



## AMENDMENTS AS PER CABINET DECISION 100 OF 2024 IN UAE VAT EXECUTIVE REGULATION



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**There are total 32 amendments and 2 additions made as per Cabinet Decision 100 of 2024 in UAE VAT Executive Regulation in the following Articles:**

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1	Definitions	37	Residential buildings
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4	Supply of More Than One Component	42	Tax Treatment of Financial Services
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14 (bis)	Tax Deregistration to Protect the Integrity of the Tax System	53	Non-recoverable Input Tax
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## Article 30: Zero Rating Export of Goods

Clause No.	As per Cabinet decision No. 99 of 2022 (Effective from 1 <sup>st</sup> January 2023)	As per Cabinet decision No.100 of 2024 (Effective from 15 <sup>th</sup> November 2024)
1	The Direct Export <sup>[1]</sup> shall be subject to the zero rate if the following conditions are met:	The Direct Export <sup>[1]</sup> shall be subject to the zero rate if the following two conditions are met:
(a)	The Goods are physically exported to a place outside the Implementing States or are put into a customs suspension regime in accordance with GCC Common Customs Law within 90 days of the date of the supply.	The Goods are physically exported to a place outside the Implementing States or are put into a customs suspension regime in accordance with the GCC Common Customs Law within 90 (ninety) days of the date of the supply.
(b)	Official and commercial evidence of Export or customs suspension is retained by the exporter.	The exporter retains any of the following: 1) a customs declaration, and Commercial Evidence that proves the Export, 2) a Shipping Certificate and Official Evidence that prove the Export, or 3) a customs declaration that proves the suspension arrangement of customs duties, in case the Goods are put into customs suspension.
2	An Indirect Export <sup>[1]</sup> shall be subject to the zero rate if the following conditions are met:	An Indirect Export <sup>[1]</sup> shall be subject to the zero rate if the following conditions are met:
(a)	The Goods are physically exported to a place outside the Implementing States or are put into a customs suspension regime in accordance with GCC Common Customs Law, within 90 days of the date of the supply under an arrangement agreed by the supplier and the Overseas Customer at or before the date of supply	The Goods are physically exported to a place outside the Implementing States or are put into a customs suspension regime in accordance with GCC Common Customs Law, within 90 (ninety) days of the date of the supply under an arrangement agreed by the supplier and the Overseas Customer at, or before, the date of supply.
(b)	The Overseas Customer obtains official and commercial evidence of Export or customs suspension in accordance with GCC Common Customs Law and provides the supplier with a copy of this.	The Overseas Customer, or its agent, obtains any of the following and provides the supplier with a copy thereof: 1) a customs declaration, and Commercial Evidence that proves the Export, 2) a Shipping Certificate and Official Evidence that prove the Export, or 3) a customs declaration that proves the suspension arrangement of customs duties, in case the Goods are put into customs suspension.
(c)	The Goods are not used or altered in the time between supply and Export or customs suspension, except to the extent necessary to prepare the Goods for Export or customs suspension.	The Goods are not used or altered in the time between supply and Export or put under the suspension arrangement of customs duties, except to the extent necessary to prepare the Goods for Export or customs suspension.
(d)	The Goods do not leave the State in the possession of a passenger or crew member of an aircraft or ship.	The Goods do not leave the State in the possession of a passenger or crew member of an aircraft or ship.

<b>Clause No.</b>	<b>As per Cabinet decision No. 99 of 2022 (Effective from 1<sup>st</sup> January 2023)</b>	<b>As per Cabinet decision No.100 of 2024 (Effective from 15<sup>th</sup> November 2024)</b>
3	For the purposes of this Article, a movement of Goods into a Designated Zone from a place in the State or a supply of Goods to a Designated Zone shall not be considered an Export of those Goods.	For the purposes of this Article, a movement of Goods into a Designated Zone from a place in the State or a supply of Goods to a Designated Zone shall not be considered an Export of those Goods.
4	For the purposes of Clauses 1 and 2 of this Article:	For the purposes of Clauses 1 and 2 of this Article:
(a)	“Official evidence” means Export documents issued by the local Emirate Customs Department in respect of Goods leaving the State.	“Official Evidence” means the export certificate issued by the customs departments in the State or a clearance certificate issued by these departments or the competent authorities in the State regarding the Goods leaving the State after verifying their departure from the State, or a document or clearance certificate certified by the competent authorities in the country of destination stating the entry of the Goods into the country.
(b)	“Commercial evidence” shall include any the following: 1) Airway bill. 2) Bill of lading. 3) Consignment note. 4) Certificate of shipment.	“Commercial Evidence” means the document issued by sea, air or land transport companies and agents, which proves the transfer and departure of the Goods from the State to outside the State, and includes any of the following documents: 1) Air waybill or air manifest. 2) Sea waybill or sea manifest. 3) Land waybill, or land manifest.
(c)		“Shipping Certificate” means a certificate issued by sea, air or land transport companies and agents as an equivalent of a commercial evidence where it is not available.
5	The evidence obtained as proof of Export, whether official or commercial, must identify the following: a. The supplier. b. The consignor. c. The Goods. d. The value. e. The Export destination. f. The mode of transport and route of the export movement.	The evidence obtained as proof of Export, whether official or commercial, must identify the following: a. The supplier. b. The consignor. c. The Goods. d. The value. e. The Export destination. f. The mode of transport and route of the export movement.

