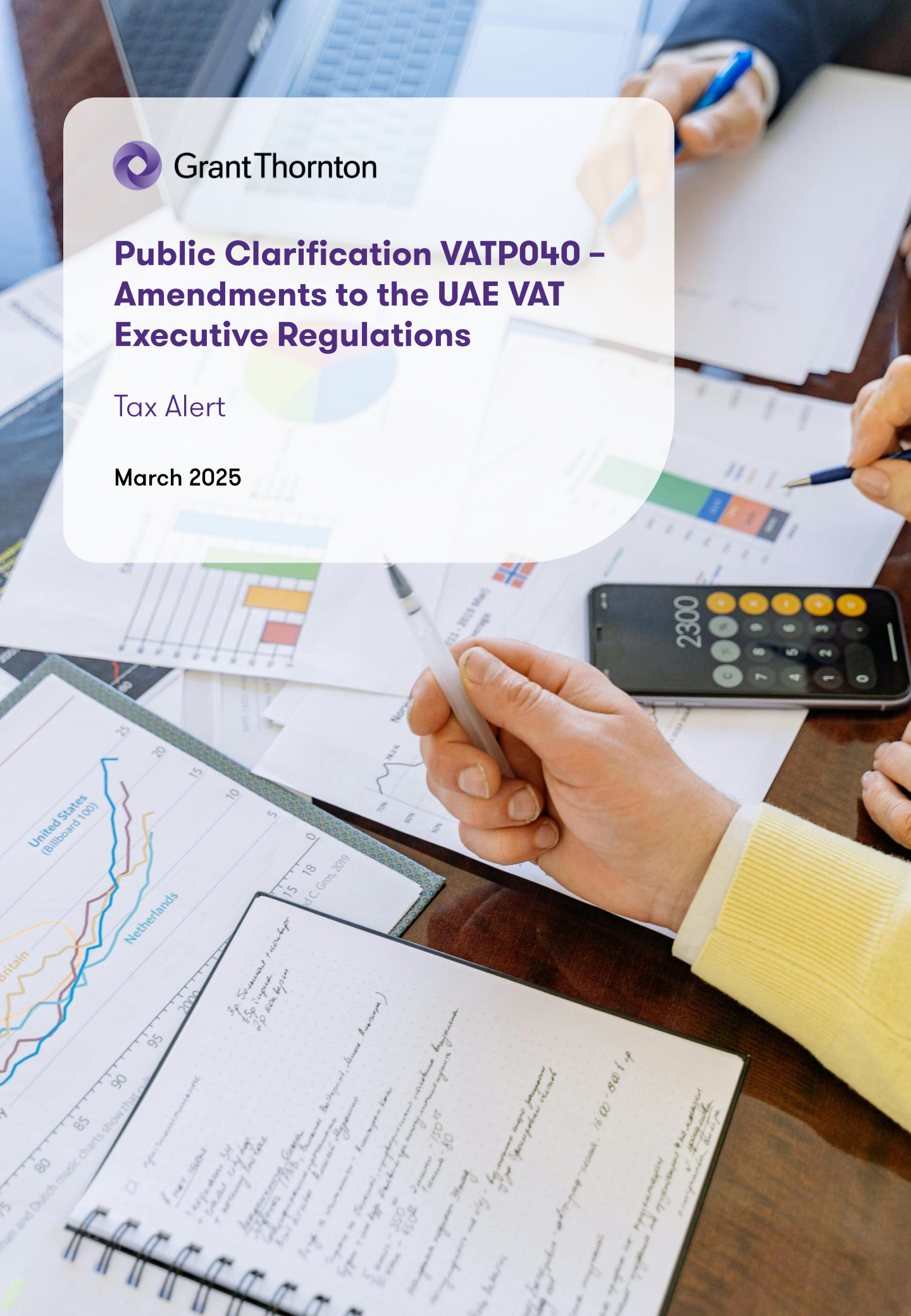

Grant Thornton

Public Clarification VATP040 – Amendments to the UAE VAT Executive Regulations

Tax Alert

March 2025

The UAE Federal Tax Authority (FTA) has issued **Public Clarification VATP040**, which provides further guidance regarding specific amendments introduced by **Cabinet Decision No. 100 of 2024 to the UAE VAT Executive Regulations**.

