



2022
NEW YEAR EDITION

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HAPPY
New Year

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New Work Week

"What a wonderful
thought it is
that some of the
best days of
our lives haven't
even happened yet."

- Anne Frank -



HELLO FROM US



And so, the new year begins! Every year, this is the time of the year when we hurry to make and stick to our resolutions. It marks a new beginning, a fresh start for each one of us. Despite our best intentions, the reason we struggle to keep our new years resolutions, is because we may not be setting goals the right way. Goals signify a destination, an end result. But as important as goals are, there's no way of achieving them unless we set systems in place. The little things that we do daily add up to achievement of a grand goal in due time. In short, its not the grandeur of the goals that is important, but the consistency and practice that we input every day. On that note, **wishing you a very happy and safe new year from Team Evas!**

In this edition of Evas Plus, our quarterly newsletter series, we shine the spotlight on the initiatives and campaigns led by the Ministry of Industry and Advanced Technology (MoIAT), as a driver of the fourth industrial revolution. We are also delighted to announce that Evas International is now over 60 members strong with a brand new office in JAFZA 15.

For our academic sections, we are covering the below topics this quarter:

IFRS Desk ▶ **IAS 40: Investment Property**

For a deeper understanding on the classes of properties covered under this standard and the applicable requirements. We also cover examples and practical challenges in the classification of assets as investment properties, suggested solutions, timing and methods of recognition of these assets.

ISA Desk ▶ **ISA 240: Auditors' Responsibility in relation to fraud**

Fraud is prevalent in every area of business. When it comes to financial statements, fraud may be on account of fraudulent financial reporting or misappropriation of assets. This standard discusses the auditors' responsibility in relation to fraud in an audit of financial statements.

Tax Desk ▶ **VAT Updates for UAE**

Here we discuss 5 key updates released by FTA during the last quarter of 2021. This includes clarification on recovery of input tax on mobile phones, airtime and data packages made available to employees for business use, amendments to the tax procedures law and clarification on goods supplied in a Designated Zone.

Snippets of International Taxation

In this edition, we deep dive into Article 8 of the OECD convention model DTAs and breakdown the complexities of taxation on international transport.

We sincerely hope you find value in our content and do let us know other topics you would like us to cover in the upcoming editions. Once again, wishing all our readers a wonderful year ahead.

Happy Reading!

VIJAYA MOHAN

Managing Partner

HOW MOIAT IS TRANSFORMING UAE'S INDUSTRIAL LANDSCAPE



Back in July 2020, the UAE established the Ministry of Industry and Advanced Technology (MoIAT) with an aim to boost the country's industrial sector and increase the sector's contribution to the GDP. The Ministry culminated from the office of the Minister of State for Advanced Technology, the Emirates Authority for Standardization and Metrology (ESMA) and the industry sector of the Ministry of Energy and Infrastructure. And since then, all the responsibilities and authorities of these organizations have been transferred to MoIAT. It is led by H.E. Dr Sultan Bin Ahmed Al Jaber, the UAE Minister of Industry and Advanced Technology, and H.E. Sarah Bint Yousif Al Amiri, the Minister of State for Advanced Technology.

Over the span of the last year, through the initiatives and campaigns led by MoIAT, we have seen the development of an institution that is committed to its vision and the unparalleled support it lends to companies and entrepreneurs operating in the UAE's industrial sector. In this edition of the newsletter, we aim to take a deep dive into the projects led by MoIAT in order to build an integrated industrial ecosystem in the UAE.



MAKE IT IN THE EMIRATES

True to its name, the campaign focuses on creating a platform for investors, innovators and developers to contribute to the UAE's industrial sector and Operation 300Bn*. It provides the opportunity for companies to benefit from the UAE economy's unique value proposition by investing in future industries, advanced manufacturing and exporting UAE products to new global markets.



“Through a partnership between MoIAT and Emirates Development Bank (EDB), industrial investors and entrepreneurs can receive significant financial and advisory support from EDB. The bank is the financial driver of Operation 300Bn*.”

EDB offers a variety of services to industrial players including financing advanced technology and equipment, sponsoring machinery and equipment upgrades (especially those involving 4IR applications), as well as green finance, business expansion, structured financing and capital investment, feasibility studies and business incubators. Companies, investors and entrepreneurs can apply to become an ambassador for the program. As a 'Make it in the Emirates' ambassador, they have the liberty to endorse its message on various local, regional and global business and media platforms, including social media.

**For more information on Operation 300Bn and its impact, refer the previous edition of our newsletter.*

HOW MOIAT IS TRANSFORMING UAE'S INDUSTRIAL LANDSCAPE



THE NATIONAL IN-COUNTRY VALUE PROGRAM

Entities that wish to participate in tenders and win contracts with any of the strategic partners and participating entities of the program, are required to obtain an In-Country Value (ICV) Certificate each year, based on the latest audited financial statements. The program is a strategic initiative to encourage entities to spend and invest more within the country and create opportunities for Emirati talent in the private sector. The score is arrived at based on a combination of several factors including: percentage and value of spend within UAE with respect to overall spend, emirati and expat headcount and cost, value of fixed assets held within the country and revenue generated from exports.

The ICV program currently has about 9 strategic partners with several others being added. These include: **ADNOC, Abu Dhabi Department of Economic Development (ADDED), Aldar Properties, Mubadala Investments, Etisalat, Edge, Etihad Rail, Emirates Nuclear Energy Corporation (ENEC) and Shurooq.**

HOW TO GET AN ICV CERTIFICATE?



Step 1: Fill in the ICV Supplier Template based on the latest audited financial statements issued in accordance with IFRS and audited by an MOE licensed auditor.

Step 2: Approach one of the authorized Certifying Bodies for evaluation of the score and performance of certain Agreed Upon Procedures.



Step 3: Once the score is approved, you will be eligible to submit the certificate to any of the participating entities. The certificate is valid for 14 months from the date of issue of the audited financial statements.

