**VAT Public Clarification**

**Non-recoverable input tax – entertainment services**

**Issue**

Article 53 of Cabinet Decision No. (52) of 2017 on the Executive Regulation of the Federal Decree-Law No. (8) of 2017 on Value Added Tax ("VAT Executive Regulations") stipulates input tax which is non-recoverable by businesses (which, in most cases, will mean Taxable Persons).

There are a number of circumstances in which businesses have sought clarity over the definition of ‘entertainment’ for the purposes of the input tax restriction, and in particular what should constitute entertainment of staff or business contacts as opposed to incidental business-related expenses which would be recoverable under normal VAT rules.

**Summary**

This Public Clarification explains the application of Article 53 of the VAT Executive Regulations with regards to VAT which is non-recoverable in respect of entertainment or hospitality of any kind.

VAT incurred on any costs which are used for a genuine business purpose, or which are incidental
to a business purpose e.g. food and drink provided during a business meeting, shall be recoverable (subject to normal VAT recovery rules). However, where the hospitality provided becomes an end in itself and could be construed as the purpose for attending an event, such costs will be considered to be entertainment in nature and the VAT incurred shall not be recoverable. More information on how to define whether costs are incidental to a business purpose, or considered to be an end in themselves, is provided below.

**Detailed discussion**

**Entertainment provided to non-employees**

*Designated Government entities*

Article 53(1)(a) of the Executive Regulations specifies that a Designated Government Entity (which is specified in a Cabinet Decision) is able to provide entertainment services to anyone not employed by the entity and shall be able to recover the input tax incurred on those costs.

This exception for Designated Government Entities only applies to entertainment provided to non-employees. For example, the following forms of entertainment would be considered to be in the course of the activities of the Designated Government Entity and any VAT incurred should be recoverable:

- The value added tax (VAT) incurred on non-employees.
• meetings with delegations from other countries where lunch or dinner is provided;
• meetings with representatives from other Government entities to discuss official business, where refreshments are provided;
• ceremonies held to mark significant political events e.g. the signing of an international agreement, where entertainment is provided to the audience.

See below for further comments on entertainment services provided to employees.

VAT registrants who are not Designated Government Entities

Input Tax shall be non-recoverable if it is incurred by a person in respect of entertainment services provided to anyone not employed by the person (see below for further comments on entertainment services provided to employees), including:

• customers;
• potential customers;
• officials; or
• shareholders, or other owners or investors.

As a result, where a VAT registrant who is not a Designated Government Entity provides entertainment services to any non-employee, the

الاجتماعات مع وفود من دول أخرى والتي يتم خلالها تقديم الغداء أو العشاء.

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المراسم التي تقام للاحتفال بأحداث سياسية هامة مثل توقيع اتفاقية دولية، والتي يتم خلالها تقديم خدمات ترفيهية للحضور.

انظر أدنى للملاحظات بشأن الخدمات الترفيهية المقدمة إلى الموظفين.

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As a result, where a VAT registrant who is not a Designated Government Entity provides entertainment services to any non-employee, the
VAT incurred on such costs shall be blocked from recovery in full. This rule shall apply even where the business makes fully taxable supplies and would otherwise have the right to full input tax recovery. Entertainment services are defined under Article 53(2) of the Executive Regulations as “hospitality of any kind” including the provision of:

- accommodation;
- food and drinks which are not provided in a normal course of a meeting; and
- access to shows or events, or trips provided for the purposes of pleasure or entertainment.

Entertainment provided to employees

Where goods or services are purchased by any person to be used by employees for no charge to them and for their personal benefit, including the provision of entertainment services, then the VAT incurred on the cost is not recoverable unless an exception applies.

This means that any entity, including Designated Government Entities, which provide entertainment services to employees are prevented from recovering any VAT included on such costs.

The only circumstances in which a taxable person is entitled to recover VAT on such costs are:

- accommodation;
- food and drinks which are not provided in a normal course of a meeting;
- access to shows or events, or trips provided for the purposes of pleasure or entertainment.