This alert does not encompass all amendments; rather, it focuses on the key clarifications issued by the FTA that present new interpretations or significant updates beyond prior knowledge.

For a detailed examination of the amendments, please consult our previous VAT Alert published in October 2024. Please use this **link**.

1. Amendments to the Tax Treatment of Financial Services - (Article 42)

1.1 Amendments to the Definition of "Islamic Financial Arrangement.

- The definition of Islamic financial arrangements has been revised to include a reference to "relevant laws."
- This means that, in addition to VAT rules, commercial laws governing transactions such as Ijarah, Murabaha, and Salam should also be considered when determining the VAT treatment.

1.2 Addition of New Categories of Financial Services in Article 42(2).

- The paragraphs under Article 42(2) have been renumbered to accommodate new financial service categories, including (a) Investment Fund Management:
  - Services provided by an independent fund manager to licensed investment funds in the UAE are now explicitly covered.
  - This includes the management of fund operations, investment management, monitoring, and improvement of the fund's performance.
  - If the UAE competent authority licenses the fund, these services are exempt from VAT under Article 42(3)(d).
  - If the fund is not licensed, fund management services are subject to VAT if the supplier is a taxable person.
  - Fund managers should assess whether they remain eligible for VAT registration or if they need to apply for deregistration.

1.3 Tax Treatment of "Virtual Assets"

- Virtual assets, including virtual currencies (e.g., Bitcoin), and their conversion are now explicitly exempt from VAT.
- The transfer of ownership of virtual assets is exempt from VAT under Article 42(3)(e) if supplied on or after January 1, 2018.
- As this exemption is retrospective, businesses must assess its impact on their historical VAT position.
- This covers transactions such as buying and selling cryptocurrencies on cryptocurrency exchanges.
- If a taxpayer has previously applied VAT to these transactions, they should determine whether a tax credit note should be issued (e.g. if 5% VAT was previously applied).
- Storage and Management of Virtual Assets:
  - Services related to keeping and managing virtual assets (such as crypto wallets) are taxable if supplied in the UAE for an explicit fee, commission, or similar charge.
  - "Virtual currencies" refer to digital assets that do not represent fiat money (e.g., AED, USD).
  - From a VAT perspective, cryptocurrencies are not considered money and are treated as digital assets.
  - Simply listing a financial service under Article 42(2) does not automatically exempt it from VAT; the exemption depends on Article 42(3).

Clarification provided by the FTA:

- Islamic financial arrangements are linked to relevant commercial laws.
- Investment fund management services qualify for VAT exemption if a relevant UAE authority licenses the fund.
- The transfer of virtual assets (e.g., cryptocurrencies) is exempt from VAT if supplied from January 1, 2018, onwards.
- Crypto asset storage and management (e.g., crypto wallets) are taxable when supplied in the UAE for a fee.
- VAT exemptions apply only if the conditions of Article 42(3) are met; listing under Article 42(2) alone is insufficient.

2. Zero-Rating of Exported Goods and Services - (Articles 30 & 31)

2.1 Export of Goods – Article 30.

Prior to November 15, 2024, the only accepted official proof for the export of goods was an **exit certificate** issued by UAE customs authorities. However, amendments to Article 30 introduce relaxed documentation requirements for direct and indirect exports, making compliance easier while ensuring robust audit trails. The key updates include:

- Expanded list of acceptable evidence.
- Previously, only an exit certificate from the Customs Department was accepted as official proof of export.
- Now, businesses can retain any of the following combinations as valid export documentation
  1. Customs declaration and commercial proof of export.
  2. Shipping certificate and official export evidence.
  3. Customs declaration showing placement under a duty suspension regime (for GCC Customs Law compliance).
- Definition of "Commercial Evidence" includes air, sea, or land waybills proving the movement of goods from the UAE.
- Recognition of foreign proof of entry: A certified document from the authorities in the destination country confirming the arrival of goods can now serve as official evidence.
- More flexibility in compliance, but stringent verification measures remain in place. Companies must align documentation practices with the new options available.