HOW MOIAT IS TRANSFORMING UAE'S INDUSTRIAL LANDSCAPE



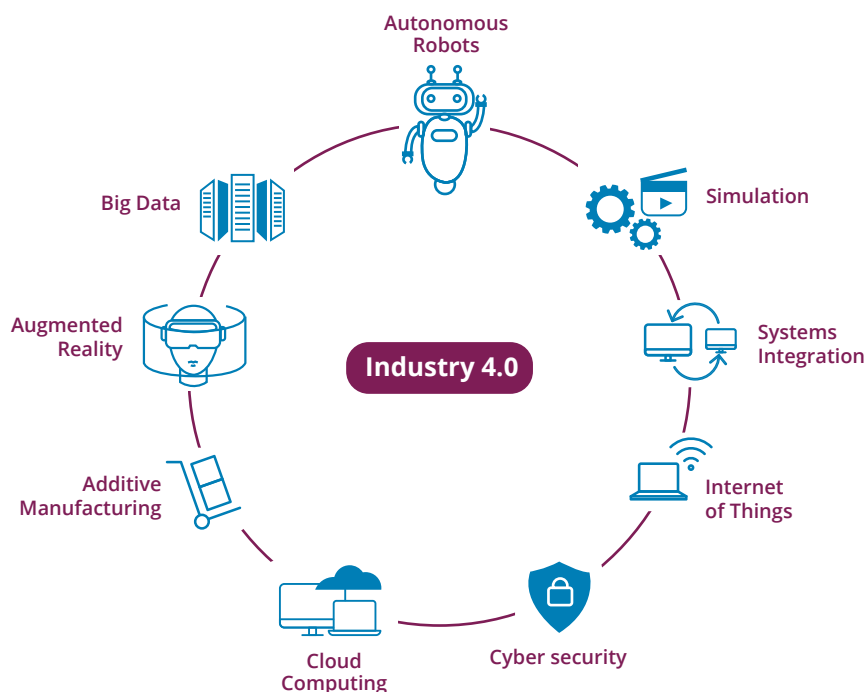
UAE INDUSTRY 4.0

The 4th industrial revolution, commonly dubbed as the digital revolution is characterized by a fusion of technologies that is blurring the lines between the physical, digital and biological spheres. This program is one of the main pillars of Operation 300Bn. It aims to accelerate the digital transformation of the industrial sector, support leading industrialists throughout their digital journey, boost the sector's productivity and create thousands of new, high-skilled jobs.

“The MoIAT is deploying the 4th Industrial Revolution (4IR) Readiness Index to assess the digital maturity of processes, technologies and organization of a manufacturing plant. This Index is recognized by the World Economic Forum as a global standard for Industry 4.0 and it identifies priority areas for improvement prompting the formulation of digital transformation strategies.”

Companies with an industrial license can also explore attractive financing solutions with EDB for the purpose of investment in advanced technology and apply for a customs duty exemption on industry 4.0 hardware. This industry 4.0 investment can also be used to achieve a higher ICV score. Companies can join a Champions 4.0 network that showcases successful industry 4.0 solutions from UAE based enterprises and technology providers. In partnership with these companies, MoIAT aims to firstly identify and determine the levels of 4IR technology adoption across UAE's industrial sector and accordingly develop a strategic roadmap to accelerate the country's digital transformation that is both sustainable and profitable.

Champions 4.0 network: ADNOC, Strata (a Mubadala Company), Edge, Honeywell, Unilever, Schneider Electric, Aveva, Cisco, Huawei, Microsoft, Siemens, SAP, Ericsson, Emirates Global Aluminium (EGA) and Mohamed Bin Zayed University of Artificial Intelligence.



WHERE IS YOUR INTERNATIONAL SHIPMENT TAXED?



It goes without saying that advent of man in international transportation has paved the way for a globalized world and the standard of living we enjoy today. UAE's economy, which amazes the world with its staggering importance on expatriate workforce would never have been a possibility without easy access to travel. And with flights and shipments running every day using the infrastructure and service of multiple countries, taxing travel was never an easy task.

To bring in parity for taxing the income of travel and logistics companies and to secure them from multiple geographic tax exposures and compliances, Double Taxation Avoidance Agreements (DTAAs) come with solutions. So, the question is: Origin, Layover or Destination: Where does your international shipment get taxed?

Article 8 of the OECD convention model DTAAs explains the double tax relief of international transport arrangements as under:

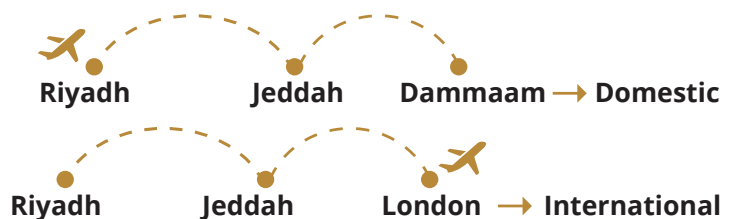
"8(1): Profits from the operation of ships or aircrafts in the international traffic shall be taxable only in the contracting state in which the place of effective management of the enterprise is situated."

OPERATION OF SHIPS AND AIRCRAFTS

This means the transportation of passengers or cargo by ships or aircrafts (owned, leased or otherwise). This does not include a dry lease as it is merely a rental-hire arrangement and does not involve 'operation'. Any income earned from an activity ancillary to the main operation (like a restaurant on a ship) would also be under the ambit of this article.

INTERNATIONAL TRAFFIC

This article is applicable to international traffic and domestic travel routes are totally out of scope. However, if domestic connection routes are used to reach an international destination, then it is considered as International traffic.

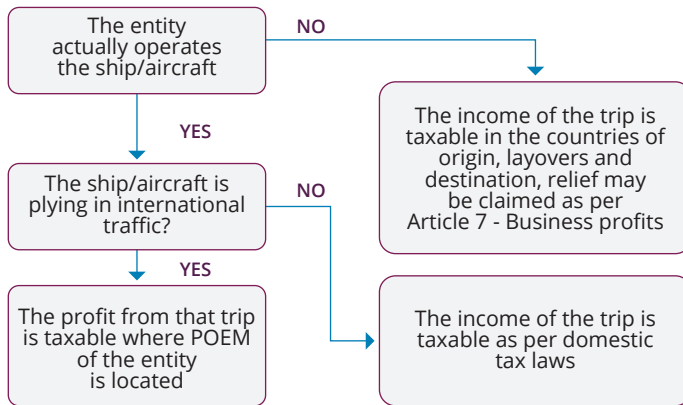


PLACE OF EFFECTIVE MANAGEMENT (POEM)

This term is not defined in the DTAA and is to be considered on a case to case basis. Primarily, the following factors may be considered:

- Place where the entity is actually managed and controlled;
- Place where decision making at the highest level on important policies essential for management of the entity takes place;
- Place that plays a leading part in the management of an entity from an economic and functional point of view;
- Place where most important accounting books are maintained.

UNDERSTANDING THE TAXATION OF INTERNATIONAL TRANSPORT



“8(2): Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.”

This clause of the article provides clarity on taxation of inland waterways. It is to be noted that the concept of ‘International traffic’ does not apply here. And thus, if a foreign owned transport company is operating coastal traffic between two points in a particular country through boats, then the right to tax the income from the same goes to the country where the POEM of the company is located.

