



Virtual CPE Seminar on  
**UAE VAT**  
& it's evaluation over 3 years

**12** SATURDAY  
JUNE 2021

11 am – 1 pm  
by Webex

**CPE 2**  
Credit  
Hours

Chief Guest

**CA.Sunder Nurani,**  
Chairman, ICAI Dubai Chapter, NPIO

**Discussion Points:**

Implementation in 2018 and related impact in various industries - Changes in the export of service rules - VAT audits conducted by the Tax Authority in UAE - Tax litigation and recent changes in the penalties in UAE

Speaker

**CA.Jay Duseja,**  
Dubai

## Speaker Profile: CA Jay Duseja



**Jay Duseja** is a Chartered Accountant with 46<sup>th</sup> All India Rank in CA Inter Exams. He also holds a Bachelor of Commerce Degree from Gujarat University and GCC VAT Diploma from ATT, UK.

He is Senior Manager at Tax Practice of **MMJS Consulting**. Prior to MMJS, Jay worked as Group Tax Manager of AW Rostamani Group in Dubai and as Deputy Tax Manager in Deloitte. He is a thorough Indirect Tax specialist with 9 years of experience in VAT of various countries namely UAE, Oman, KSA, Bahrain and India. He has led various VAT/GST Implementation assignments for marquee clients in GCC and India across various industries like Real Estate, Retail, & E-commerce Automotive, Media, Information Technology, Education and Insurance.

He is also a Faculty Member in Indirect Taxes Committee of ICAI for GCC VAT & Indian GST Trainings and have imparted trainings at various forums including ICAI Chapters like Ahmedabad, Dubai, Abu Dhabi, Muscat, Oman Chamber of Commerce & Industry, Confederation of Indian Industry (CII).

Feel Free to Connect with me on:

- Email: [jay@mmjs.co](mailto:jay@mmjs.co)
- Mobile: +968 92752109
- LinkedIn: [www.linkedin.com/in/jayduseja](http://www.linkedin.com/in/jayduseja)

# THANK YOU

**Corporate Office:** Level 15, Lake Central -  
At The Bay, Business Bay, Al Abraj Street,  
P.O Box 83720, Dubai, UAE

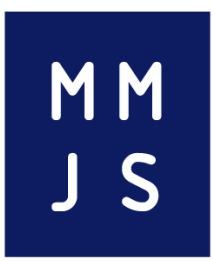


## TOPICS COVERED

1. IMPLEMENTATION IN 2018 & RELATED  
IMPACT IN VARIOUS INDUSTRIES
2. IMPLICATIONS OF PUBLIC  
CLARIFICATIONS
3. VAT AUDITS CONDUCTED BY FTA
4. TAX LITIGATION AND RECENT CHANGES  
IN THE PENALTIES IN UAE
5. Q&A



# IMPLEMENTATION IN 2018 & RELATED IMPACT IN VARIOUS INDUSTRIES



CONSULTING



# Ernakulam Branch of Southern India Regional Council (SIRC) of The Institute of Chartered Accountants of India (ICAI)



Formerly Morison Menon

## EDUCATION



	VAT rate
Private and public school education (excluding higher education) and related goods and services provided by education institution	0%
Higher education provided by institution owned by government or 50% funded by government, and related goods and services	0%
Education provided by private higher educational institutions, and related goods and services	5%
Nursery education and pre-school education	0%
School uniforms	5%
Stationery	5%
Electronic equipment (tablets, laptops, etc.)	5%
Renting of school grounds for events	5%
After school activities for extra fee	5%
After school activities supplied by teachers and not for extra charge	0%
School trips where purpose is educational and within curriculum	0%
School trips for recreation or not within curriculum	5%

## HEALTHCARE



	VAT rate
Preventive healthcare services including vaccinations	0%
Healthcare services aimed at treatment of humans including medical services and dental services	0%
Other healthcare services that are not for treatment and are not preventive (e.g. elective, cosmetic, etc)	5%
Medicines and medical equipment as listed in Cabinet Decision	0%
Medicines and medical equipment not listed in Cabinet Decision	5%
Other medical supplies	5%

## OIL AND GAS



	VAT rate
Crude oil and natural gas	0%
Other oil and gas products including petrol at the pump	5%

## TRANSPORTATION



	VAT rate
Domestic passenger transportation (including flights within UAE)	Exempt
International transportation of passengers and goods (including intra-GCC)	0%
Supply of a means of transport (air, sea and land) for the commercial transportation of goods and passengers (over 10 people)	0%
Supply of goods and services relating to these means of transport and to the transportation of goods and passengers	0%

## REAL ESTATE



	VAT rate
Sale and rent of commercial buildings (not residential buildings)	5%
First sale/rent of residential building after completion of construction or conversion	0%
First sale of charitable building	0%
Sale/rent of residential buildings subsequent to first supply	Exempt
Hotels, motels and serviced accommodation	5%
Bare land	Exempt
Land (not bare land)	5%
UAE citizen building own home	5% (recoverable)

## FINANCIAL SERVICES



	VAT rate
Margin based products (products not having an explicit fee, commission, rebate, discount or similar)	Exempt
Products with an explicit fee, commission, rebate, discount or similar	5%
Interest on forms of lending (including loans, credit cards, finance leasing)	Exempt
Issue, allotment or transfer of an equity or debt security	Exempt

## INVESTMENT GOLD, SILVER AND PLATINUM, JEWELLERY



	VAT rate
≥99% pure and tradable in global markets	0%
<99% pure	5%
Jewellery	5%

## INSURANCE AND REINSURANCE



	VAT rate
Insurance and reinsurance (including health, motor, property, etc)	5%
Life insurance and life reinsurance	Exempt

## FOOD & BEVERAGES



	VAT rate
Food and beverages	5%

## TELECOMMUNICATIONS AND ELECTRONIC SERVICES

### VAT rate

Wired and wireless telecommunications and electronic services

5%

## GOVERNMENT ACTIVITIES

### VAT rate

Sovereign activities which are not in competition with the private sector undertaken by designated government bodies

Considered outside VAT system

Activities that are not sovereign or are in competition with the private sector

VAT rate dependent on good/service ignoring provider

## NOT FOR PROFIT ORGANIZATIONS

### VAT rate

Activities of foreign governments, international organisations, diplomatic bodies and missions acting as such (if not in business in the UAE)

Considered outside VAT system

Charitable activities undertaken by societies and associations of public welfare which are listed by Cabinet Decision

Considered outside VAT system

Activities of other not for profit organizations (not listed in Cabinet Decision) which are not business activities