The only circumstances in which a taxable person is entitled to recover VAT on such costs are:

1. The provision of entertainment services to employees.
2. Such services are not provided in a normal course of a meeting.
3. The services are provided for the purposes of pleasure or entertainment.
4. The services are provided for the personal benefit of the employees.

Any entity, including Designated Government Entities, which provide entertainment services to employees are prevented from recovering any VAT included on such costs.

The only exceptions to this rule are:

1. The services are provided for the personal benefit of the employees.
2. The services are provided in a normal course of a meeting.
3. The services are not provided for the purposes of pleasure or entertainment.

The services are defined as “hospitality of any kind” including the provision of:

- accommodation;
- food and drinks which are not provided in a normal course of a meeting;
- access to shows or events, or trips provided for the purposes of pleasure or entertainment.

Any entity, including Designated Government Entities, which provide entertainment services to employees are prevented from recovering any VAT included on such costs.
1. Where it is a legal obligation to provide those services or goods to those employees under any applicable labour law in the UAE or Designated Zone in which the entity is;

2. It is a contractual obligation or documented policy to provide those services or goods to those employees in order that they may perform their role and it can be proven to be normal business practice in the course of employing those people; or

3. Where the provision of goods or services is a deemed supply under the provisions of the Decree-Law.

For example, where a new employee joins a business and is provided with hotel accommodation for a short initial period prior to finding their own accommodation, this would not be considered entertainment and the VAT incurred on such costs would be recoverable, as this cost is necessary for the person to perform their role.

However, where a business organizes a lunch or dinner for employees e.g. a Ramadan Iftar, this would be considered to be entertainment and the VAT incurred on such costs would be blocked from recovery.

**Definition of entertainment services**

*Food and drinks “in the normal course of a meeting”*
The FTA considers that certain hospitality and entertaining expenses should be classed as normal business expenses which should not give rise to non-recoverable input tax under Article 53.

Where simple hospitality is provided in the normal course of a business meeting e.g. where simple food and refreshments are provided during the course of a meeting, the cost is considered to be recoverable.

The FTA considers the following criteria is indicative of simple hospitality provided during a business meeting:

- the hospitality is provided at the same venue as the meeting;
- if the meeting is interrupted, only by a short break for the provision of the hospitality and then resumes as normal e.g. a lunch break;
- the cost per head of providing the hospitality does not exceed any internal policy the business normally has in place around employee subsistence claims, where available;
- the food and beverage provided is not accompanied by any form of entertainment e.g. a motivational speaker, a live band etc.

However, where the food and refreshments are considered to be so substantial that they would constitute an end in themselves and may have

### Criteria for Simple Hospitality

- **Venue Alignment**: The hospitality is provided at the same venue as the meeting.
- **Temporary Interruption**: If the meeting is interrupted, only by a short break for the provision of hospitality and then resumes as normal, e.g., a lunch break.
- **Cost Limitation**: The cost per head of providing the hospitality does not exceed any internal policy the business normally has in place around employee subsistence claims, where available.
- **Lack of Entertainment**: The food and beverage is not accompanied by any form of entertainment, e.g., a motivational speaker, a live band, etc.

### Criteria for Exempted Expenses

- **Substantial Services**: Where the food and refreshments are considered so substantial that they would constitute an end in themselves and may have
The recoverability of input tax in respect of costs incurred for catering services during conferences and business events would depend on whether any fee is charged from the attendees, as detailed below:

1. Where a fee is charged and VAT is accounted on the same, the input tax incurred on catering services would be recoverable on the basis that the expense is attributable to making taxable supplies.

2. Where no fee is charged, the input tax related to catering services will be blocked as this situation will fall within the scope of Article 53(1)(a) of the Executive Regulations.

Where the business cannot establish or is uncertain whether or not hospitality is provided in the normal course of business meeting, it should refrain from recovering input tax on the expenses.
Sundry office expenses

The FTA considers that certain normal incidental office expenses for general use by both employees and visitors does not give rise to non-recoverable input tax under Article 53.

Examples of sundry office expenses on which the FTA accepts a business should be entitled to input tax recovery include:

- tea and coffee available in the office or provided during meetings for general use by employees and non-employees for no charge;
- flowers for display in receptions, offices or for decoration during special events;
- dates, chocolates, or equivalent snacks which may be available in the office or during meetings for general use by employees and non-employees for no charge.