“8(4): The provisions of 8(1) shall also apply to profits from the participation in a pool, a joint business or an international operating agency.”

Any profit earned from participation in a pool by an enterprise engaged in operation of ships or aircrafts are also eligible to be taxed in the country in which POEM of the enterprise is situated. There can be various forms of international co-operation by shipping or air transport enterprises. Such cooperation could range from pooling of supplies of spare parts at airports, alternating operations of certain flights routes, providing maintenance services by ground staff at certain airports, ground handling equipment and manpower all over the world, etc.

That being said, the following scenarios can be explored:

1) What happens if the company does not have a POEM in a fixed place, i.e., the operations are from a ship?

Article 8(3) specifies that if the POEM of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.

2) An airline has a fleet of cars to pick and drop travelers at the airport. Where would income attributable to this activity get taxed?

Picking and dropping passengers is an exercise ancillary to the activity of airlines and therefore, taxed at the country where the POEM of the airline is situated.

3) How does one practically substantiate the POEM to be in one country?

The term POEM is not defined anywhere in the DTAA, and its existence depends on the facts and circumstances in each case. The Governments may additionally source or check the veracity of information from other countries by invoking the agreement for mutual exchange of information. It is to be noted that the UAE’s Economic Substance Regulations (Cabinet Decision 57 of 2020) mandates UAE registered companies engaged in operating ships in international traffic to take an economic substance test every year.

In conclusion, even though international transportation and logistics have a variety of complexities, tax is definitely not one of them. OECD model provides an intelligent, easy, hassle free push to better the trade and brings its merits to all our lives.

IAS 40

INVESTMENT PROPERTY



INTRODUCTION:

Real Estate market in UAE is on an upward trend and it has been a focus area for quite some time. From this background, we would like to touch base on the accounting treatment and related disclosure requirements of investment properties for the interest of businesses and professionals.

Many people falsely believe that there's only one standard that deals with long-term tangible assets: IAS-16 Property, plant and equipment. While it's true that you need to apply IAS-16 for most of your long-term tangible assets, but it's not the one ruling at all.

In addition to IAS-16, we have a few other standards dealing with the long-term assets. "IAS-40 investment property" is one of them.

CLASSES OF PROPERTIES AND APPLICABLE REQUIREMENTS:

| | | |
|-------------------------|---|---|
| Investment property | Land or building (or part of a building) or both, held by the owner or held by a lessee as a right of use, to earn rentals or for capital appreciation or for both. | Accounting as per IAS 40 |
| Owner occupied property | Property held by the owner or by the lessee as a right of use asset for use in the production or supply of goods or services or for administrative purpose. | Accounting as per IAS 16/ IFRS 16 (in case of owner-occupied property held by a lessee as a right of use asset) |
| Property Inventories | Property held for sale in the ordinary course of business. | Accounting as per IAS 2 |

Classification of investment properties and owner-occupied properties are sometimes complex.

Investment properties generates cashflow largely independent of other assets. Whereas owner occupied property generates cashflows that are attributable not only to property but to other assets used in the production.

EXAMPLES OF INVESTMENT PROPERTIES ARE:

- Land held as an investment for long term capital appreciation rather than short term sale
- Land held for currently undetermined future use (if the entity has not determined the use of land)
- A building owned by the entity (or a right of asset relating to a building) and leased under one or more operating leases
- Property that is being constructed or developed for future use as investment property

IAS 40

INVESTMENT PROPERTY

PRACTICAL CHALLENGES IN CLASSIFICATION AND ITS SOLUTIONS:

- In case the property is used partially for capital appreciation and rental and another portion for production, then the entity needs to assess if these portions can be sold or leased-out separately. If the portions are separable, an entity should account for the portions separately (as investment property and owner-occupied property separately). If the portions cannot be segregated, then this can be considered as investment property only if an insignificant portion only is used as owner occupied property (ie, in production).

- In case if there are any ancillary services provided by the entity to the occupants of the owner, this can be considered as investment property only if the ancillary services are insignificant to the total arrangement. Eg: incase of a hotel, services provided to guests are significant to the total arrangement, hence this has to be considered as a owner occupied property and accounting needs to be completed in accordance with IAS 16.

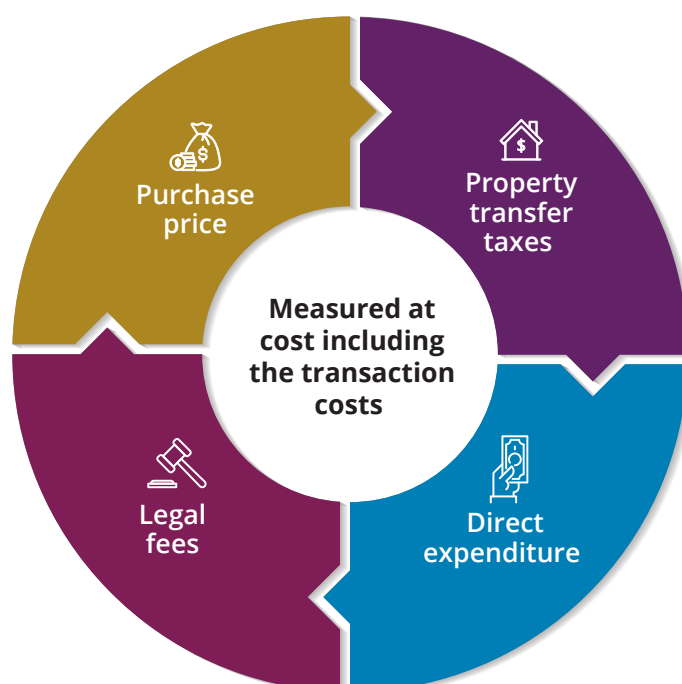
- In an Example, Entity A is the parent of Entity B. Entity A has given a property on lease to Entity B, and the subsidiary uses the property for its production or supply of service. In this case, in the consolidated financial statements property has to be recorded as a owner occupied property and in the standalone financial statement of Entity A, property has to be recorded as Investment property (subject to meeting all other criteria of investment properties).

WHEN TO RECOGNIZE INVESTMENT PROPERTY?