Considered outside VAT system

Business activities undertaken by the above organizations

VAT rate dependent on good/service ignoring provider

## FREE ZONES

### VAT rate

Supplies of goods between businesses in designated zones

Considered outside VAT system

Supplies of services between businesses in designated zones

VAT rate dependent on service ignoring location

Supplies of goods and services in non-designated zones

VAT rate dependent on good/service ignoring location

Supplies of goods and services from mainland to designated zones or designated zones to mainland

VAT rate dependent on good/service ignoring location

## OTHER

### VAT rate

Export of goods and services to outside the GCC implementing states

0%

Activities undertaken by employees in the course of their employment, including salaries

Considered outside VAT system

Supplies between members of a single tax group

Considered outside VAT system

Any supplies of services or goods not mentioned above (includes any items sold in the UAE or service provided)

5%

Second hand goods (e.g. used cars sold by retailers), antiques and collectors' items

5% of the profit margin



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## IMPLICATIONS OF PUBLIC CLARIFICATIONS

# VAT PUBLICATION & UPDATES BY FTA

**26 Public Clarifications**



**30+ User Guides  
& 12+ E-learnings**



**Numerous private  
clarifications, Awareness  
Sessions & Seminars**



# COMPENSATION PAYMENT (VATP001)

VAT is a tax that is imposed on a *supply* of goods or services. Where there is no supply made, no VAT is due on any payment received thereof. Payments of a compensatory nature may be subject to VAT where there is an underlying supply.

Generally, payment for damages or compensation for any loss suffered by a party, such as loss of earnings, is out of scope of VAT as there is no underlying supply for VAT purposes. Nonetheless, contractual and legal arrangements as well as the factual details of each transaction must be carefully reviewed to determine the true purpose of the compensatory payment.

A comprehensive analysis is imperative, and the FTA has outlined a few principles with which one may determine the appropriate VAT treatment of each transaction:

- *the payment is consideration for any previously agreed goods or services;*
- *the payment is consideration for any newly created supply of goods or services;*
- *the purpose of the payment is to adjust a previously agreed consideration for a supply;*
- *a party is granting a right to another party in return for a payment;*
- *a party is promising not to exercise a right in return for a payment;*
- *a party is giving something up in return for a payment.*

# COMPENSATION PAYMENT (VATP001)

The FTA illustrates application of above principles for identifying potential underlying supplies as follows:

Nature of Payment	Illustration	Clarification by FTA
Liquidated Damages	Predetermined compensation received by injured party on breach of contract or early termination or late performance where purpose is not to provide consideration for provision of services but to compensate injured party for loss of earnings.	Outside the purview of VAT.
Cessation of rights to supply of goods or services	Cancellation charges by hotel to cancel bookings shall be treated as cessation of a right to supply of goods or services. This is regardless of whether the hotel room remains available to the guest or not.	Subject to VAT
Enforcement of contractual supply of goods or services	Payment is made to enforce a contractual term of supply of goods or services, the payment is consideration for the contractual supply to which it relates.	May be subject to VAT
Grant of a right	If a payment is made for granting a right for supply of goods or services (intellectual property rights) then such payment shall be treated as consideration for right to use of goods or services.	May be subject to VAT
Fines and Penalties	Payment made for contravening terms of an agreement, performing an unlawful act or otherwise imposed, usually by government bodies, for breaches of statutory obligations. True fines and penalties are not consideration for any supply. The purpose of such fines is to punish the wrongdoer for the act and the party imposing the penalty is not making any supply in respect of the payment.	Outside the purview of VAT

# PROFIT MARGIN SCHEME – ELIGIBLE GOODS (VATP002)



The Profit Margin Scheme enables VAT registered businesses to account for VAT on the supply of specific goods (Second-hand Goods, Antiques, Collectors' items) based on the profit margin on those goods.

The clarification provides that these specific goods would only be eligible for the Profit Margin Scheme where VAT on these goods has previously been paid, even where it is purchased from a non-registered supplier, i.e. the non-registered supplier should have paid tax on its purchase of the goods. Further, it clarifies that any purchase of the goods prior to 1 January 2018 where the supply was not subject to VAT would not be eligible for this scheme.

If a good was purchased in....	....and the original purchase was....	.... then....
2017 or earlier	Not subject to VAT	the good is not eligible to be sold under the profit margin scheme and VAT should be applied to the full selling price
2018 or later	from a supplier who did not charge VAT on the supply and there is no evidence available to show the good had been subject to VAT on an earlier supply	the good is not eligible to be sold under the profit margin scheme and VAT should be applied to the full selling price
2018 or later	from a supplier and there is evidence available to show the good had been subject to VAT on an earlier supply	the good is eligible to be sold under the profit margin scheme

# LABOUR ACCOMMODATION: RESIDENTIAL VERSUS SERVICED PROPERTY (VATP003)

The supply of labour accommodation is generally provided with additional services by employers.

Where the additional services are considered to be components of a single, composite supply of labour accommodation, the type of additional services rendered can cause the supply to be either:

Residential Accommodation	Serviced Accommodation
<p>Where the additional services rendered are provided in the general nature of residential accommodation, such as maintenance, utilities, access to building facilities, etc., it would not normally cause the supply to become one of serviced accommodation. Such supply of residential accommodation by the employer is exempt for UAEVAT purposes and input tax on associated costs is blocked from recovery.</p>	<p>Where the additional services rendered are not generally provided with residential accommodation and may be considered to be in the nature of hospitality, such as telephone and internet access, laundry services, catering etc., it would cause the supply to become one of serviced accommodation. Such supply by the employer is then taxable for UAEVAT purposes and input tax on associated costs may be recovered.</p>
<p>If it is supplied for no consideration, there is no deemed supply as the supply is exempt for VAT purposes but input tax would still be blocked from recovery (directly related to exempt supply).</p>	<p>If it is supplied for no consideration, there would be a deemed supply of serviced accommodation, unless an exception is met, such as the input tax is not recovered.</p>

Where the additional services are considered to be separate components from the main supply of labour accommodation, the VAT treatment of the individual components would need to be identified separate from the VAT treatment of the accommodation itself.

# USE OF EXCHANGE RATE (VATP004)

## **Tax Invoices issued prior to 17 May 2018:**

Where a tax invoice was issued prior to 17 May 2018 in a foreign currency, the tax invoice should have been converted to UAE Dirham using an exchange rate from a reliable source which can include, but are not limited to:

- Thomson Reuters;
- Oanda;
- The exchange rate published by any UAE bank.

The source from where exchange rate is used should have been consistently used by the Company for the period starting from 1 January 2018 to 16 May 2018. FTA has specifically clarified that there is no requirement to reissue historical tax invoices from period prior to 17 May 2018, provided the exchange rate used is from a reliable source and the same source has been used consistently.