Clarification provided by the FTA:

- Zero-rating of exports of goods before 15 November 2024 remains subject to the documentary evidence required under Article 30 of the Previous Executive Regulation, prior to the amendment.
- FTA can decide to reject documents that do not sufficiently demonstrate that the goods have exited the UAE. For example, cases where the text is not legible, or the particulars required under Article 30(5) of the Executive Regulation cannot be determined based on the documents submitted.

2.2 Export of Services – Article 31.

The amendments refine zero-rating conditions for exported services by clarifying and restricting certain exemptions:

New Restrictions on Zero-Rated Services; **The following services will not qualify for zero-rating even if supplied to a non-resident.**

1. Services directly linked to movable goods located in the UAE at the time of service (e.g., installation services).
2. Leasing of transport vehicles to non-registered non-residents, if the vehicle is located in the UAE at lease commencement.
3. Hotel, catering, and food & beverage services consumed within the UAE.
4. Cultural, educational, and entertainment services performed in the UAE.
5. Transport services where goods or passengers originate from the UAE.
   - Change in "non-resident" determination:
   - A recipient is considered outside the UAE only if they were physically present in the UAE for less than 30 days in the past 12 months (previously measured as "one month").

Clarification provided by the FTA:

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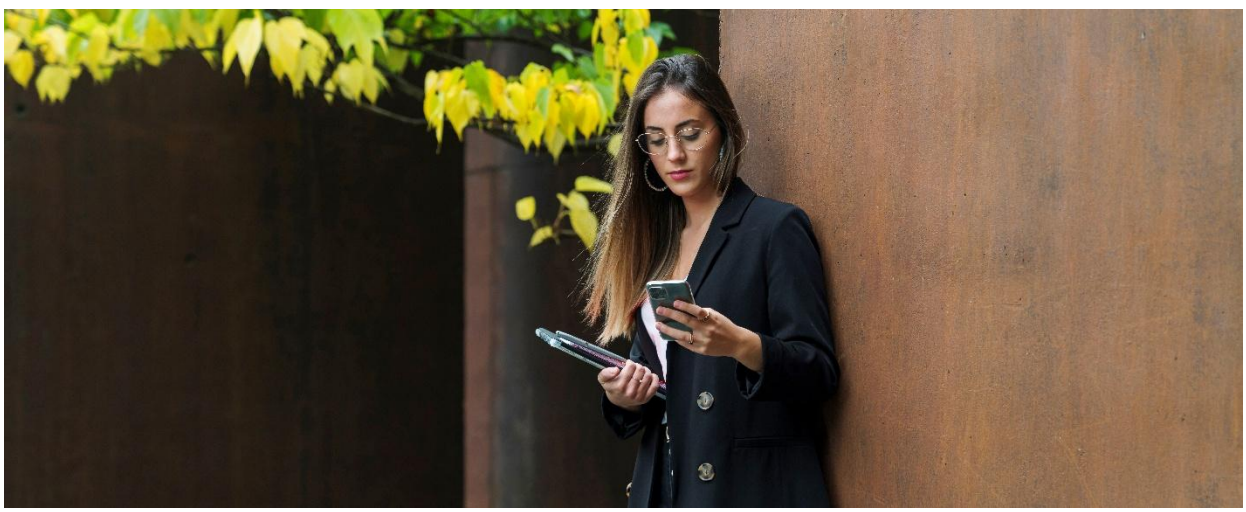

3. Input Tax Recovery on Health Insurance - (Article 53)

Eligibility for Input Tax Recovery on Employee Health Insurance and Family Coverage:

- The Federal Tax Authority (FTA) has clarified that VAT-registered businesses can now recover input tax incurred on health insurance costs provided to employees and their family members (where applicable).
- The recoverability of VAT does not depend on whether providing health insurance is a legal obligation or not.

Eligible Methods of Providing Health Insurance for VAT Recovery:

- Businesses can provide health insurance directly to employees.
- Alternatively, it can be provided indirectly through a health insurance provider.
- Both methods qualify for input tax recovery.

Clarification provided by the FTA:

- Health insurance premiums paid before 15 November 2024 in respect of the period covered after 15th November 2024 - VAT incurred on the portion relating to the period after 15 November may be recovered provided the relevant supporting documents are retained.