An asset can be recognised as investment property only if the following two conditions are met:

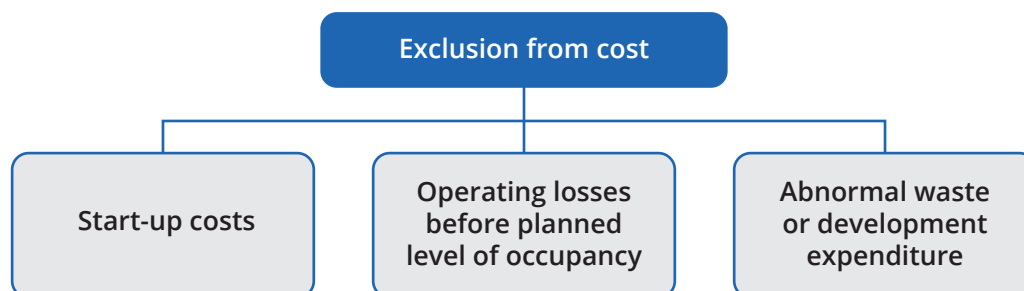
1. It is probable that future economic benefits associated with the item will flow to the entity; and
2. The cost of the item can be measured reliably.

HOW TO MEASURE INVESTMENT PROPERTY INITIALLY



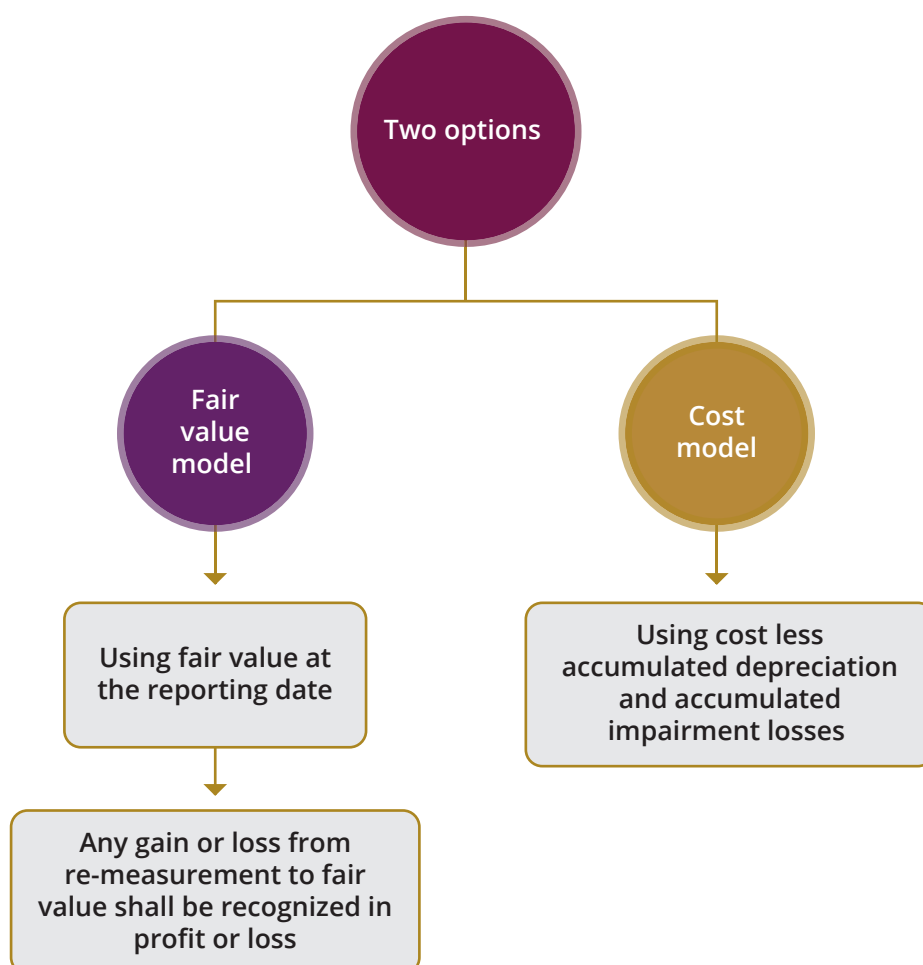
IAS 40

INVESTMENT PROPERTY



If the payment of an investment property is made on instalment, cash price of the property is the cost of investment property. Difference between the cash price and the total payments is recognised as interest over the period of credit.

SUBSEQUENT MEASUREMENT OF INVESTMENT PROPERTY



IAS 40

INVESTMENT PROPERTY



CAN ANY ENTITY SWITCH THE MODELS?

Yes, but only if that change results in more reliable and relevant presentation in the financial statements. Change from cost model to fair value model is common, however it is very unlikely that a change from fair value model to cost model can result in more relevant presentation.

IS ANNUAL FAIR VALUATION OF INVESTMENT PROPERTIES MANDATORY?

Standard requires to fair value the investment property either for measurement (if the entity uses fair value model) or for disclosure (if cost model is applied). An entity is encouraged but not mandatory to use an independent valuer to fair value the property.

IS IT POSSIBLE TO TRANSFER A PROPERTY FROM INVESTMENT PROPERTY TO OWNER OCCUPIED PROPERTY OR INVENTORIES OR VICE VERSA?

Yes, transfer in classification of properties is possible when there is a change in use with a clear evidence of that change in use.

HOW THE MEASUREMENT IS DONE IN CASE OF A TRANSFER OF PROPERTIES (CHANGE IN CLASSIFICATION)?

When the entity uses a cost model, transfer of properties between investment property, owner occupied property and inventories are valued at the carrying value at the transfer date.

For transfer from investment property carried at fair value to owner occupied property or inventories, properties deemed cost for subsequent accounting will be fair value at the date of change in use.

EXAMPLE OF TRANSFERS:

An entity renting out the property that was previously used as administration office. (Transfer to investment property from owner occupied property)

Entity stops renting out the building and starts using it for office purpose (transfer from investment properties to owner occupied properties)

Entity held a land for undefined purpose and recently it decided to construct apartments and to sell apartments when they are built (transfer from investment property to inventories)