## **Tax Invoices issued 17 May 2018 onwards:**

Any tax invoices issued from 17 May 2018 onwards, it is required that the exchange rate as published by the UAE Central Bank has to be used to convert the foreign currency to the UAE Dirham. The Company should have used the exact exchange rate as published by the UAE Central Bank, which includes using the same number of decimal places as published.

However, where the tax invoice is issued post 17 May 2018 but the date of supply was prior to 17 May 2018, the Company should have use the historical rates as published by the UAE Central Bank.

## **Importation of services**

Where invoices are received in a foreign currency for imported services, the FTA has clarified that the supply value to be reported under reverse charge should be converted to AED using exact UAE Central Bank approved exchange rate. Further, it is acceptable to consider the invoice date as the date of supply and apply the rate as per that date.

# ENTERTAINMENT EXPENSES (VATP005)

## Definition of entertainment services:

### ➤ **Food and drinks “in the normal course of a meeting”**

FTA has laid out certain criteria on which basis certain hospitality and entertaining expenses can be classified as normal business expenses and should be considered as recoverable input tax. However, where the food and refreshments are substantial and would constitute an end in themselves (a determinant factor) for a person to attend a meeting, the input tax incurred is non-recoverable.

### ➤ **Conference and Business events**

Where a fee is charged from attendees and VAT is accounted on the same, the input tax incurred on catering services would be recoverable. However, where no fee is charged to attendees, the input tax related to catering services will be non-recoverable. The Company should not recover input tax where they cannot establish or are uncertain whether hospitality is provided in the normal course of business meeting or not.

### ➤ **Sundry office expenses**

VAT incurred on certain normal incidental office expenses for general use by both employees and visitors will be recoverable. Such sundry office expenses include tea and coffee, flowers for display in receptions, offices, dates, chocolates, or equivalent snacks.

# ENTERTAINMENT EXPENSES (VATP005)

## ➤ **Employee expenses**

In case of reimbursement of expenses by an employee which are incurred for business purposes and the costs are genuine business expenses, VAT incurred is recoverable provided tax invoice is received. However, if costs incurred are related to entertaining a current/ potential customer/ supplier then any associated input tax incurred will be non-recoverable.

## ➤ **Employee entertainment**

FTA has specified that VAT charged on cost incurred on events held purely for the purposes of entertaining staff shall be treated as non-recoverable except where such expenses have been charged back to employees.

Where some gifts are given away free of charge on which VAT recovery would normally be prevented (unless the business accounts for a deemed supply), VAT incurred on such costs should be blocked from recovery. These gifts would include long service awards, retirement gifts, Eid gifts or gifts for other festivals or special occasions, etc.

# TAX INVOICES (VATP006)



## **Full Tax Invoices – Line items to be shown at the net value:**

In case where tax invoice is issued, each line items should state the net amount payable (excluding the tax) as well as the tax due and need not state gross amounts (i.e. inclusive of tax), as the total gross amount payable shall be stated on the tax invoice.

The tax amount on a line item basis is not mandated in the UAEVAT Legislation and we have not observed the FTA enforce the same in practice. However, it is prudent to design the tax invoice to reflect the VAT amount for each item on the tax invoice.

With respect to input tax invoices that do not reflect the VAT on a line item basis, the Company may claim input tax as there is low risk, but it would be prudent to request the supplier to revise the tax invoice as per the clarification.

## **Tax Invoices issued in foreign currencies:**

FTA has once again highlighted that where tax invoices are raised in foreign currency, the following should be mentioned on the invoice:

- Tax amount payable (expressed in AED);
- Conversion rate applied (i.e. rate published by the Central Bank of UAE on the date of supply).

## **Rounding on tax invoices:**

In cases where tax invoices are issued and the tax amount is calculated as a fraction of Fils, the same may be rounded to the nearest Fils. Accordingly, tax amount could be shown up to 2 decimal points of the AED value.

# PUBLIC TRANSPORTATION (VATP007)

VAT treatment of a specific, qualifying means of transport:

*Supply of a bus or train designed / adapted for transportation of 10 or more passengers*

	Public Transportation	Private Transportation
Purpose	Buses / trains openly available for use by any person without exception	Bus / train only available for use by a specific class or group of people
VAT treatment	Subject to VAT at 0%	Subject to VAT at 5%

The above does not impact the VAT treatment of the supply of transportation services:

- International passenger transportation services are zero-rated
- Local passenger transportation services are exempt (*standard-rated where principal objective of service is for leisure / entertainment purposes*)

# FARMHOUSES AND FARMLAND (VATP008)

The supply of farmhouses and farmlands should be considered on the individual facts of each case.

	Type of supply	VAT treatment	Main factors to consider
<u>Farmhouses</u>	Residential	First supplies are Zero-rated; subsequent supplies are Exempt	Is the farmhouse a principal place of residence?
	Commercial	Standard-rated	Does it meet the conditions outlined in the Legislation for Residential Supplies?
<u>Farmland</u>	Covered land	Standard-rated	Is the land covered with buildings or civil engineering works?
	Bare Land	Exempt	

Further to the above, it is imperative to ascertain if the supply of a farm comprising of commercial land, commercial buildings and residential buildings is a single composite supply or multiple supplies to determine the appropriate VAT treatment.

In the case of a single composite supply, the VAT treatment of the principal component should be considered after determining the predominant usage of the farm.

# DATE OF SUPPLY FOR INDEPENDENT DIRECTORS (VATP009)

Instances	Date of supply	Article reference	FTA view
Board fees only known upon conclusion of Annual General Meeting ('AGM')	Date of completion of services	Article 25(6) of UAE VAT Decree Law	Services are <b>deemed</b> to be completed only when such fees are known upon conclusion of the AGM, despite the physical completion of services earlier
Board fees known at outset with periodic payments or consecutive invoices	Earlier of: <ul style="list-style-type: none"> <li>• Payment receipt date</li> <li>• Tax invoice issuance date</li> <li>• Payment due date</li> <li>• 12 months expiration date from commencement of supply</li> </ul>	Article 26(1) of UAE VAT Decree Law	Continuous supply of services
Board fees known at outset with no periodic payments or consecutive invoices	Earlier of: <ul style="list-style-type: none"> <li>• Payment receipt date</li> <li>• Tax invoice issuance date</li> <li>• Completion of services</li> </ul>	Article 25(6) & (7) of UAE VAT Decree Law	One-off supply of services

