⁷

As an exception to the above, where goods are supplied within a designated zone, and the goods are intended to be consumed in or outside the UAE, such goods shall generally be regarded as being supplied in the UAE.

The term “consumed” is interpreted broadly as including any utilisation, application, employment, deployment or exploitation of the goods. The resale of purchased goods is not treated as consumption of the goods. Therefore, a supply of

٢ تعتبر خدمة شحن / توصيل السلع المؤهلة خارج نطاق ضريبة القيمة المضافة في الدولة أيضًا إذا تم توريدها من قبل ذات مورد السلع، شريطة أن يكون المورد غير مقيم وغير مسجل لضريبة القيمة المضافة في الدولة.⁵

٣ شرح تفصيلي

٣١ عام

على الخاضعين للضريبة فرض ضريبة القيمة المضافة على جميع التوريدات الخاضعة للضريبة التي يتم توريدها في الدولة.⁶ تتم معاملة المناطق المحددة الواردة في قرار من مجلس الوزراء عمومًا على أنها خارج الدولة إذا استوفت المتطلبات المذكورة في البند (1) من المادة (51) من اللائحة التنفيذية، ومنها أن تكون المساحة مسجية ولها إجراءات أمنية وضوابط جمركية لمراقبة دخول وخروج الأفراد وحركة السلع.⁷

٤ كمبدأ ماعداً ما ورد أعلاه، إذا تم توريد سلع داخل منطقة محددة وكان القصد استهلاك السلع داخل أو خارج الدولة، فيعتبر عموما بأنه قد تم توريده هذه السلع في الدولة.

٥ يُفسر مصطلح "مستهلك" بشكل واسع على أنه يشمل أي استخدام أو تطبيق أو توظيف أو استعمال أو استغلال للسلع ولا تعامل إعادة بيع السلع المشتراة على أنها استهلاك للسلع.
goods would be outside the scope of UAE VAT if the purchaser intends to sell them.

However, the place of supply of goods will be regarded as being outside the UAE, if one of the following exclusions applies:

1. The goods are:
   - incorporated into,
   - attached to,
   - become part of, or
   - used in the production of,
   another good in the same designated zone, and that such other good is not consumed.

For the purposes of this Public Clarification, the above terms are collectively referred to as “production” of another good.

2. The goods were delivered to a place outside the UAE, and the supplier retains:
   - Customs evidence proving that the goods were moved from the designated zone;
   and
   - Supporting commercial or official evidence proving the delivery of the goods to a place outside the UAE.

3. The goods were moved from the designated zone to a place within the UAE, and the supplier retains a document issued by the relevant Customs Department, proving that the goods have been imported as well as proof that VAT was settled on the same.

1. The goods:
   - are incorporated into,
   - attached to,
   - become part of, or
   - used in the production of,

2. The goods were delivered to a place outside the UAE, and the supplier retains:
   - Customs evidence proving that the goods were moved from the designated zone;
   and
   - Supporting commercial or official evidence proving the delivery of the goods to a place outside the UAE.

3. The goods were moved from the designated zone to a place within the UAE, and the supplier retains a document issued by the relevant Customs Department, proving that the goods have been imported as well as proof that VAT was settled on the same.
The onus is on the supplier to ensure that it treats a supply correctly for VAT purposes. Therefore, as a general rule, suppliers should not treat supplies of goods as being outside the scope of UAE VAT, unless they are satisfied that one of the above exclusions applies.

1. **Goods incorporated/attached to/become part of/are used in production of other goods**

   For this exclusion to apply:
   - there has to be a direct connection between the purchased goods and the resulting goods after production, and
   - the resulting goods should not be supplied to be consumed.

   If the above two conditions are met, the place of supply of the goods will be outside the UAE and, therefore, outside the scope of UAE VAT.

2. **Goods delivered outside the UAE**

   For this exclusion to apply, all of the following conditions must be met:
   - the goods are moved from the designated zone to be delivered outside the UAE;
   - the supplier obtains and retains the relevant Customs documents proving the movement of the goods from the designated zone; and
   - the supplier retains commercial or official evidence that the goods were delivered to a place outside the UAE.

...
In instances where the goods will be moved from the designated zone to be delivered outside the UAE, consumption would generally be regarded as taking place outside the UAE. Hence such instances shall be regarded as having a place of supply outside the UAE.