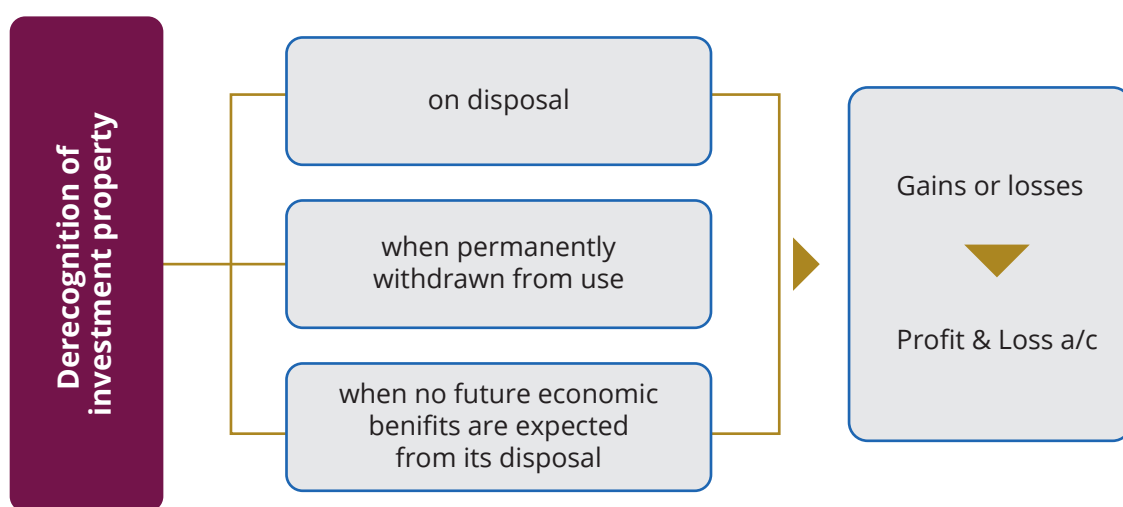
IAS 40

INVESTMENT PROPERTY



HOW AN INVESTMENT PROPERTY CAN BE DERECOGNISED?

An investment property shall be derecognized (eliminated from the statement of financial position) only;



Generally, gain/loss = net disposal proceeds less carrying amount

DISCLOSURE REQUIREMENTS OF IAS 40:

IAS 40 investment property prescribes certain disclosures to be made in the financial statements, including the description of following;



ISA 240

AUDITOR'S RESPONSIBILITIES



ISA 240 - THE AUDITOR'S RESPONSIBILITIES RELATING TO FRAUD IN AN AUDIT OF FINANCIAL STATEMENTS

In today's world, we hear about different kinds of financial statement frauds. It is very subjective in many of the cases to assign the responsibility of fraud. Responsibility on the fraud on financial statements may be with the shareholders/ management/ employees /auditors or combination of these. In this short write up, we would like to enlighten you about auditors' responsibility in relation to identification of fraud and its responses and impact in an audit of financial statements.

An auditor is responsible for obtaining a reasonable assurance that the financial statements are free from material misstatement caused by error or fraud. This also means that audit has its inherent limitations, mainly because:

Judgement and estimates are involved in many financial statements areas.

Audit is completed on a sample basis, and not 100% audit.

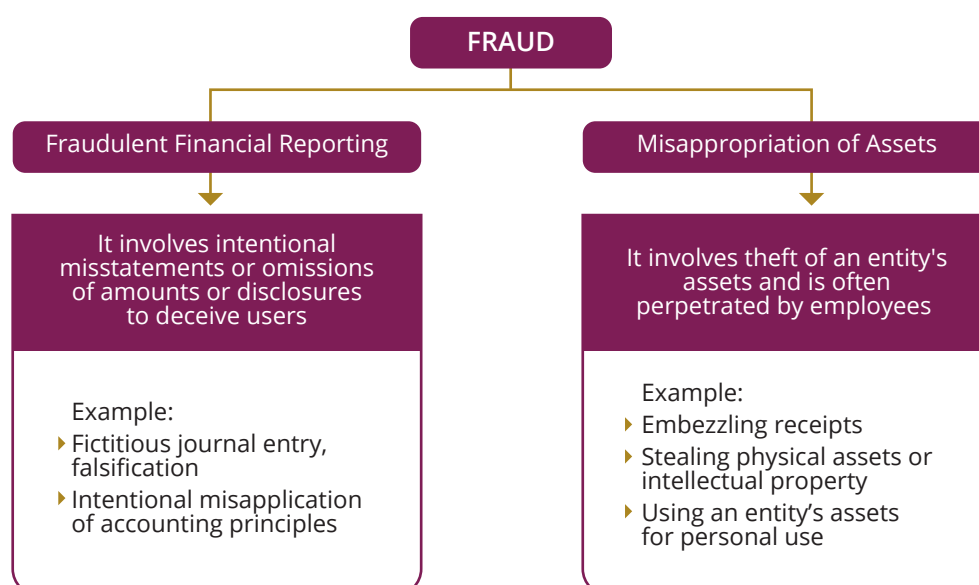
It is management's responsibility to provide complete information to the audit, but this may not be the actual case.

There are possibilities of error and fraud in the information provided by management. Risk of not detecting a misstatement from fraud is higher than one from error, as fraud may involve carefully organized schemes to conceal it.

Audit is completed on a limited time and cost, hence only critical areas are focused. Auditors' duty is generally summed up by saying "Auditor is a watchdog, not a bloodhound"

LET'S ANALYZE WHAT EXACTLY THE TERM FRAUD MEANS:

The term fraud is defined as an intentional act by one or more individuals among management, those charged with governance, employees, or third parties, involving the use of deception to obtain an unjust or illegal advantage. Fraud is a broad legal concept, however, the auditor is concerned with fraud that causes material misstatement in the financial statements.