# BANK INTEREST AND DIVIDENDS (VATP010)

Consideration	FTA guidance on Underlying Supplies	VAT treatment
Interest income	<b>Passive income:</b> Interest income on bank deposits	Out of scope
	<b>Active Income:</b> Interest generated from extending loans or credit	Exempt
Dividend income	<b>Passive income:</b> Shareholder passively earns dividend income on shares held in a company	Out of scope
	<b>Active Income:</b> Holding entity oversees key management decisions undertaken by subsidiary, which may constitute to be a supply and there is no separate management fee	Exempt

# DONATIONS, GRANTS AND SPONSORSHIPS (VATP011)



The FTA illustrates application of above principles for identifying potential underlying supplies as follows:

Nature of Consideration	Express or implied benefit	Illustration	Clarification by FTA
Donations	Yes	If a business donates money to a hospital and in return the hospital provides space to the business to display and market its products.	Subject to VAT
Donations	No	If a business donates money to a hospital without receiving any benefit in return having a close nexus to the payment.	Outside the purview of VAT
Sponsorships	Yes	If a business agrees to sponsor AED 100,000 for a football match on the condition that the organizer will display the company's logo at the entrance of the stadium.	Subject to VAT
Sponsorships	No	If a business agrees to sponsor an event without receiving any benefit in return having a close nexus to the payment.	Outside the purview of VAT
Grants	Yes	If a person gives a grant to a University for undertaking research such that the findings of the research will be used in the business of the grantor.	Subject to VAT
Grants	No	If a person gives a grant to a University for undertaking research without receiving any benefit in return having a close nexus to the payment.	Outside the purview of VAT

# IMPORTATION OF GOODS BY AGENTS ON BEHALF OF VAT REGISTERED PERSONS (VATP012)

Input tax on imported goods can only be claimed by the owner in its VAT return.

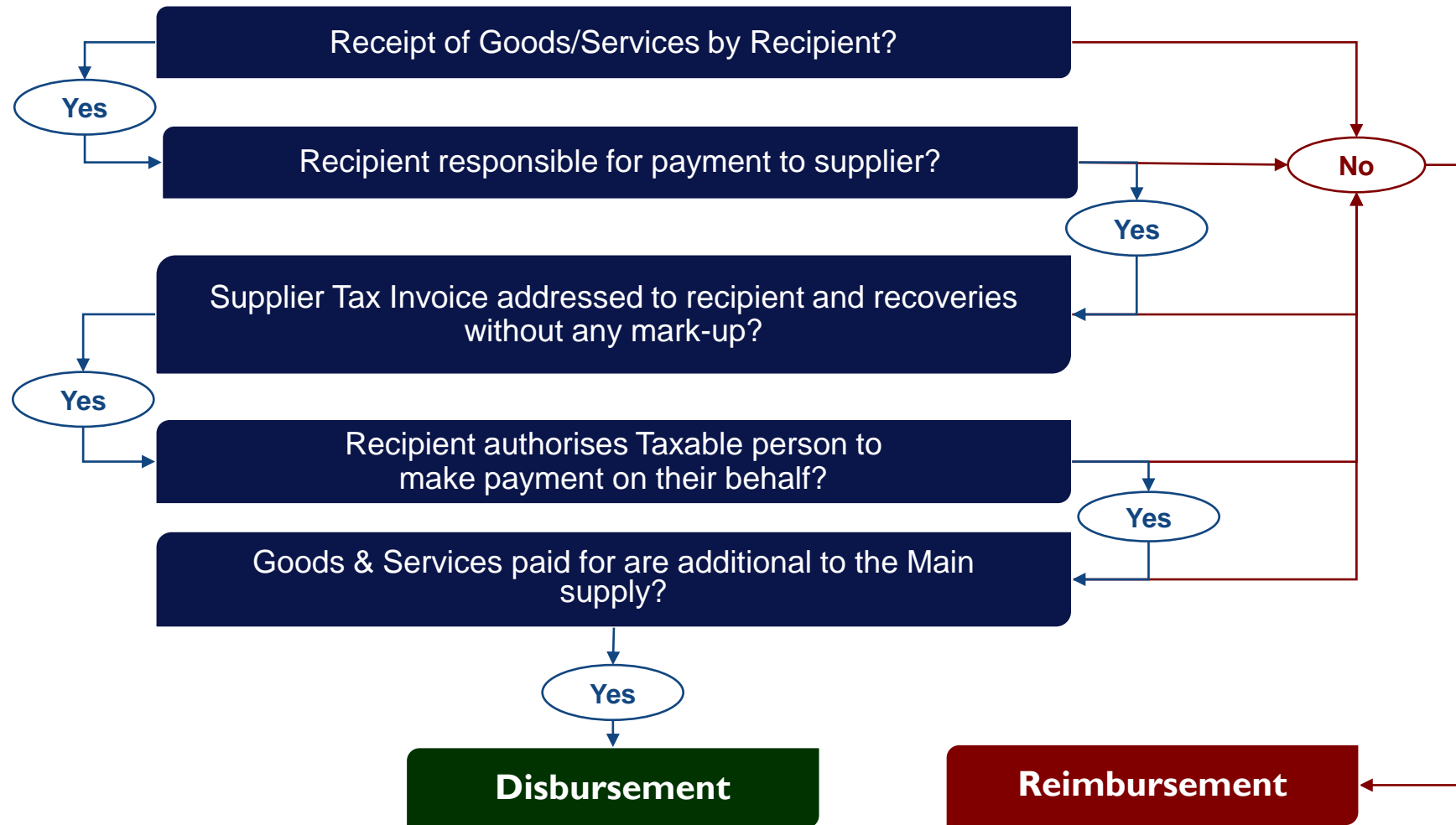
If you are importing as an agent and the import appears in Box 6 of the VAT return, the owner can exercise on either of the below options for recovering the input VAT:

Alternative	Details
 <p><b><u>OPTION 1:</u></b> <b>Adjustments in the VAT return</b></p>	<ol style="list-style-type: none"> <li>1. Agent to deduct through Box 7 of VAT returns</li> <li>2. Owner to add in Box – 7 &amp; Box – 10 to recover input VAT</li> <li>3. <u>Record keeping:</u> Import customs documentation, supplier invoice and written agreement</li> </ol>
 <p><b><u>OPTION 2:</u></b> <b>Issue of statement</b></p>	<ol style="list-style-type: none"> <li>1. Pay VAT as pre-populated in Box 6 of Agent’s VAT return</li> <li>2. Agent to issue statement to owner under Article 50(7) of ER*</li> <li>3. Owner may recover input VAT in Box 9 basis above statement</li> </ol>

*The importing agent may be (by way of example) an agent of the owner of the goods OR the customer of the owner of the goods.*

\* Cabinet Decision No. (52) of 2017 on the Executive Regulations of the Federal Decree-Law No (8) of 2017 on Value Added Tax

# REIMBURSEMENT VS DISBURSEMENT (VATP013)



# VAT TREATMENT OF OPTIONS AND OPTION PREMIUMS (VATP014)



A financial “**option**” gives the holder the right to buy or sell the underlying financial instrument at a specified price. An “**option premium**” is the fee received for selling an option.