Clause No.	As per Cabinet decision No. 99 of 2022 (Effective from 1 <sup>st</sup> January 2023)	As per Cabinet decision No.100 of 2024 (Effective from 15 <sup>th</sup> November 2024)
6	The Authority may specify alternative forms of evidence according to the nature of the Export or the nature of the Goods being exported.	The Authority may decide not to accept the documents submitted if they do not constitute sufficient evidence of the exit of the Goods from the State, and may specify alternative forms of evidence according to the nature of the Export or the nature of the Goods being exported.
7	The Authority may extend the 90-day period mentioned in Clauses 1 and 2 of this Article, if the Authority has determined, after the supplier has applied in writing, that either of the following apply:	The Authority may extend the 90-day period mentioned in Clauses 1 and 2 of this Article, if the Authority has determined, after the supplier has applied in writing, that either of the following apply:
(a)	Circumstances beyond the control of the Supplier and the Recipient of Goods have prevented, or will prevent, the Export of the Goods within 90 days of the date of supply.	Circumstances beyond the control of the Supplier and the Recipient of Goods have prevented, or will prevent, the Export of the Goods within 90 (ninety) days of the date of supply.
(b)	Due to the nature of the supply, it is not practicable for the supplier to Export the Goods, or a class of the Goods, within 90 days of the date of supply.	Due to the nature of the supply, it is not practicable for the supplier to Export the Goods, or a class of the Goods, within 90 (ninety) days of the date of supply.
8	An Indirect Export would include a supply of Goods in a departure area of an airport or port to a passenger of an aircraft or a vessel if:	An Indirect Export would include a supply of Goods in a departure area of an airport or port to a passenger of an aircraft or a vessel if:
(a)	The Goods are intended to leave the State in the possession of the passenger.	The Goods are intended to leave the State in the possession of the passenger.
(b)	The supplier has obtained and retained evidence, such as the details of the boarding pass of the passenger, that the passenger intends to leave for a destination outside the Implementing States.	The supplier has obtained and retained evidence, such as the details of the boarding pass of the passenger, that the passenger intends to leave for a destination outside the Implementing States.
9	If the Person required to Export the Goods in accordance with this Article does not do so within the period of 90 days or a longer period that the Authority has allowed under Clause 7 of this Article, Tax shall be charged on the supply at the rate that would have been due on the supply if it was made in the State.	If the Person required to Export the Goods in accordance with this Article does not do so within the period of 90 (ninety) days or a longer period that the Authority has allowed under Clause 7 of this Article, Tax shall be charged on the supply at the rate that would have been due on the supply if it was made in the State.
10	For the purposes of this Article a supply of Goods shall be subject to the zero rate if Goods that would otherwise have been exported are destroyed or cease to exist in circumstances beyond the control of both the supplier and the Recipient of the Goods.	For the purposes of this Article, a supply of Goods shall be subject to the zero rate if the Goods that would otherwise have been exported are destroyed or cease to exist in circumstances beyond the control of both the supplier and the Recipient of the Goods.
11	Customs Departments shall check to confirm the type and quantity of the exported goods with its export documents.	Customs departments shall check to confirm the type and quantity of the exported Goods with the export documents issued, according to the customs procedures, and based on the classification of the tax risk matrix that is specified in coordination with the Authority.

### [1]Definitions

**Direct Export:** An Export of Goods to a destination outside of the Implementing State, where the supplier is responsible for arranging transport or appointing an agent to do so on his behalf.