ISA 240

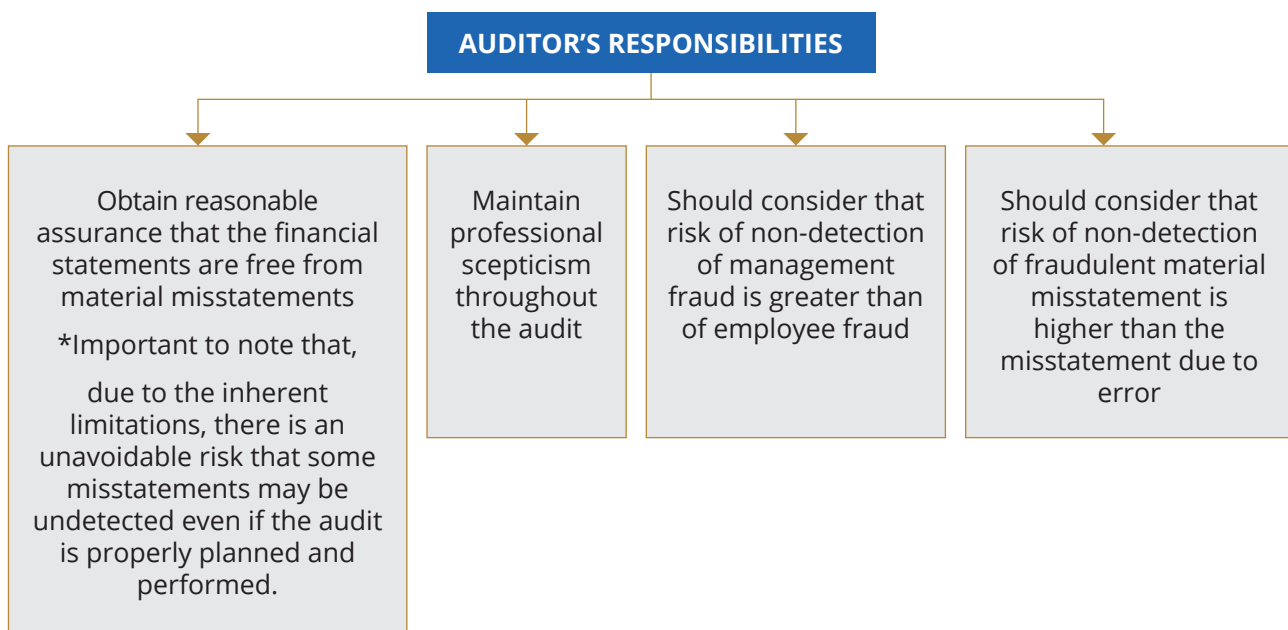
AUDITOR'S RESPONSIBILITIES



IS AUDITOR RESPONSIBLE FOR PREVENTION AND DETECTION OF FRAUDS?

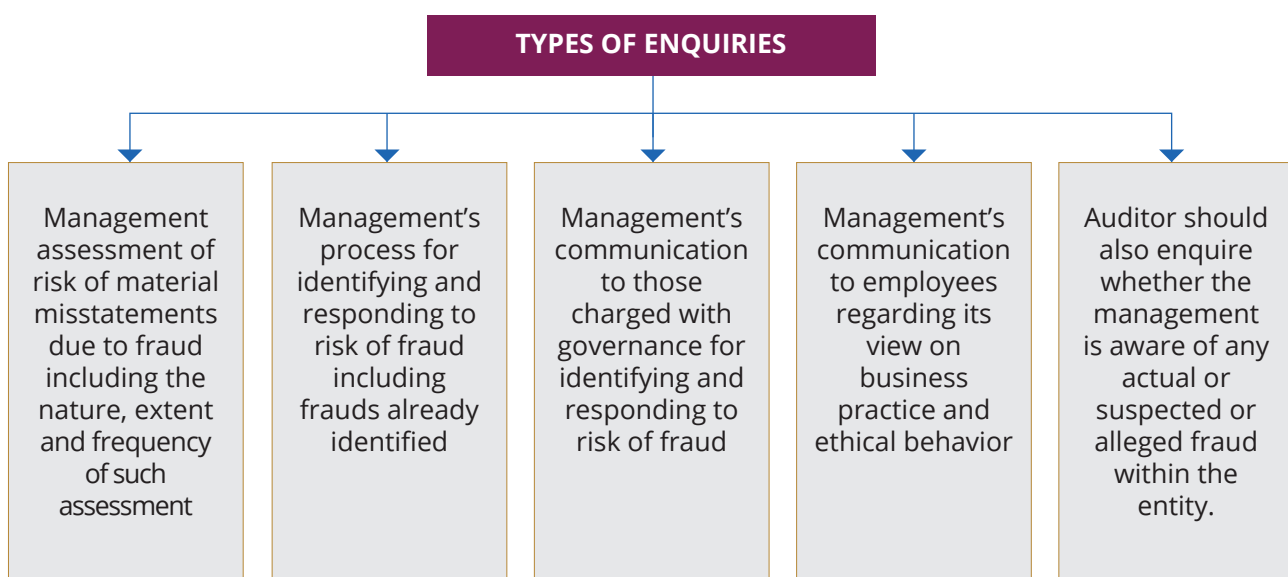
Management has the primary responsibility for the prevention and detection of fraud and not the auditor. Management should take all necessary steps for fraud prevention through implementing policies and controls.

WHAT ARE AUDITORS' RESPONSIBILITIES:



WHAT ARE THE RISK ASSESSMENT PROCEDURES AN AUDITOR SHOULD FOLLOW?

- 1 Auditor shall make inquiries to the management, internal audit team and those charged with governance



ISA 240

AUDITOR'S RESPONSIBILITIES

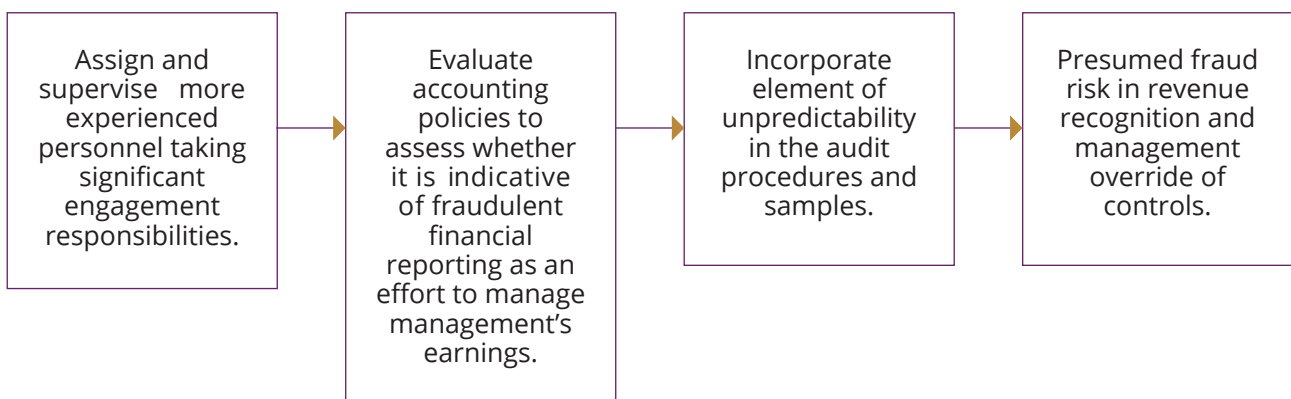


- 2 If those charged with governance are not actively involved in managing the entity, auditor shall obtain an understanding how those charged with governance oversee management's process for identifying and responding to the risk of fraud.
- 3 Consider whether any other information obtained during the audit indicates the risk of fraud.
- 4 Identify unusual or unexpected relationship while performing analytical procedures and evaluate them to assess the risk of material misstatement due to fraud.