The terms “**equity security**” and “**debt security**” are defined in Article 42(1):

- A. The phrase “**debt security**” means any interest in or right to be paid money that is, or is to be, owing by any Person, or any option to acquire any such interest or right.
- B. The phrase “**equity security**” means any interest in or right to a share in the capital of a legal person, or any option to acquire any such interest or right.

As may be seen from the definitions, debt securities and equity securities include options in acquiring underlying interest and rights. As a consequence, options related to debt securities and equity securities are exempt from VAT in accordance with Article 42(3)

It should be noted that the above treatment does not apply to options in respect of underlying commodities or other non-debt and non-equity instruments – where such options are supplied in return for explicit premiums, they will be taxable in accordance with Article 42(4).

# VAT TREATMENT OF OPTIONS AND OPTION PREMIUMS (VATP014)

Before 31<sup>st</sup> July 2019:

If	..... then....
a supplier has incorrectly treated the supply of exempt options as subject to VAT at 5% & the supplier has already accounted for that output tax on options in its tax returns	they should issue a tax credit note to the recipient correcting the VAT treatment.  It will be able to adjust this VAT in the tax return related to the tax period in which the tax credit notes were issued, where the supplier can show that it has issued the tax credit notes and passed them on to the recipients to which the VAT was charged.
a VAT-registered recipient of the supply has already deducted input tax in respect of the supply	the tax credit note will also trigger the requirement to make an input tax adjustment (as a negative in the net and VAT column of Box 9) in the tax return for the tax period in which the recipient received the tax credit note.

# TRANSFER OF A BUSINESS AS A GOING CONCERN (VATP015)

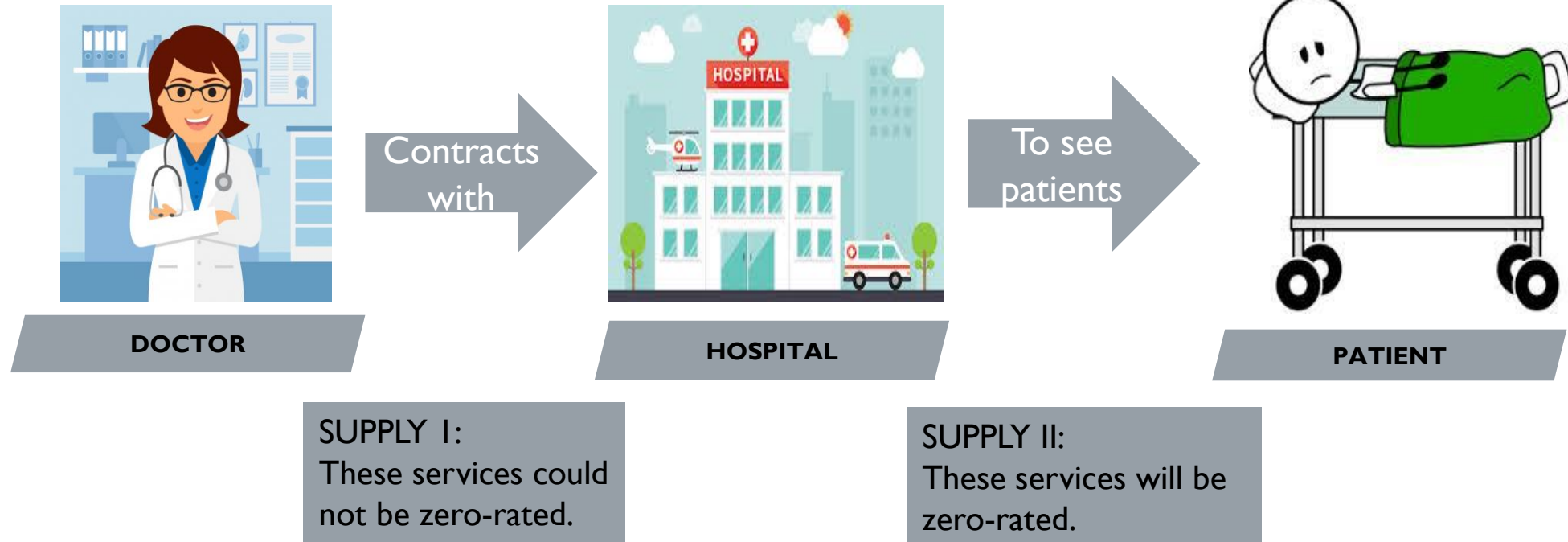
The conditions that have to be met for a transfer to qualify as a transfer of a going concern:

1. A transfer of business must be a type of an asset sale, not a share sale.
2. Assets must be sold as part of transfer of a business as a going concern to qualify as an out of scope transaction.
3. There must be a transfer of whole or an independent part of a business.
  - I. The transfer must effectively give the recipient the possession of the whole of a business, or part of a business where that part is capable of separate operation.
  - II. The transferred business must be operational before and at the time of transfer.
4. The transfer must be made to a taxable person.

The above condition will be met if any of the following is in effect on the date of transfer:

  - I. The recipient is registered for VAT
  - II. The recipient is required to be registered under the mandatory registration rules and has applied for registration to the FTA; or
  - III. The recipient has applied for voluntary VAT registration and the FTA has accepted the application.
5. The recipient intends to continue the business which was transferred.
  - I. The intention to continue the business must be genuine.
  - II. A short period of temporary closure of the business immediately after the transfer is permissible if it is necessary to prepare the business for operation under the new ownership.

# BUSINESS-TO-BUSINESS SUPPLIES OF HEALTHCARE SERVICES (VATP016)

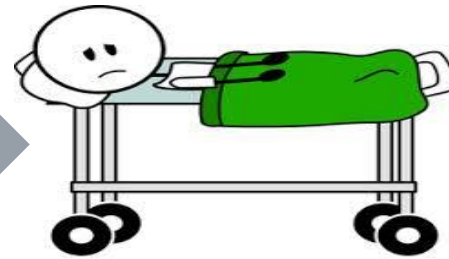


# BUSINESS-TO-BUSINESS SUPPLIES OF HEALTHCARE SERVICES (VATP016)



**HOSPITAL**

Refers



**PATIENT**







To a  
laboratory



**LABORATORY**

If the patient enters into a separate agreement with the laboratory for the supply of the medical test, then these supply of services falls within the definition of “healthcare services” in Article 41(I) of the Executive Regulations.