However, in order to prove that the goods were moved from the designated zone, the supplier should obtain and retain the relevant Customs documents reflecting the movement of the goods from the designated zone.

The supplier will also be required to retain commercial or official evidence that the goods were delivered to a place outside the UAE.

If the above conditions are met, the place of supply of the goods will be outside the UAE and, therefore, outside the scope of UAE VAT.

If any of these conditions are not met, the place of supply would be in the UAE and within the scope of UAE VAT.

3. Goods delivered in the UAE

For this exclusion to apply, all of the following conditions must be met:

− the goods are moved from the designated zone to be delivered in the UAE; and

− the supplier retains official evidence proving that the goods were imported as well as evidence that VAT has been paid on that import.

In the cases where the goods will be moved in instances where the goods will be moved from the designated zone to be delivered outside the UAE, consumption would generally be regarded as taking place outside the UAE. Hence such instances shall be regarded as having a place of supply outside the UAE.

With that, and to prove that the goods were moved from the designated zone, the supplier must obtain and retain the relevant Customs documents reflecting the movement of the goods from the designated zone.

The supplier will also be required to retain commercial or official evidence that the goods were delivered to a place outside the UAE.

If the above conditions are met, the place of supply of the goods will be outside the UAE and, therefore, outside the scope of UAE VAT.

If any of these conditions are not met, the place of supply would be in the UAE and within the scope of UAE VAT.

3. Goods delivered in the UAE

For this exclusion to apply, all of the following conditions must be met:

− the goods are moved from the designated zone to be delivered in the UAE; and

− the supplier retains official evidence proving that the goods were imported as well as evidence that VAT has been paid on that import.
In instances where the goods will be moved from the designated zone to be delivered in the UAE, consumption would generally be regarded as taking place in the UAE. In this instance, VAT would also be levied on the importation of the goods, resulting in potential double taxation. Hence, the Executive Regulation was amended to allow such supplies to be regarded as having a place of supply outside the UAE, provided certain requirements are met.

In order to treat such supply as outside the scope of UAE VAT, the supplier will be required to retain official evidence proving that the goods were imported as well as evidence that VAT has been paid on that import.

In this context, the term “official evidence” refers to import documents issued by the local Emirate Customs Department in respect of the goods entering the UAE, for example stamped import declarations.

It is acknowledged that the import may take place after the goods are sold, and that it would be impractical in such a case to obtain the proof of import and payment before the goods are actually imported.

The supplier may, therefore, treat such sale as outside the scope of UAE VAT, if it has proof that the goods will be imported into the UAE. This would include instances where the

ولغايات معالمة مثل هذا التوريد على أنه خارج نطاق ضريبة القيمة المضافة في الدولة، على المورد الاحتفاظ بدليل رسمي يثبت أن السلع تم استيرادها، إضافة إلى دليل يثبت أن ضريبة القيمة المضافة قد تم دفعها على ذلك الاستيراد.

في هذا السياق، يشير مصطلح "دليل رسمي" إلى مستندات الاستيراد الصادرة عن الدائرة الجمركية المحلية للإمارة فيما يتعلق بالسلع التي تدخل الدولة، كبيانات الاستيراد المختومة.

من المعلوم أن الاستيراد قد يتم بعد بيع السلع، وأنه سيكون من غير العملي في مثل هذه الحالة الحصول على إثبات الاستيراد والدفع قبل استيراد السلع بالفعل.

لذلك، يجوز للمورد أن يعامل مثل هذا البيع على أنه خارج نطاق ضريبة القيمة المضافة في الدولة، إذا كان لديه دليل على أن السلع سيتم استيرادها إلى الدولة.
supplier is responsible to import and deliver the goods to an address in the UAE.

Furthermore, the registered supplier shall retain proof that the goods were imported and that VAT was settled on the import before submitting the VAT return for the tax period in which the sale was made in order to treat the sale as outside the scope of UAE VAT.

If any of the above conditions are not met, the sale of goods for consumption shall be treated as being within the scope of UAE VAT and subject to VAT at 5%, unless it qualifies for zero-rating, as well as subject to import VAT.

**Shipping and delivery services**

Under the general rule, the place of supply of any service supplied in a designated zone is considered to be in the UAE.