WHAT ARE AUDITORS' RESPONSIBILITIES:

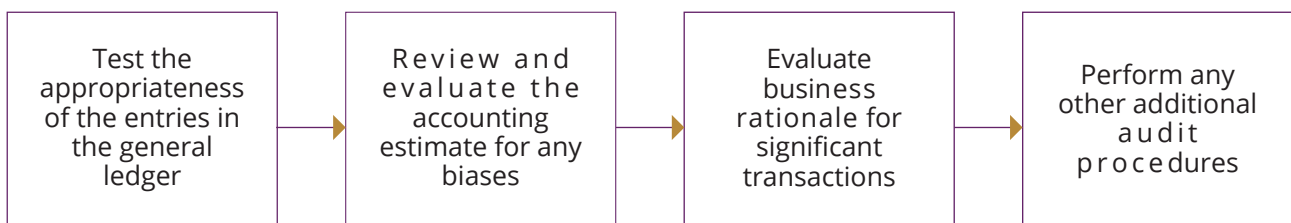
A. TO THE RISK OF MATERIAL MISSTATEMENT DUE TO FRAUD

As a response to the assessed risk of material misstatement due to fraud, auditor shall consider these as significant risks and accordingly obtain an understanding of entity's related controls and control activities. Overall responses to address the assessed risk includes:



B. AUDITORS' RESPONSES TO THE RISK RELATED TO MANAGEMENT OVERRIDES OF CONTROLS

In order to mitigate the risk of management override of controls, auditor shall design and perform the below audit procedures:



ISA 240 ALSO GUIDES US, THE ACTIONS TO BE TAKEN WHEN A FRAUD RISK IS IDENTIFIED:

- ▶ Auditor shall evaluate whether analytical procedures performed indicate a previously unrecognised risk of material misstatement due to fraud
- ▶ On identification of a misstatement, auditor to evaluate whether it is indicative of fraud

ISA 240

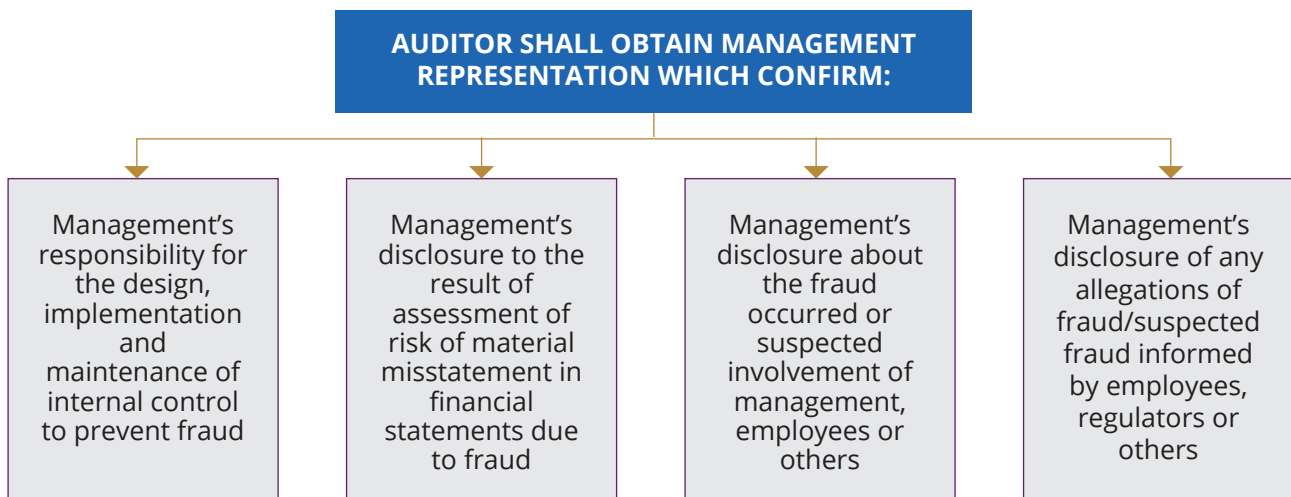
AUDITOR'S RESPONSIBILITIES



- ▶ In case of fraudulent misstatement where auditor believes management is involved, then re-evaluate the response to the assessed risk and its resulting impact in the nature and extent of audit procedures.
- ▶ If unable to conclude if the financial statements are fraudulently misstated, then the auditor to evaluate the implications for the audit.

If the fraudulent misstatement or suspected fraud stops the auditor from continuing the audit, then the auditor shall withdraw from the audit if appropriate and report to the person or authority who made the audit appointment. This report should include the fact of withdrawal from the engagement and the reasons for withdrawal.

MANAGEMENT REPRESENTATION TO THE AUDITORS:



AUDITOR'S COMMUNICATION OF FRAUD TO THE MANAGEMENT:

- ▶ On identification of fraud or suspecting of fraud existence, then auditor has to communicate to the appropriate level of management on timely basis.
- ▶ Communicate as appropriate to those charged with governance if the suspected fraud involves management, employees performing internal control or any others.
- ▶ Determine if the information about the fraud has to be communicated to a party outside the entity. Here the auditor's legal responsibility overrides the duty of confidentiality.

AUDITOR'S DOCUMENTATION OF FRAUD:

AUDITOR SHALL DOCUMENT THE BELOW IN RELATION TO A FRAUD:

- ▶ Significant decisions taken with respect to susceptibility of material misstatement in financial statements due to fraud.
- ▶ Identified and assessed risk of material misstatement due to fraud at the financial statements level and at the assertion level
- ▶ Overall responses to the assessed risk of material misstatement due to fraud
- ▶ Audit procedures' conclusion including those designed for management override of controls
- ▶ Fraud related communications made with the management, those charged with governance and regulators.

UAE VAT UPDATE

TAX TIME

The UAE Federal Tax Authority ('FTA') has issued several important public clarifications and user guides during October to December 2021.

Some of these updates released by FTA are listed below:

| SI No. | Type of Update | Month | Code | Particulars of Update |
|--------|----------------------|---------------|---------|--|
| 1 | Public clarification | December 2021 | VATP028 | Mobile Phones, Airtime, and Data Packages Made Available to Employees for Business Use |
| 2 | Public clarification | November 2021 | TAXP003 | Amendment of Tax Procedures Law – Federal Decree-Law No. 28 of 2021 |
| 3 | Public clarification | October 2021 | VATP027 | Goods supplied in a designated zone, and connected shipping and delivery services. |
| 4 | General Procedures | November 2021 | - | Reconsiderations User Guide For Registered and Non-registered users |
| 5 | User Guide | October 2021 | - | VAT Refund User Guide |

1

Public Clarification on Mobile Phones, Airtime, and Data Packages Made Available to Employees for Business Use

This Public Clarification provides guidance on the application of the VAT legislation in respect of the recovery of input tax incurred on Phones, Airtime, and Packages acquired for business use.