# TIME-FRAME FOR RECOVERING INPUT TAX (VATP017)

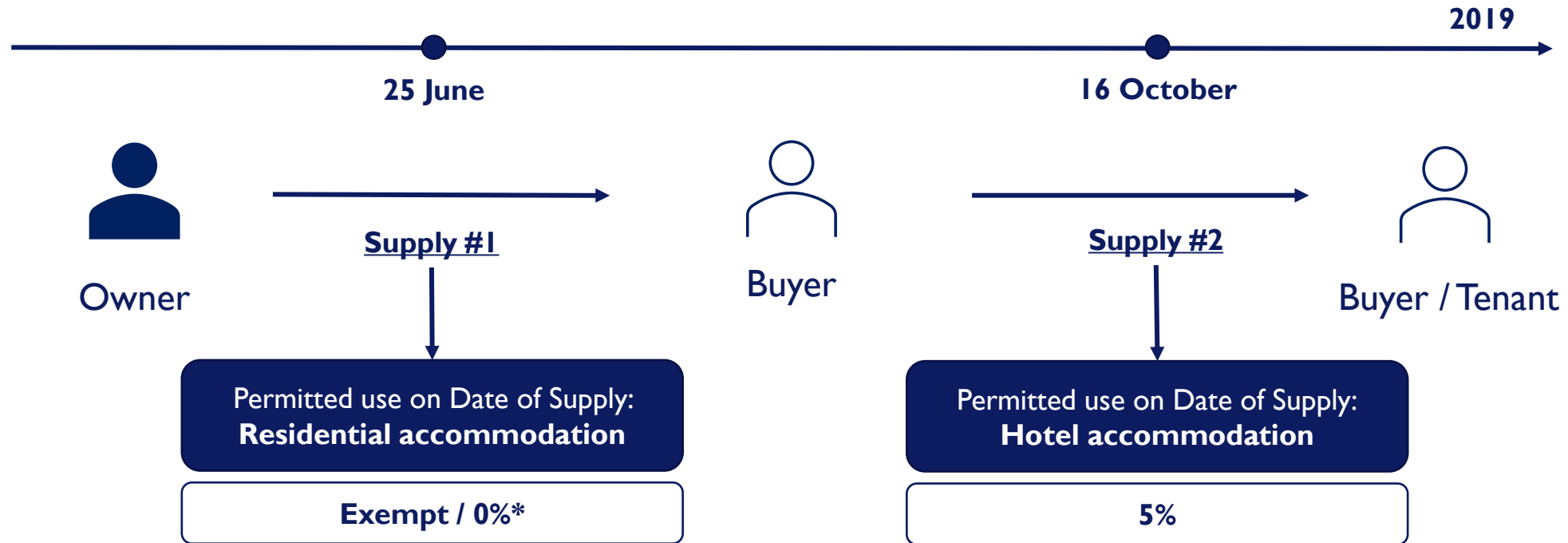
	<b>Time Limit</b>	Maximum 2 tax periods
	<b>First Tax Period</b>	Tax period wherein the following are met: <ul style="list-style-type: none"><li>✓ Receipt of Tax Invoice</li><li>✓ Actual Payment / Intention for Payment within 6 months from agreed payment date</li></ul>
	<b>Substantiate Payment Intention</b>	Internal approval process documented
	<b>ITC* after 2 tax periods</b>	Voluntary Disclosure
	<b>Expiry of 6 months</b>	ITC* reversal
	<b>Post reversal recovery</b>	Tax period in which payment is made

\* ITC – Input Tax Credit

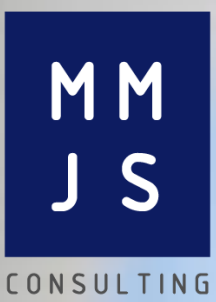
# CHANGE IN THE PERMITTED USE OF A BUILDING (VATP018)



*Change in permitted use of the building post transfer of ownership does not impact the VAT treatment of supply #1*



\* Subject to conditions of Article 39 of Cabinet Decision No. (52) of 2017 on the Executive Regulations of the Federal Decree-Law No (8) of 2017 on Value Added Tax



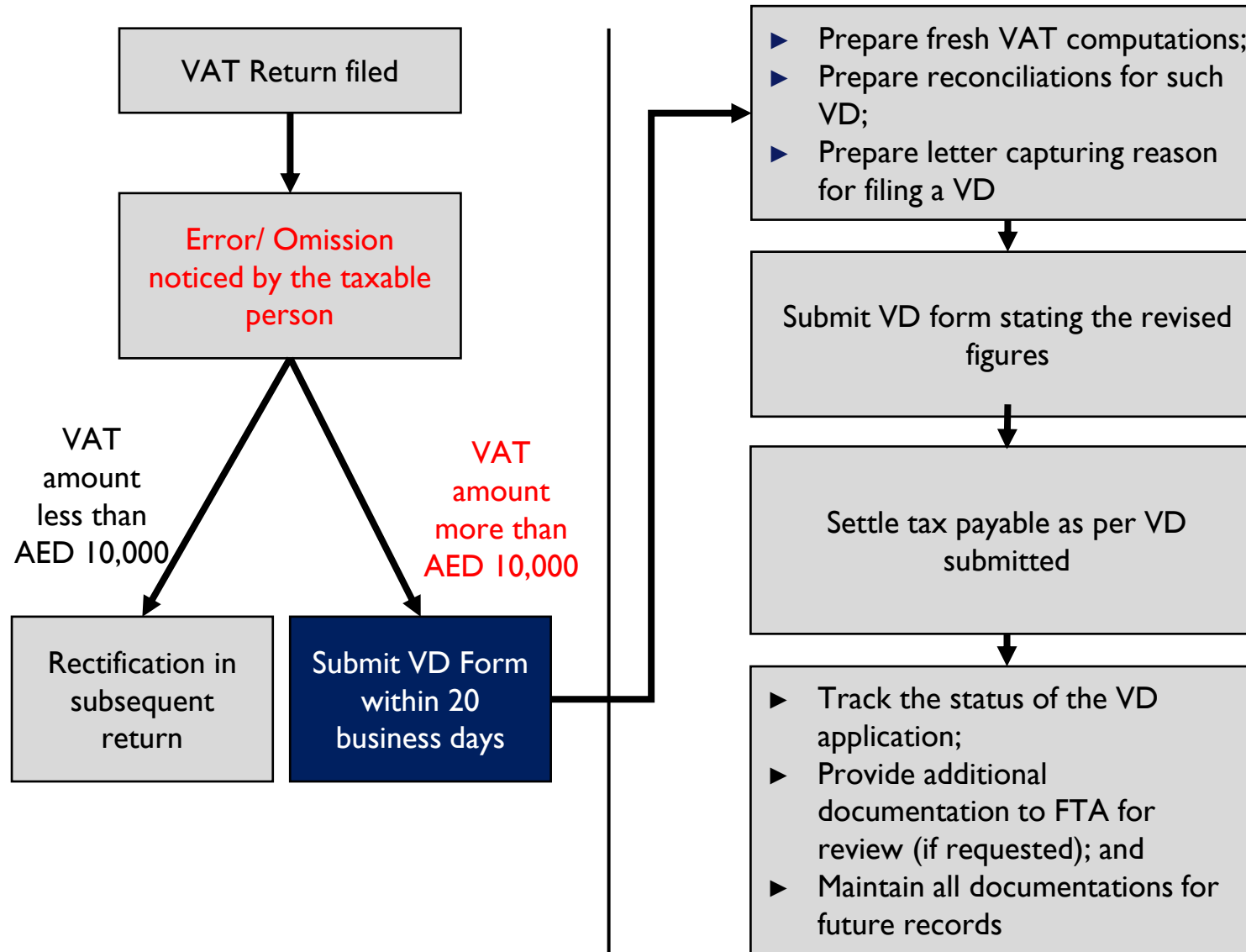
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**VAT AUDITS CONDUCTED BY FTA**