Employee entertainment

Where events are held purely for the purposes of entertaining staff, for example staff parties, the VAT incurred on the associated costs shall be blocked from recovery unless a charge is made to the employee for attending.

Taxable Persons may also purchase goods or services to be given away to staff free of charge, in

النفقات المكتبية النثرية

تعتبر الهيئة أن بعض النفقات المكتبية العرضية المعادفة المتعلقة بالاستخدام العام من قبل كل من الموظفين والزوارين لا تقضي إلى منع استرداد ضريبة الدخل المتكبدة عنها بموجب المادة (53) من اللائحة التنفيذية.

ومن أمثلة النفقات المكتبية النثرية التي توافق فيها الهيئة أنه يحق فيها للأعمال استرداد ضريبة المدخلات المتكبدة الآتي:

- تقديم الشاي والقهوة في المكتب أو أثناء الاجتماعات للاستخدام العام من قبل الموظفين وغير الموظفين من دون مقابل.
- عرض الزهور في مكاتب الاستقبال والمكاتب أو لأغراض الزيادة والديكور في المناسبات الخاصة.
- التمر أو الشوكولاتة أو الخفافيش المشابهة التي تُقدم في المكاتب أو أثناء الاجتماعات للاستخدام العام من قبل الموظفين وغير الموظفين من دون مقابل.
- الخدمات الترفيهية للموظفين.

يرجع استرداد ضريبة القيمة المضافة المرتبطة بالتكاليف المتكبدة عن الفعاليات المعادفة بشكل أساسي لترفيه الموظفين، على سبيل المثال: حفلات الموظفين، ما لم يتم فرض رسم على الموظف مقابل حضور الاحتفال.

قد يقوم الخاضع للضريبة أيضاً بشراء سلع أو خدمات بقصد منحها للموظفين دون مقابل، على سبيل المثال لمكافئتهم على خدماتهم لفترة طويلة. استناداً إلى المادة (53) من اللائحة
order to reward them for long service, for example.

Based on the provisions of Article 53, the VAT incurred on such costs should be blocked from recovery.

Examples of the type of gifts given away free of charge on which VAT recovery would normally be prevented (unless the business accounts for a deemed supply) would include:

- long service awards;
- retirement gifts;
- Eid gifts, or gifts for other festivals or special occasions;
- gifts given on the occasion of a wedding or birth of a child;
- employee of the month gifts; or
- a dinner to reward service.

Employee expenses

There will also be circumstances where a taxable person will fund or reimburse an employee for certain costs which the employee incurs for business purposes, in the course of performing their role. In such cases, the costs are considered to be genuine business expenses and the VAT incurred is recoverable where a tax invoice is provided and the cost is for business purposes.

An example of costs incurred by an employee which the FTA considers should be recoverable by the
business (subject to normal VAT recovery rules) include:

- where an employee is on a domestic business trip and requires overnight accommodation, the VAT incurred on e.g. hotel costs; or
- input tax incurred on subsistence costs e.g. food and drinks purchased by the employee for their own consumption during the business trip.

If the employee incurs costs which are related to entertaining a current/potential customer/supplier then any associated input tax incurred will be non-recoverable.

- إذا كان الموظف في مهمة عمل داخل الدولة وكان يتطلب منه البقاء ليلة واحدة، فستكون الضريبة المتكبدة على تكاليف الفندق، مثلاً، قابلة للاسترداد.
- أو ضريبة المدخلات المتكبدة على تكاليف الإقامة، مثل الأطعمة والمشروبات التي يشتريها الموظف لاستهلاكه الشخصي خلال رحلة العمل.

أما في حال كانت النفقات المتكبدة من قبل الموظف تتعلق بتقديم خدمات ترفيهية إلى عميل أو مورد حالي أو محتمل، فإن أي ضريبة مدخلات مرتبطة تكبدها الموظف لتخدم مثل تلك الخدمات الترفيهية لن تكون قابلة للاسترداد.