**Indirect Export:** An Export of Goods to a destination outside of the Implementing State, where the overseas customer is responsible for arranging the collection of the Goods from the supplier in the State and who exports the Goods himself or has appointed an agent to do so on his behalf.

**Overseas Customers:** A Recipient of Goods who does not have a Place of Establishment or Fixed Establishment in the State, does not reside in the State, and does not have a Tax Registration Number.

### Our observation on amendments in Article 30

#### **Problem:**

- Currently, exporters must keep "official and commercial evidence" of their exports or customs suspensions. However, many businesses face difficulties obtaining these documents due to their specific operations and export routes.
- These challenges arise because some companies struggle to gather the necessary evidence, such as exit certificates, to support their export activities. This has led to complications in meeting the documentation requirements set out in the VAT Executive Regulations, which in turn prevents them from applying the zero-rate.

#### **Solution:**

- To address this, the proposed amendments aim to clarify these requirements and make it easier for businesses to comply. To apply the zero-rate for the export of goods, exporters should retain any of the following documents:
  - Customs declaration and commercial evidence proving the export.
  - Bill of lading along with official evidence proving the export.
  - Customs declaration demonstrating the status of customs duty suspension if the goods are under a customs suspension regime.

#### **Key Questions:**

Till 15<sup>th</sup> of November will Exporter required to obtain that previously mentioned documents?

What will happen when FTA audit done for the year 2023-24?

Will they verify different documents for before 15th November and after 15th November?

How should exporters maintain those documents?

## Article 31: Zero Rating Export of Services

Clause No.	As per Cabinet decision No. 99 of 2022 (Effective from 1 <sup>st</sup> January 2023)	As per Cabinet decision No.100 of 2024 (Effective from 15 <sup>th</sup> November 2024)
1	The Export of Services shall be zero-rated in the following cases.	The Export of Services shall be zero-rated in the following cases.
(a)	If the following conditions are met:	If the following conditions are met:
(1)	The Services are supplied to a Recipient of Services who does not have a Place of Residence in an Implementing State and who is outside the State at the time the Services are performed;	The Services are supplied to a Recipient of Services who does not have a Place of Residence in an Implementing State and who is outside the State at the time the Services are performed;
(2)	The Services are not supplied directly in connection with real estate situated in the State or any improvement to the real estate or directly in connection with moveable personal assets situated in the State at the time the Services are performed .	The Services are not supplied directly in connection with real estate situated in the State or any improvement to the real estate or directly in connection with moveable assets situated in the State at the time the Services are performed, AND
(3)		The Services are not treated as being performed in the State or in a Designated Zone under Clauses 3 to 8 of Article 30 and Article 31 <sup>[2]</sup> of the Decree-Law.
(b)	If the services are actually performed outside the Implementing States or are the arranging of services that are actually performed outside the Implementing States.	If the services are actually performed outside the Implementing States or are the arranging of services that are actually performed outside the Implementing States.
(c)	If the supply consists of the facilitation of outbound tour packages, for that part of the service.	If the supply consists of the facilitation of outbound tour packages, for that part of the service.
2	For the purpose of paragraph (a) of Clause 1 of this Article, a Person shall be considered as being “outside the State” if they only have a short-term presence in the State of less than a month and the presence is not effectively connected with the supply.	For the purpose of paragraph (a) of Clause 1 of this Article, a Person shall be considered as being “outside the State” if they only have a presence in the State of less than a month <sup>30</sup> (thirty) days and the presence is not effectively connected with the supply.
3	As an exception to paragraph (a) of Clause 1 of this Article, a supply of Services shall not be zero-rated, if the supply is made under an agreement that is entered into, whether directly or indirectly, with a Recipient of Services who is a Non-Resident, if all of the following conditions are met:	As an exception to paragraph (a) of Clause 1 of this Article, a supply of Services shall not be zero-rated, if the supply is made under an agreement that is entered into, whether directly or indirectly, with a Recipient of Services who is a Non-Resident, if the following two conditions are met:
(a)	The performance of the Services is, or it is reasonably foreseeable that the performance of the Services will be, received in the State by another Person, including but not limited to, an employee or a director of the Non-Resident	The performance of the Services is, or it is reasonably foreseeable that the performance of the Services will be, received in the State by another Person, including but not limited to, an employee or a director of the Non-Resident Recipient of Services.