# Rectification of errors - VAT Returns



# FTA Audit Process



## Notice

FTA issues notice requesting VAT information for tax periods covered under audit – To be submitted within 5 business days  
Notice typically received over an email



## Request for further records

Once initial information reviewed, FTA may request for additional records/ supporting documentation



## Decision

FTA shall provide a decision within 10 business days from date of completion of audit



## Sharing of information

Collate information and share within the time specified by FTA – Extension of time limit at the discretion of FTA



## Visit of premise

If required, FTA may visit business premises of the taxable person by giving a prior notice

*\*FTA has the right to re-assess a tax period previously audited*

# Information that may be Requested during an Audit



- ▶ **Sales and Purchase Register** in the template shared by FTA – Formats are periodically updated
- ▶ Brief note on **business activities** – capturing nature and process of sales and purchase transactions
- ▶ **Sample tax documents** and information to support transactions
- ▶ **Reconciliations**
  - ▶ Amounts reported in VAT return vis-à-vis financial statements/ TB
  - ▶ Imports as per customs vis-à-vis financial statements/ TB

## Practical aspect

*Due to system limitation, in certain cases it becomes difficult to collate the following information:*

- ▶ *Date of supply for transactions*
- ▶ *Date of receipt of tax invoices from vendors*
- ▶ *Date of payment to vendors*
- ▶ *Description of supply*
- ▶ *Details pertaining to import shipments*
- ▶ *Retrieval of official customs documents for imports and exports*

# Business can prepare for an audit by .....



- ▶ Automating FTA Audit file (FAF) – For each Tax period
- ▶ Undertaking pre-audit review of historical tax periods – take remedial measures
- ▶ Reviewing ITC claimed for historical tax periods
- ▶ Reviewing tax positions taken at the time of implementation – obtain technical clarifications from the FTA/ file administrative exception, etc.
- ▶ Reviewing ERP logics on periodic basis for new nature of transactions
- ▶ Training and updating stakeholders on regular basis

# Audit completed....What's Next?



- ▶ FTA will issue two notices, one for additional VAT payable and one for penalty, if any.
- ▶ Request taxable person to pay tax and applicable penalties