A business is entitled to recover input tax in respect of Phones, Airtime, and Packages acquired if these costs are incurred to make taxable supplies and **all the following** requirements are met:

- ✓ The business is registered for VAT and acquired Phones, Airtime, and Packages in its own name, e.g. the business' details are reflected on the tax invoices and contract with the service provider;
- ✓ The business has a documented policy in place which clearly states that the Phones, Airtime, and Packages may only be used for business purposes, and the consequences of any personal use;
- ✓ The business regularly monitors the use of Airtime and Packages and retains justification for the variances;
- ✓ The business takes action against employees using Phones, Airtime, and Packages for personal use in accordance with the documented policy; and
- ✓ The business retains valid tax invoices in respect of the Phones, Airtime, and Packages acquired.

Note that only documented policies which were already in place at the time the Phones, Airtime, and Packages were made available to the employee will be considered.

If all of the above requirements are not met, the recovery of input tax incurred in respect of Phones, Airtime, and Packages will be blocked in accordance with Article 53(1)(c) of the Executive Regulation unless the additional airtime and packages which is excess of the business plan acquired based on expected business requirement used by employees for personal use is recharged to the employee with output tax.

UAE VAT UPDATE



2

Public Clarification on Amendment of Tax Procedures Law – Federal Decree-Law No. 28 of 2021

This Public Clarification is intended to inform persons of the changes in the Tax Procedures Law, in relation to three main changes and is effective from 1 November 2021:

1. Mechanism and requirements for objection and appeal by taxpayers;
2. Alternative mechanism for objection and appeal by Government entities; and
3. Mechanism of waiving, refunding, and payment of administrative penalties ("Penalties") as instalments.

1. Mechanism and requirements for objection and appeal by taxpayers;

| Mechanism and requirements | After amendment | Before amendment |
|--|---|---|
| <i>Timelines for objection and appeal</i> | | |
| Application for reconsideration | Within 40 business days from the date of FTA's decision | Within 20 business days from the date of FTA's decision |
| Issuing the reconsideration decision by FTA | Within 40 business days from the date of receiving the application | Within 20 business days from the date of receiving the application |
| Objecting to the TDRC (Tax Disputes Resolution Committee) | Within 40 business days from the date of being notified of the reconsideration decision | Within 20 business days from the date of being notified of the reconsideration decision |
| Appeal before the competent court The final decisions of disputes exceeding AED 100,000 are considered executory instruments if they were not appealed, by the person or the FTA, before the competent court | Within 40 business days from the date of notification of the TDRC decision | Within 20 business days from the date of notification of the TDRC decision |
| <i>Requirement to Settle Penalties - TDRC</i> | | |
| Persons are required to | submit an application to the TDRC despite not having paid the Penalties imposed, as long as the full amount of tax has been settled, as well as all other conditions are met. | pay all relevant outstanding taxes and penalties related to the matter before being eligible to lodge an objection with the TDRC. |
| <i>Requirement to Settle Penalties – Competent Court</i> | | |
| Persons are required to | Submit a proof that: a) The full amount of tax, as determined by the decision being challenged was paid and b) At least 50% of the penalties, as determined by the decision being challenged was settled to lodge an objection with the competent court | pay all relevant outstanding taxes and penalties before being eligible to lodge an objection with the competent court. |

UAE VAT UPDATE



2. Alternative mechanism for objection and appeal by Government entities

As an exception to the general rules for objections and appeals to the TDRC and competent court, the Cabinet shall issue a decision adopting an alternative mechanism of objection and appeal if the parties to the dispute are any of the Federal or local Government entities specified in that Cabinet Decision.

Pending the Cabinet Decision and its enforcement, the general objection and appeal rules will apply to objections and appeals of Federal and local Government entities concerning tax disputes.

3. Mechanism of waiving, refunding, and payment of penalties as instalments

As per the Tax Procedures Law amendment, FTA's authority to waive penalties was modified. As a result of the amendment, the previous committee reviewing the excuses and evidences in respect to applications to reduce or waive penalties no longer exists.

A new committee with the mandate to approve the payment of penalties in instalments, and waiving or refunding penalties in full or in part, will be formed.

This new committee will be established and chaired by His Highness the Chairman of the FTA or his deputy, and will include two Board Members of the FTA

The new committee may issue a decision:

- approving the penalties to be made in instalments;
- to waive penalties in full or part; or
- to refund penalties in full or part.

3

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

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

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 was amended with effect from 30 October 2021.

UAE VAT UPDATE



Goods supplied in a designated zone

Designated zones specified by a Cabinet Decision are generally treated as being outside the UAE.

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

The place of supply of goods will be regarded as being outside the UAE and deemed as qualifying goods, if one of the following exclusions applies:

1. The goods are:



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.

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.

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.

UAE VAT UPDATE



Shipping and delivery services by non-resident

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
- The supplier of the goods is not the person owning the electronic sales platform.

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.

4

Reconsiderations User Guide For Registered and Non-registered users

This guide is issued by FTA to provide guidance on how to navigate within the e-Services portal from a systems perspective, and to provide guidance on how to successfully complete the Reconsiderations form. It is designed to help us:

- ✓ create an e-Services account with the FTA
- ✓ provide accurate answers to the questions on your Reconsideration form by explaining what information you are required to provide; and
- ✓ understand the icons and symbols you might see as you complete the form.

5

VAT Refund User Guide

This guide is issued by FTA to help the taxable person to navigate the e-Service portal, and is designed to be read in conjunction with the Taxable Person Guide for VAT to file VAT Refund Claims.

It is intended to help eligible Taxable Persons prepare their Claim to the Federal Tax Authority (FTA).

The guide explains the process to be followed along with the forms and information that needs to be provided when applying for a refund to the FTA. The process is available with effect from February 1, 2018.

The Claim can be submitted by the Taxable Person, or another person who has the right to do so on the Taxable Person's behalf (for example, a Tax Agent or a Legal Representative).



In the 1900s, a US industrialist decided to shut down his automotive factories for two days a week - a major shift from the 100 hour, seven-day work week that had been the norm till then. The man who launched this idea - Henry Ford - expected to pave a way towards boosting sales, improving productivity, and bettering the quality of life of the team.

With effect from January 2022, UAE has implemented a four-and-a-half-day work week for federal government departments. Notably, this is the first and major change to the U.A.E work week in years. Following this, schools, and an increasing number of private companies have adapted their weekends to follow suit. As private companies are encouraged to incorporate a similar weekend, or offer more flexibility to their employees, the following benefits are expected to be integrated into the U.A.E workforce:



The amount of time spent at work has always been thought of as the driving force behind productivity, but more and more nations as well as employers are realizing the redundancy of this idea. The long-term benefits of the reduced work week have been highlighted by researchers time and again, and it is only a matter of time until the U.A.E reaps the far-reaching gains of this plan of action.

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