Clause No.	As per Cabinet decision No. 99 of 2022 (Effective from 1 <sup>st</sup> January 2023)	As per Cabinet decision No.100 of 2024 (Effective from 15 <sup>th</sup> November 2024)
(b)	It is reasonably foreseeable, at the time the agreement is entered into, that that other Person in the State will receive the Services in the course of making supplies for which Input Tax is not recoverable in full under Article 54 of the Decree-Law.	It is reasonably foreseeable, at the time the agreement is entered into, that the other Person in the State will receive Services for which Input Tax is not recoverable in full under Article 54 or Article 57 of the Decree-Law.
4	For the purposes of paragraph (c) of Clause 1 of this Article, services that consist of the “facilitation of outbound tour packages” means the services that a Taxable Person provides in packaging one or more tourism products and also services outside the Implementing States, including but not limited to such goods and services as accommodation, meals, transport, and other activities.	For the purposes of paragraph (c) of Clause 1 of this Article, services that consist of the “facilitation of outbound tour packages” means the services that a Taxable Person provides in packaging one or more tourism products and also services outside the Implementing States, including but not limited to such goods and services as accommodation, meals, transport, and other activities.

### Our observation on amendments in Article 31

- Prior to amendment as per C.D 100, services categorized under clauses (3) to (8) of Article 30 and Article 31[2] of the Decree Law could be regarded as zero-rated supplies when delivered to a Recipient of Services who does not have a Place of Residence in an Implementing State and is located outside the State during the performance of those services, provided that they do not relate to real estate or personal movable assets. However, as per C.D. 100 provide clarification, these services will not qualify for zero-rated VAT if they are performed within the State or in a Designated Zone and will be subject to VAT @ 5% Rate.
- Regarding the requirement to be outside the state, the current calculation involves a short-term period of less than one month, but lacks a standardized duration. For instance, December has 31 days, while February may have 28 or 29 days. This inconsistency creates ambiguity. The amendments aim to clarify this by specifying a period of less than 30 days, making the regulations more precise and concise.
- By eliminating the phrase "in the course of making Supplies" in clause 3(b) of C.D. 100, the regulation now allows for the imposition of a 5% VAT on the ultimate consumer. Previously, this provision was limited to individuals receiving services related to making supplies and who were not entitled to claim Input VAT. Starting November 15th, anyone ultimately receiving services on behalf of a non-resident will be responsible for paying the 5% VAT.
- **Key Questions:**

Till 15<sup>th</sup> of November can we charge 0% rate of VAT if the service is indirectly provided to the ultimate customer?

What will be the bifurcation if services pertain to clause (3) to (8) of Article 30 OR of Article 31 of which invoice is prepared before 15<sup>th</sup> November and service will be provided after 15<sup>th</sup> November and vice-a-versa? Is it 0% or 5% Rate?

How FTA will identify the above requirements and bifurcate that?



**[2] Article 30 of Federal Decree Law no. 8 of 2017 – Place of Supply in Special Cases**

As an exception to what is stipulated in Article (29) of this Decree-Law, the place of supply in special cases shall be as follows:

1. ...
2. ...
3. For the Supply of Services related to Goods, such as installation of Goods supplied by others, the place shall be where said Services were performed.
4. For the Supply of means of transport to a lessee who is not a Taxable Person in the State and does not have a TRN in an Implementing State, the place shall be where such means of transport were placed at the disposal of the lessee.
5. For the Supply of restaurant, hotel, and food and drink catering Services, the place shall be where such Services are actually performed.
6. For the Supply of any cultural, artistic, sporting, educational or any similar services, the place shall be where such Services were performed.
7. For the Supply of Services related to real estate as specified in the Executive Regulation of this Decree-Law, the place of supply shall be where the real estate is located.
8. For the Supply of transportation Services, the place of supply shall be where transportation starts. The Executive Regulation of this Decree-Law shall specify the place of supply for transportation Services if the trip includes more than one stop.

**Article 3 of Federal Decree Law no. 8 of 2017 – Place of Supply of Telecommunication and Electronic Services**

1. For telecommunications and electronic Services specified in the Executive Regulation of the Decree-Law, the place of supply shall be:
  - a. In the State, to the extent of the use and enjoyment of the supply in the State.
  - b. Outside the State, to the extent of the use and enjoyment of the supply outside the State.
2. The actual use and enjoyment of all telecommunications and electronic Services shall be where these Services were used regardless of the place of contract or payment.



Feel free to reach out to us anytime you need any information. We will be glad to connect with you at your convenient time



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# THANK YOU

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