4. Input Tax Apportionment and Standard Method - (Article 55)

Article 55 has been amended to provide clearer guidance on input tax recovery and apportionment methods., and the major updates are:

- Clause 4 was added to clarify when the tax year will end in case of tax deregistration, member joining a tax group, member leaving a tax group
- Clause 12 was added to clarify that the AED 250,000 threshold in Article 55(11) to determine whether an actual use adjustment is required, should be apportioned on pro-rata basis if the tax year is shorter than 12 months.
- The FTA can also direct businesses to use a more appropriate apportionment method if the standard method does not yield a fair allocation.
- FTA has also clarified in detail how a taxable persons can apply to use a specified recovery percentage based on previous year.

Clarification provided by the FTA:

- An example was added to clarify that, if a company joins a tax group five months after its tax year, an actual use adjustment would be required in its final return before joining the tax group where the variance between recoverable input tax determined under the annual washup and the actual use method exceeds AED 104,166.67 (250,000 x 5/12).
- Although Article 55(6)(a) of the Previous Executive Regulation was amended by Article 55(7)(a) of the New Executive Regulation to refer to the "total input tax for the tax period," the Standard method calculation outlined in the Input Tax Apportionment VAT Guide ("VATGIT1") should still be applied.

5. VAT Deregistration - (Article 14)

Article 14 of the Executive Regulation was amended to introduce strict control criteria towards deregistration of a person from VAT and to determine the effective date of tax deregistration.

Clarification provided by the FTA:

- The FTA has emphasised that submitting a VAT deregistration application is not complete until all steps are finalised, and the application is formally submitted.
- The FTA may, for example, deregister a person who created a deregistration application in Emaratax and saved it as a draft without completing the process if the person continuously submitted nil returns or no returns because it stopped making taxable supplies

6. Tax invoices – (Article 59)

The Article on tax invoices was amended to include several requirements and clarifications. The important clarification provided is regarding Article 59 (5) where it is mentioned that simplified tax invoices are not allowed in instances where the reverse charge mechanism is applied under Article 48 of the Decree-Law.

Clarification provided by the FTA:

- Recipient of concerned services is required to issue full tax invoices complying with Article 59(1) of the Executive Regulation in these instances, unless an administrative exception was approved by the FTA.

7. Zero-Rating of Goods and Services in Connection with Means of Transport – (Article 35)

Article 35 of the UAE VAT Executive Regulations outlines the zero-rating of goods and services related to qualifying means of transportation. The latest amendment has restructured and clarified the categories of goods and services that qualify for zero-rating under this provision

Clarification provided by the FTA:

- Reorganization of clauses to improve clarity, distinguishing between the different categories of goods and services eligible for zero-rating.
- Limiting zero-rating only to services directly related to qualifying means of transport, such as:
- Onboard repair services.
- Maintenance services, such as cleaning, repainting, inspecting, and testing.
- Conversion of the means of transport, provided that, after the conversion, the means of transport continue to meet the conditions of Article 34

Not Eligible:

- Cleaning a hangar for aircraft storage does not qualify, as it's not directly connected to the aircraft.

Eligible:

- Repainting and maintenance done directly on the aircraft qualify for a zero rating, as they are essential for its operation.

8. Zero-Rating International Transportation Services – (Article 33)

Article 33 of the UAE VAT Executive Regulations outlines the zero-rating treatment for international transport services and related domestic transportation services. The recent amendment clarifies when a domestic leg of transport may qualify for a zero rating and ensures consistency in applying for VAT exemptions.

Clarification provided by the FTA:

- Zero-rating of domestic transportation as part of international transport service is only permitted if:
  - The same taxable supplier provides both the domestic and international legs of the transport service.
  - The supplier remains contractually liable for the full transport journey.
- If a different supplier provides the domestic leg, it does not qualify for zero-rating, and VAT must be applied.
- Amendments to Article 33(2) clarify that only goods and services with a place of supply in the UAE may qualify for zero-rating, removing previous references to supplies considered as taking place outside the UAE.
- Even if services are supplied in respect of an international transportation service and are provided during the course of such transport to a person other than the recipient of the international transportation service, the supply would not qualify for zero-rating under Article 33(2)(b) of the Executive Regulation.