As an exception to the general rule, shipping or delivery services supplied directly in connection with Qualifying Goods will be outside the scope of UAE VAT if all of the following requirements are met:

- The shipping or delivery service is supplied by the same supplier of the goods;
- The supplier of such goods is a non-resident, and not registered for VAT in the UAE;
- The goods are sold via an electronic sales platform; and
- If any of the above conditions are not met, the sale of goods for consumption shall be treated as being within the scope of UAE VAT and subject to VAT at 5%, unless it qualifies for zero-rating, as well as subject to import VAT.
The supplier of the goods is not the person owning the electronic sales platform.

The term “electronic sales platform” means any type of online sales platform, including websites and electronic applications, which bring together third-party sellers and buyers and through which goods may be sold and purchased with or without shipping or delivery services.

The impact of this amendment is that non-residents who are not registered for VAT in the UAE will not be required to register for VAT if they only sell the goods to which the abovementioned exceptions apply, on an electronic sales platform, and they ship or deliver these goods to customers.

**Private Clarifications previously issued**

Persons to whom Private Clarifications were issued from the FTA in relation to Article 51 of the Executive Regulation should consider the impact of the abovementioned amendments and may apply for new private clarifications, where applicable.

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This Public Clarification issued by the FTA is meant to clarify certain aspects related to the implementation of the Federal Decree-Law No. 8 of 2017 on Value Added Tax and its Executive Regulation.

This Public Clarification states the position of the FTA and neither amends nor seeks to amend any provision of the aforementioned legislation. Therefore, it is effective as of the date of implementation of the relevant legislation, unless stated otherwise.
In this clarification, Federal Decree-Law No. 8 of 2017 on Value Added Tax is referred to as "Decree-Law" and Cabinet Decision No. 52 of 2017 on the Executive Regulation of the Federal Decree-Law No. 8 of 2017 on Value Added Tax and its amendments is referred to as "Executive Regulation".

1. Article 2 of the Decree-Law states that tax shall be imposed on:
   a. Every taxable supply and deemed supply made by the taxable person.
   b. Import of concerned goods except as specified in the Executive Regulation of this Decree-Law.

2. Article 51(5) of the Executive Regulation states that where a supply of goods is made within a designated zone to a person to be consumed by him or another person, then the place of supply of these goods shall be in the State except in any of the following cases:
   a. The purpose was to incorporate the goods into, attach the goods to, or that the goods become part of or are used in the production of another good in the same designated zone and such good is not consumed.
   b. The goods were delivered to a place outside the State, and the supplier retains supporting commercial or official evidence proving that, and customs evidence proving that the goods were removed from the designated zone.
   c. The goods were moved from the designated zone to a place inside the State, and the supplier retains official evidence establishing that VAT had been applied on that import.

3. Article 51(6) of the Executive Regulation states that the place of supply of any services is considered to be inside the State if the place of supply is in the designated zone.

4. Article 13(2) of the Decree-Law states that every person, who does not have a place of residence in the State or an Implementing State and is not already registered for tax, shall register for tax if he makes supplies of goods or services, and where no other person is obligated to pay the due tax on these supplies in the State.

5. Article 51(7) of the Executive Regulation states that, as an exception to Clause 6 of this Article, the place of supply of any services shall be outside the State, where shipping or delivery services are supplied directly in connection with goods that have a place of supply outside the State according to paragraphs.
(b) and (c) of Clause 5 of this Article, and all of the following conditions are met:

a. Shipping or delivery services are supplied by the same supplier of the goods;
b. The supplier of the goods is a non-resident, and not registered for tax;
c. These goods are sold via an Electronic Sales Platform; an Electronic Sales Platform refers to any type of online sales platform, including websites and electronic applications, which brings together third-party sellers and buyers, and through which goods may be sold and purchased with or without shipping or delivery services.
d. The person owning the Electronic Sales Platform is not the supplier of the goods.

6. Article 4(1) of the Decree-Law states that the tax imposed shall be the responsibility of a taxable person who makes any supply stipulated in Clause (1) of Article (2) of this Decree-Law.

7. Article 51(1) of the Executive Regulation states that any designated zone specified by a decision of the Cabinet shall be treated as being outside the State and outside the Implementing States, subject to the following conditions:

a. The designated zone is a specific fenced geographic area and has security measures and Customs controls in place to monitor entry and exit of individuals and movement of goods to and from the area.
b. The designated zone shall have internal procedures regarding the method of keeping, storing and processing of goods therein.
c. The operator of the designated zone complies with the procedures set by the Authority.