FTA

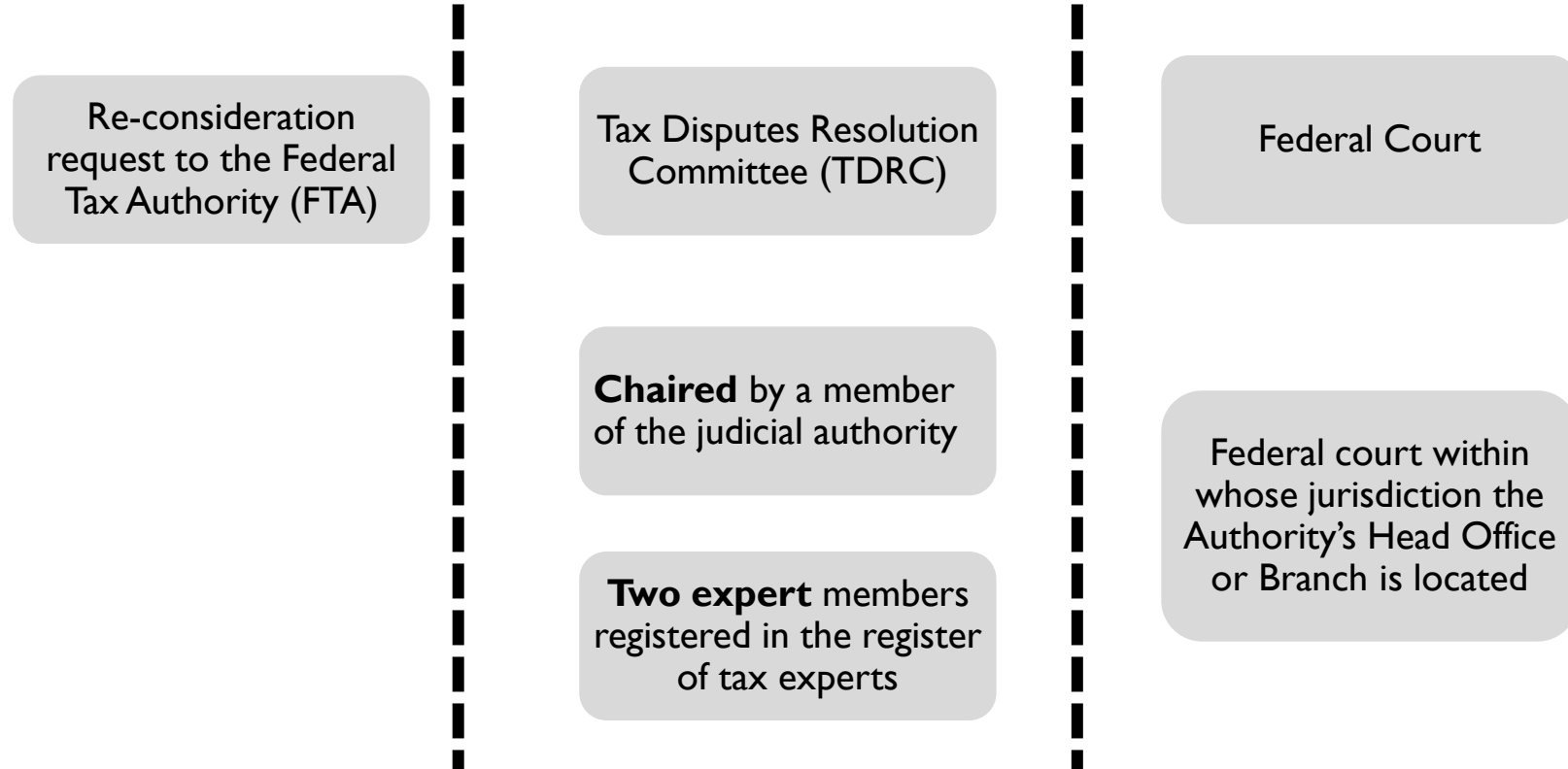
## Next steps for Business

- ▶ Review decision shared by the FTA
- ▶ Review any additional taxes and penalties levied – compare with e-services portal

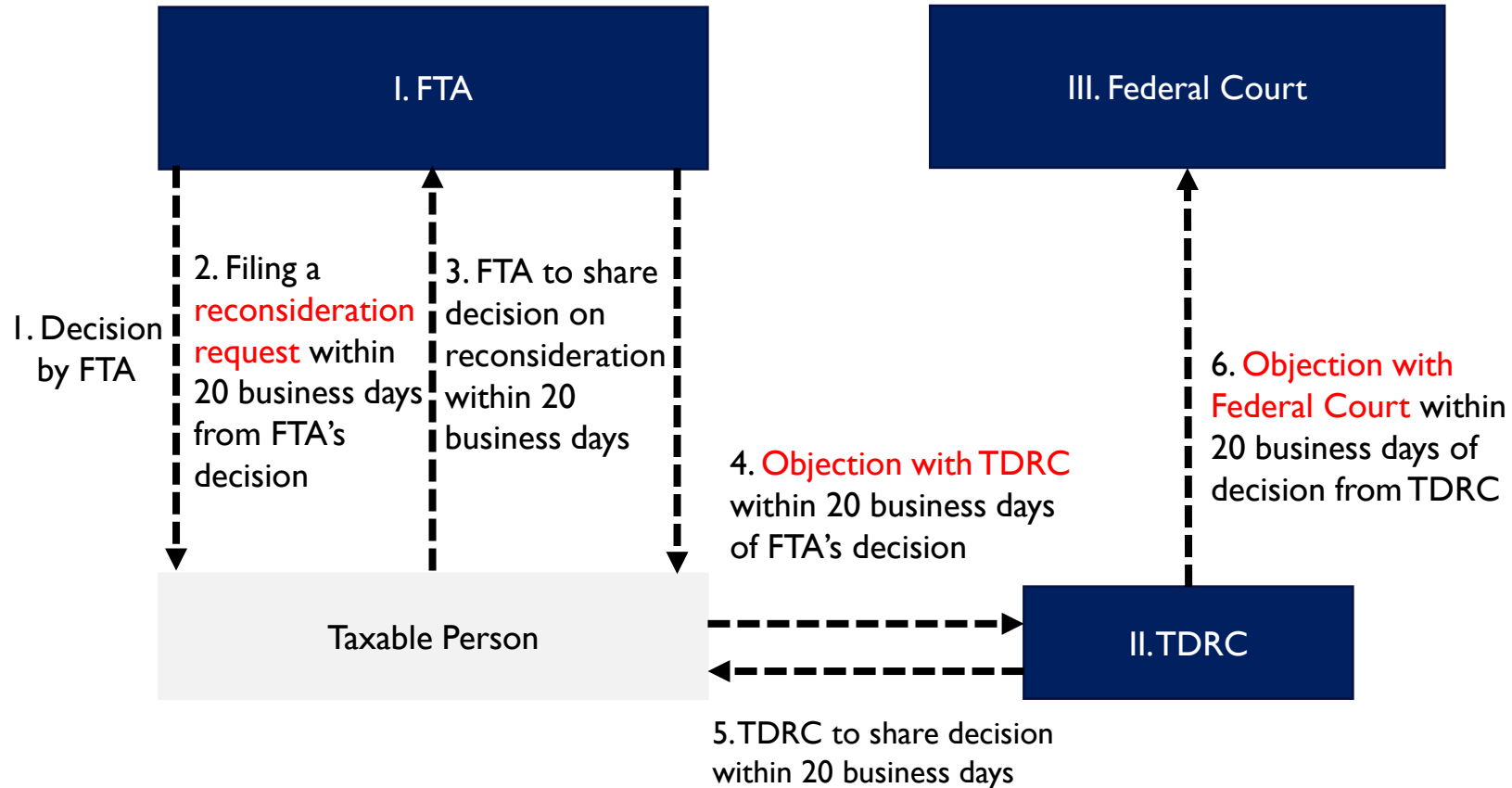


# TAX LITIGATION AND RECENT CHANGES IN THE PENALTIES IN UAE

# Tax litigation structure in the UAE



# Tax litigation process in the UAE



\*\*TDRC decision that results in payments less than AED 100,000 is considered final at TDRC Level.

\*\*TDRC decision that results in payment more than AED 100,000 may be appealed at Federal Court.

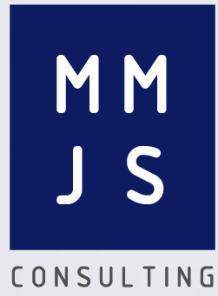
# Tax Procedures in a Nutshell



Applications	Timelines	Value/ other details	Filing Language
Voluntary Disclosure (VD)	20 business days from the date when the Taxable Person became aware of the error	Typically, where tax payable is AED 10,000 or more <i>There are penalties attached for filing a VD – reduced penalties on suo moto filing</i>	Arabic Also available in English
Technical Clarification/ Administrative Exception	-	Filed to obtain clarification on a tax position	Arabic Also available in English
<b>First Objection:</b> Reconsideration	Within 20 business days from the date of FTA decision	-	Arabic
<b>Second Objection:</b> TDRC	Within 20 business days from the date of notification of reconsideration decision.	-	Arabic
<b>Third Objection:</b> Federal Court	Within 20 business days from the date of TDRC's decision	Only in respect of TDRC decisions that results in tax and administrative penalties payable of more than AED 100,000	Arabic



# Q & A



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**THANK YOU**  
Feel free to contact us at [vat@mmjs.co](mailto:vat@mmjs.co)



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