9. Zero-Rating Certain Means of Transport – (Article 34)

- Article 34 of the UAE VAT Executive Regulations provides guidance on which means of transport qualify for zero rating under Article 45(4) of the Decree-Law. The recent amendments clarify that zero-rating is not limited to the supply of qualifying means of transport but also applies to their importation.
- To qualify for zero-rating; a means of transport must be:
  - Designed and used for commercial transportation of passengers or goods.
  - Not used primarily for leisure, recreation, or sports activities.

Clarification provided by the FTA:

- The FTA confirmed that not all commercial vessels qualify for a zero rating.
- Ships, boats, and floating structures must be primarily designed for commercial transport of goods or passengers.
- If a vessel is used for commercial purposes but is not intended for transport, it does not qualify as a means of transport under Article 34
- A vessel used for offshore drilling operations is engaged in commercial activity but is not primarily designed for passenger or cargo transport.
- As a result, it does not qualify for zero-rating under Article 34, even if it is used for business purposes.
- However, a ferry operating for passenger transport would be a qualifying means of transport eligible for zero-rating.

10. Supply of More Than One Component – Article 4(4)

- Article 4(4) of the UAE VAT Executive Regulations clarifies the conditions for a supply to be considered a single composite supply. The amendment provides a more structured approach to ensure that different components of a supply are taxed correctly.
- For a supply to be treated as a single composite supply, it must meet the following conditions:
  - A single supplier must supply all components.
  - The price of different components must not be separately identified or charged.
- If a supply meets the conditions of Article 4(3) but fails to satisfy the requirements of Article 4(4), it will not be considered a single composite supply.
- If a supplier subcontracts certain components but remains contractually responsible for the full supply, it can still be treated as a single composite supply.
- However, even if a single price is charged, if the price of each component is separately identified in an invoice, contract, or quotation, the supply will not qualify as a composite supply.

Clarification provided by the FTA:

- According to the above, FTA clarified that identifying separate prices for each component prevents a supply from being considered a composite supply.
- Example: a company charges a single fee for a marketing campaign, but the contract separately lists the cost of venue rental, catering, and promotional goods. Since the price of each component is identified separately, this does not qualify as a composite supply under Article 4(4).
- Similarly, if a mobile phone is sold with a bundled warranty and maintenance contract, but the invoice specifies separate prices for each, it will not be considered a composite supply.

11. Exceptions Related to Deemed Supply – (Article 5)

Under Article 5 of the UAE VAT Executive Regulations, a deemed supply occurs when goods or services are provided without consideration, but VAT is still applicable. The latest amendments provide further clarification on exceptions to deemed supply, particularly concerning low-value supplies and government-related transactions.

Clarification provided by the FTA:

- FTA clarified that free samples and gifts below AED 500 per recipient do not trigger deemed supply rules.
- If the total deemed output tax remains within AED 2,000 over 12 months, it will not be subject to VAT. However, if the output tax on deemed supplies exceeds AED 2,000, the excess amount is considered taxable.
- For example, if a pharmaceutical company gives away free goods that cost AED 600 to a hundred recipients, the total cost of free goods is AED 60,000 and the total output tax calculated on all supplies made for no consideration within a 12-month period equals AED 2,857 (60,000 x 5/105). In this case, payable tax to the FTA is AED 857 (AED 2,857-2,000).

12. Voluntary Registration - (Article 8)

Under Article 8 of the UAE VAT Executive Regulations, businesses may apply for voluntary VAT registration if they meet certain criteria. The amendment to Article 8(6) provides further clarity on the requirements to qualify for voluntary registration.

Clarification provided by the FTA:

- To be eligible for voluntary registration, a business must provide evidence to the FTA that it:
  - Conducts a business in the UAE.
  - Intends to make taxable supplies as per Article 54(1) of the Decree-Law.

FTA clarified that a UAE resident who incurs taxable expenses exceeding the voluntary registration threshold is NOT automatically eligible for VAT registration.

- If a person incurs VAT on business-related purchases but has not yet started making taxable supplies, they cannot register voluntarily unless they provide proof of an intention to conduct business.
- For instance, an individual registering a business in the UAE must provide contracts or agreements showing planned taxable sales to qualify.

Speak to one of our experts

Grant Thornton UAE can assist you in understanding and navigating these changes, and is 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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